

# DRAFT

## SUMMARY

Allows landlord and tenant to agree to assessment of charge in lieu of security deposit. Establishes requirements and form of agreement.

### A BILL FOR AN ACT

Relating to charge in lieu of security deposit; creating new provisions; and amending ORS 90.100, 90.140, 90.300, 90.302, 90.392 and 90.510.

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

**SECTION 1. Section 2 of this 2022 Act is added to and made a part of ORS chapter 90.**

**SECTION 2. (1) As used in this section:**

**(a) “Charge in lieu of a security deposit” means a charge described under subsection (2) of this section.**

**(b) “Security deposit” does not include a last month’s rent deposit or other prepaid rent.**

**(2) A landlord may allow a tenant to pay a recurring charge in addition to rent and instead of paying any security deposit. The charge:**

**(a) Must be charged to the tenant in equal monthly charges.**

**(b) May not be charged in combination with a security deposit.**

**(c) May not exceed 1.2 times the landlord’s cost of obtaining insurance described in subsection (4) of this section.**

**(d) Is not a security deposit and not subject to ORS 90.300.**

**(e) May only be assessed, collected and used by the landlord as provided in this section.**

**(3) A landlord who collects a charge in lieu of a security deposit**

1 **from a tenant:**

2 (a) May not require any tenant to pay a security deposit more than  
3 1.5 times the amount of that tenant's monthly rent at the beginning  
4 of the rental agreement.

5 (b) Shall allow all approved applicants the option to pay a charge  
6 in lieu of a security deposit.

7 (c) May not condition approval of an application on the applicant's  
8 choice between paying a security deposit or the charge in lieu of a  
9 security deposit.

10 (d) Is not required to provide the tenant with a written invoice for  
11 the charge, unless the landlord provides the tenant with a written in-  
12 voice for rent, in which case the charge in lieu of a security deposit  
13 must be stated separately on the invoice.

14 (e) May not increase the amount of the charge unless:

15 (A) The tenancy is a month-to-month tenancy;

16 (B) The landlord provides the tenant no less than 90 days' written  
17 notice of the increase; and

18 (C) The charge does not exceed the limit under subsection (2)(c) of  
19 this section.

20 (4)(a) A landlord assessing a charge in lieu of a security deposit  
21 shall purchase insurance coverage from an insurer for a tenant's un-  
22 paid rent, property damages and other unpaid charges.

23 (b) A landlord shall promptly give actual notice to the tenant if  
24 insurance coverage is ever terminated or the amount of coverage is  
25 changed.

26 (5)(a) A charge in lieu of a security deposit is due on the first day  
27 of the rental period without demand.

28 (b) A landlord may not give a termination notice under ORS 90.392  
29 or charge a fee under ORS 90.302 unless the payment is not received  
30 by the eighth day of the rental period.

31 (c) Nonpayment of a charge in lieu of a security deposit is not

1 grounds for termination of a rental agreement for nonpayment of rent  
2 under ORS 90.394.

3 (6)(a) Following the termination of the tenancy, a tenant who pays  
4 a charge in lieu of a security deposit is not liable for any outstanding  
5 indebtedness to the landlord unless the landlord provides the tenant  
6 with a written demand for repayment of the indebtedness within 30  
7 days following the latter of:

8 (A) The date the tenancy terminated; and

9 (B) The date the landlord received possession of the dwelling unit.

10 (b) The demand under paragraph (a) of this subsection must sepa-  
11 rately itemize unpaid rent, unpaid charges and fees and damages other  
12 than wear and tear and must include documentation that supports  
13 each claim for damages.

14 (c) A landlord may not submit a claim for payment to the insurance  
15 company earlier than 30 days after delivering the demand under para-  
16 graph (a) of this subsection.

17 (d) Promptly after submitting a claim for payment to the insurance  
18 company under paragraph (c) of this subsection, a landlord must de-  
19 liver a notice to the tenant that the claim has been submitted. The  
20 notice must include the amount of the claim, the documentation sub-  
21 mitted to support the claim, the name of the insurance company and  
22 a phone number and electronic mail address of the insurance company  
23 claims adjustment office that the tenant may contact to dispute the  
24 basis of the claim.

25 (e) A landlord must withdraw the notice of indebtedness and any  
26 associated claim for payment submitted to the insurance company  
27 under paragraph (d) of this subsection if the landlord or a court de-  
28 termines that the notice of indebtedness is incorrect or the landlord  
29 settles the indebtedness with the tenant for less than the full amount  
30 in the notice.

31 (f) The landlord must notify the tenant of any payment received

1 from the insurance company to satisfy the landlord's claim and that  
2 the insurance company may seek reimbursement of its payment from  
3 the tenant. For claims paid by the insurer to the landlord, only the  
4 insurer may pursue recovery against the tenant.

5 (7) A landlord who materially violates this section is liable to the  
6 tenant in an amount of twice the periodic monthