

Enrolled Senate Bill 277

Sponsored by Senator ROBLAN, Representative HELM, Senator OLSEN; Senators JOHNSON, RILEY, STEINER HAYWARD, Representatives FAHEY, KENNEMER, MCKEOWN (Pre-session filed.)

CHAPTER

AN ACT

Relating to rental space for certain types of dwellings in facilities; amending ORS 90.505, 90.632, 90.680 and 105.124; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 90.505 is amended to read:

90.505. (1) As used in ORS 90.505 to 90.850[,]:

(a) **“Deterioration”:**

(A) Includes a collapsing or failing staircase or railing, one or more holes in a wall or roof, an inadequately supported window air conditioning unit, falling gutters, siding or skirting, or paint that is peeling or faded as to threaten the useful life or integrity of the siding.

(B) Does not include aesthetic or cosmetic concerns.

(b) **“Disrepair”:**

(A) Means the state of being in need of repair because a component is broken, collapsing, creating a safety hazard or generally in need of maintenance.

(B) Includes the need to correct a failure to conform with applicable building and housing codes at the time of:

(i) Installation of the manufactured dwelling or floating home on the site.

(ii) Making improvements to the manufactured dwelling or floating home following installation.

(c) “Rent a space for a manufactured dwelling or floating home,” or similar wording, means a transaction creating a rental agreement in which the owner of a manufactured dwelling or floating home secures the right to locate the dwelling or home on the real property of another in a facility for use as a residence in return for value, and in which the owner of the manufactured dwelling or floating home retains no interest in the real property at the end of the transaction.

(2) Unless otherwise provided, ORS 90.100 to 90.465 apply to rental agreements that are subject to ORS 90.505 to 90.850. However, to the extent of inconsistency, the applicable provisions of ORS 90.505 to 90.850 control over the provisions of ORS 90.100 to 90.465.

SECTION 2. ORS 90.632 is amended to read:

90.632. (1) A landlord may terminate a month-to-month or fixed term rental agreement and require the tenant to remove a manufactured dwelling or floating home from a facility, due to the physical condition of the **exterior of the** manufactured dwelling or floating home, only by complying

with this section and ORS 105.105 to 105.168. A termination shall include removal of the dwelling or home.

(2) A landlord may not require removal of a manufactured dwelling or floating home, or consider a dwelling or home to be in disrepair or deteriorated, because of the age, size, style or original construction material of the dwelling or home or because the dwelling or home was built prior to adoption of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403), in compliance with the standards of that Act in effect at that time or in compliance with the state building code as defined in ORS 455.010.

(3) Except as provided in [subsection (5)] **subsections (4) and (6)** of this section, if the **exterior of the** tenant's dwelling or home is in disrepair or is deteriorated, a landlord may terminate a rental agreement and require the removal of a dwelling or home by giving to the tenant not less than [30] **60 days'** written notice before the date designated in the notice for termination.

[4] *The notice required by subsection (3) of this section must:*

(4) **If the disrepair or deterioration of the manufactured dwelling or floating home creates a risk of imminent and serious harm to dwellings, homes or persons within the facility, a landlord may terminate a rental agreement and require the removal of the dwelling or home by giving to the tenant not less than 30 days' written notice before the date designated in the notice for termination. The notice shall describe the risk of harm.**

(5) **The notice required by subsections (3) and (4) of this section must:**

(a) State facts sufficient to notify the tenant of the [causes or reasons] **specific disrepair or deterioration that is the cause or reason** for termination of the tenancy and removal of the dwelling or home;

(b) State that the tenant can avoid termination and removal by correcting the cause for termination and removal within the notice period;

(c) **If reasonably known by the landlord**, describe [what is] **specifically what repairs are** required to correct **the disrepair or deterioration that is** the cause for termination;

(d) Describe the tenant's right to give the landlord a written notice of correction, where to give the notice and the deadline for giving the notice in order to ensure a response by the landlord, all as provided by subsection [(6)] **(7)** of this section; and

(e) Describe the tenant's right to have the termination and correction period extended as provided by subsection [(7)] **(8)** of this section.

[5] **(6)** The tenant may avoid termination of the tenancy by correcting the cause within the period specified. However, if substantially the same condition that constituted a prior cause for termination of which notice was given recurs within 12 months after the date of the notice, the landlord may terminate the tenancy and require the removal of the dwelling or home upon at least 30 days' written notice specifying the violation and the date of termination of the tenancy.

[6] **(7)** During the termination notice or extension period, the tenant may give the landlord written notice that the tenant has corrected the cause for termination. Within a reasonable time after the tenant's notice of correction, the landlord shall respond to the tenant in writing, stating whether the landlord agrees that the cause has been corrected. If the tenant's notice of correction is given at least 14 days prior to the end of the termination notice or extension period, failure by the landlord to respond as required by this subsection is a defense to a termination based upon the landlord's notice for termination.

[7] **(8)** Except when the disrepair or deterioration creates a risk of imminent and serious harm to [other] dwellings, homes or persons within the facility, the [30-day] **60-day** period provided for the tenant to correct the cause for termination and removal shall be extended by at least:

(a) An additional 60 days if:

(A) The necessary correction involves exterior painting, roof repair, concrete pouring or similar work and the weather prevents that work during a substantial portion of the [30-day] **60-day** period; or

(B) The nature or extent of the correction work is such that it cannot reasonably be completed within [30] **60** days because of factors such as the amount of work necessary, the type and complexity of the work and the availability of necessary repair persons; or

(b) An additional six months if the disrepair or deterioration has existed for more than the preceding 12 months with the landlord's knowledge or acceptance as described in ORS 90.412.

[(8)] **(9)** In order to have the period for correction extended as provided in subsection [(7)] **(8)** of this section, a tenant must give the landlord written notice describing the necessity for an extension in order to complete the correction work. The notice must be given a reasonable amount of time prior to the end of the notice for termination period.

[(9)] **(10)** A tenancy terminates on the date designated in the notice and without regard to the expiration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

[(10)] **(11)** This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.630 by complying with ORS 105.105 to 105.168.

[(11)] **(12)** A landlord may give a copy of the notice for termination required by this section to any lienholder of the dwelling or home, by first class mail with certificate of mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice in good faith to a lienholder.

[(12)] **(13)** When a tenant has been given a notice for termination pursuant to this section and has subsequently abandoned the dwelling or home as described in ORS 90.675, any lienholder shall have the same rights as provided by ORS 90.675, including the right to correct the cause of the notice, within the 90-day period provided by ORS 90.675 (20) notwithstanding the expiration of the notice period provided by this section for the tenant to correct the cause.

SECTION 3. ORS 90.680 is amended to read:

90.680. (1) As used in this section, "consignment" means an agreement in which a tenant authorizes a landlord to sell a manufactured dwelling or floating home on behalf of the tenant who owns the dwelling or home in a facility that is owned by the landlord and for which the landlord receives compensation.

(2) A landlord may not deny any manufactured dwelling or floating home space tenant the right to sell a manufactured dwelling or floating home on a rented space or require the tenant to remove the dwelling or home from the space solely on the basis of the sale.

(3) A landlord may not require, as a condition of a tenant's occupancy, consignment of the tenant's manufactured dwelling or floating home.

(4)(a) A landlord may sell a tenant's manufactured dwelling or floating home on consignment only if:

(A) The sale involves a dwelling in a facility and the landlord is licensed to sell dwellings under ORS 446.661 to 446.756. The license may be held by a person that differs from the person that owns the facility and is the landlord, if there is common ownership between the two.

(B) The landlord and tenant first enter into a written consignment contract that specifies at a minimum:

- (i) The duration of the contract, which, unless extended in writing, may not exceed 180 days;
- (ii) The estimated square footage of the dwelling or home, and the make, model, year, vehicle identification number and license plate number, if known;
- (iii) The price offered for sale of the dwelling or home;
- (iv) Whether lender financing is permitted and the amount, if any, of the earnest money deposit;
- (v) Whether the transaction is intended to be closed through a state-licensed escrow;
- (vi) All liens, taxes and other charges known to be in existence against the dwelling or home that must be removed before the tenant can convey marketable title to a prospective buyer;

(vii) The method of marketing the sale of a dwelling or home to the public, such as signs posted at the facility or through advertisements posted on the Internet or published in newspapers or in other publications;

(viii) The form and amount of compensation to the landlord, such as a fixed fee, a percentage of the gross sale price or another similar arrangement. If the form of compensation is a fixed fee, the contract shall state the amount; and

(ix) For the purpose of determining the net sale proceeds that are payable to the tenant, the manner and order by which the gross sale proceeds will be applied to liens, taxes, actual costs of sale, landlord compensation and other closing costs.

(C) Within 10 days after a sale, the landlord pays to the tenant the tenant's share of the sale proceeds and provides to the tenant a written accounting for the sale proceeds.

(b) The landlord may not exact a commission or fee, however designated, or retain a portion of any sale proceeds for the sale of a manufactured dwelling or floating home on a rented space unless the landlord has acted as representative for the seller pursuant to a written consignment contract.

(5)(a) The landlord may not deny the tenant the right to place a "for sale" sign on or in a manufactured dwelling or floating home owned by the tenant. The size, placement and character of such signs shall be subject to reasonable rules of the landlord.

(b) If the landlord advertises a manufactured dwelling or floating home for sale within the facility, the tenant may advertise the sale of the tenant's dwelling or home by posting a sign in a similar manner and similar location.

(6) A landlord may not knowingly make false statements to a prospective purchaser about the quality of a tenant's manufactured dwelling or floating home.

(7) Nothing in this section prevents a landlord from selling to a prospective purchaser a manufactured dwelling or floating home owned by the landlord at a price or on terms, including space rent, that are more favorable than the price and terms offered for dwellings or homes that are for sale by a tenant.

(8) If the prospective purchaser of a manufactured dwelling or floating home desires to leave the dwelling or home on the rented space and become a tenant, the landlord may require in the rental agreement:

(a) Except when a termination or abandonment occurs, that a tenant give not more than 10 days' notice in writing prior to the sale of the dwelling or home on a rented space;

(b) That prior to the sale, the prospective purchaser submit to the landlord a complete and accurate written application for occupancy of the dwelling or home as a tenant after the sale is finalized and that a prospective purchaser may not occupy the dwelling or home until after the prospective purchaser is accepted by the landlord as a tenant;

(c) That a tenant give notice to any lienholder, prospective purchaser or person licensed to sell dwellings or homes of the requirements of paragraphs (b) and (d) of this subsection, the location of all properly functioning smoke alarms and any other rules and regulations of the facility such as those described in ORS 90.510 (5)(b), (f), (g), (i) and (j); and

(d) If the sale is not by a lienholder, that the prospective purchaser pay in full all rents, fees, deposits or charges owed by the tenant as authorized under ORS 90.140 and the rental agreement, prior to the landlord's acceptance of the prospective purchaser as a tenant.

(9)(a) If a landlord requires a prospective purchaser to submit an application for occupancy as a tenant under subsection (8) of this section, the landlord shall provide, upon request from the purchaser, a copy of the application. At the time that the landlord gives the prospective purchaser an application the landlord shall also give the prospective purchaser:

(A) Copies of the statement of policy, the rental agreement and the facility rules and regulations, including any conditions imposed on a subsequent sale, all as provided by ORS 90.510[.];

(B) Copies of any outstanding notices given to the tenant under ORS 90.632;

(C) A list of any disrepair or deterioration of the manufactured dwelling or floating home;

(D) A list of any failures to maintain the space or to comply with any other provisions of the rental agreement, including aesthetic or cosmetic improvements; and

(E) A statement that the landlord may require a prospective purchaser to complete repairs, maintenance and improvements as described in the notices and lists provided under subparagraphs (B) to (D) of this paragraph.

(b) The terms of the statement, rental agreement and rules and regulations need not be the same as those in the selling tenant's statement, rental agreement and rules and regulations.

(c) Consistent with ORS 90.305 (4)(b), a landlord may require a prospective purchaser to pay a reasonable copying charge for the documents.

(d) If a prospective purchaser agrees, a landlord may provide the documents in an electronic format.

(10) The following apply if a landlord receives an application for tenancy from a prospective purchaser under subsection (8) of this section:

(a) The landlord shall accept or reject the prospective purchaser's application within seven days following the day the landlord receives a complete and accurate written application. An application is not complete until the prospective purchaser pays any required applicant screening charge and provides the landlord with all information and documentation, including any financial data and references, required by the landlord pursuant to ORS 90.510 (5)(i). The landlord and the prospective purchaser may agree to a longer time period for the landlord to evaluate the prospective purchaser's application or to allow the prospective purchaser to address any failure to meet the landlord's screening or admission criteria. If a tenant has not previously given the landlord the 10 days' notice required under subsection (8)(a) of this section, the period provided for the landlord to accept or reject a complete and accurate written application is extended to 10 days.

(b) When a landlord considers an application for tenancy from a prospective purchaser of a dwelling or home from a tenant, the landlord shall apply to the prospective purchaser credit and conduct screening criteria that are substantially similar to the credit and conduct screening criteria the landlord applies to a prospective purchaser of a dwelling or home from the landlord.

(c) The landlord may not unreasonably reject a prospective purchaser as a tenant. Reasonable cause for rejection includes, but is not limited to, failure of the prospective purchaser to meet the landlord's conditions for approval as provided in ORS 90.510 (5)(i) or failure of the prospective purchaser's references to respond to the landlord's timely request for verification within the time allowed for acceptance or rejection under paragraph (a) of this subsection. Except as provided in paragraph (d) of this subsection, the landlord shall furnish to the seller and purchaser a written statement of the reasons for the rejection.

(d) If a rejection under paragraph (c) of this subsection is based upon a consumer report, as defined in 15 U.S.C. 1681a for purposes of the federal Fair Credit Reporting Act, the landlord may not disclose the contents of the report to anyone other than the purchaser. The landlord shall disclose to the seller in writing that the rejection is based upon information contained within a consumer report and that the landlord may not disclose the information within the report.

(11) The following apply if a landlord does not require a prospective purchaser to submit an application for occupancy as a tenant under subsection (8) of this section or if the landlord does not accept or reject the prospective purchaser as a tenant within the time required under subsection (10) of this section:

(a) The landlord waives any right to bring an action against the tenant under the rental agreement for breach of the landlord's right to establish conditions upon and approve a prospective purchaser of the tenant's dwelling or home;

(b) The prospective purchaser, upon completion of the sale, may occupy the dwelling or home as a tenant under the same conditions and terms as the tenant who sold the dwelling or home; and

(c) If the prospective purchaser becomes a new tenant, the landlord may impose conditions or terms on the tenancy that are inconsistent with the terms and conditions of the seller's rental agreement only if the new tenant agrees in writing.

(12) A landlord may not, because of the age, size, style or original construction material of the dwelling or home or because the dwelling or home was built prior to adoption of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403), in compli-

ance with the standards of that Act in effect at that time or in compliance with the state building code as defined in ORS 455.010:

(a) Reject an application for tenancy from a prospective purchaser of an existing dwelling or home on a rented space within a facility; or

(b) Require a prospective purchaser of an existing dwelling or home on a rented space within a facility to remove the dwelling or home from the rented space.

(13) A tenant who has received a notice pursuant to ORS 90.632 may sell the tenant's dwelling or home in compliance with this section during the notice period. The tenant shall provide a prospective purchaser with a copy of any outstanding notice given [pursuant] to **the tenant under** ORS 90.632 prior to a sale. [The landlord may also give any prospective purchaser a copy of any such notice. The landlord may require as a condition of tenancy that a prospective purchaser who desires to leave the dwelling or home on the rented space and become a tenant must comply with the notice within the notice period consistent with ORS 90.632.] If the tenancy has been terminated pursuant to ORS 90.632, or the notice period provided in ORS 90.632 has expired without a correction of cause or extension of time to correct, a prospective purchaser does not have a right to leave the dwelling or home on the rented space and become a tenant.

(14) The following applies to a landlord that accepts a prospective purchaser as a tenant under subsection (10) of this section:

(a) Notwithstanding any waiver given by the landlord to the previous tenant, the landlord may require the new tenant to complete the repairs, maintenance and improvements described in the notices provided under subsection (9)(a)(B) to (D) of this section.

(b) Notwithstanding ORS 90.412, if the new tenant fails to complete the repairs, maintenance and improvements described in the notices provided under subsection (9)(a)(B) to (D) of this section within six months after the tenancy begins, the landlord may terminate the tenancy by giving the new tenant the notice required under ORS 90.630 or 90.632.

[(14)] (15) Except as provided by subsection (13) of this section, after a tenancy has ended and during the period provided by ORS 90.675 (6) and (8), a former tenant retains the right to sell the tenant's dwelling or home to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant as provided by this section, if the former tenant makes timely periodic payment of all storage charges as provided by ORS 90.675 (7)(b), maintains the dwelling or home and the rented space on which it is stored and enters the premises only with the written permission of the landlord. Payment of the storage charges or maintenance of the dwelling or home and the space does not create or reinstate a tenancy or create a waiver pursuant to ORS 90.412 or 90.417. A former tenant may not enter the premises without the written permission of the landlord, including entry to maintain the dwelling or home or the space or to facilitate a sale.

[(15)] (16) A landlord or tenant who sells a manufactured dwelling or floating home shall deliver title to the dwelling or home to the purchaser within 25 business days after completion of the sale. If the sale by contract requires future payments, the landlord or tenant shall notify the county that the purchaser is responsible for property tax payments.

SECTION 4. ORS 105.124 is amended to read:

105.124. For a complaint described in ORS 105.123, if ORS chapter 90 applies to the dwelling unit:

(1) The complaint must be in substantially the following form and be available from the clerk of the court:

IN THE CIRCUIT COURT
FOR THE COUNTY OF

No. _____

RESIDENTIAL EVICTION COMPLAINT

PLAINTIFF (Landlord or agent):

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

vs.

DEFENDANT (Tenants/Occupants):

MAILING ADDRESS: _____

City: _____

State: _____ Zip: _____

Telephone: _____

1.

Tenants are in possession of the dwelling unit, premises or rental property described above or located at:

2.

Landlord is entitled to possession of the property because of:

- _____ 24-hour notice for personal injury, substantial damage, extremely outrageous act or unlawful occupant. ORS 90.396 or 90.403.
- _____ 24-hour or 48-hour notice for violation of a drug or alcohol program. ORS 90.398.
- _____ 24-hour notice for perpetrating domestic violence, sexual assault or stalking. ORS 90.445.
- _____ 72-hour or 144-hour notice for nonpayment of rent. ORS 90.394.
- _____ 7-day notice with stated cause in a week-to-week tenancy. ORS 90.392 (6).
- _____ 10-day notice for a pet violation, a repeat violation in a month-to-month tenancy or without stated cause in a week-to-week tenancy. ORS 90.392 (5), 90.405 or 90.427 (2).
- _____ 20-day notice for a repeat violation. ORS 90.630 (4).
- _____ 30-day, 60-day or 180-day notice without stated cause in a month-to-month tenancy. ORS 90.427 (3) or (4) or 90.429.
- _____ 30-day notice with stated cause.

- _____ ORS 90.392, 90.630 or 90.632.
- _____ **60-day notice with stated cause.**
ORS 90.632.
- _____ Notice to bona fide tenants after
foreclosure sale or termination of
fixed term tenancy after foreclosure
sale. ORS 86.782 (6)(c).
- _____ Other notice _____
- _____ No notice (explain) _____

A COPY OF THE NOTICE RELIED UPON, IF ANY, IS ATTACHED

3.

If the landlord uses an attorney, the case goes to trial and the landlord wins in court, the landlord can collect attorney fees from the defendant pursuant to ORS 90.255 and 105.137 (3).

Landlord requests judgment for possession of the premises, court costs, disbursements and attorney fees.

I certify that the allegations and factual assertions in this complaint are true to the best of my knowledge.

Signature of landlord or agent.

(2) The complaint must be signed by the plaintiff or an attorney representing the plaintiff as provided by ORCP 17, or verified by an agent or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

(3) A copy of the notice relied upon, if any, must be attached to the complaint.

SECTION 5. The amendments to ORS 90.505, 90.632 and 90.680 by sections 1, 2 and 3 of this 2017 Act apply to:

(1) Rental agreements for fixed term tenancies entered into or renewed on or after the effective date of this 2017 Act; and

(2) Rental agreements for month-to-month tenancies in effect on or after the effective date of this 2017 Act.

SECTION 6. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate April 19, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 6, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State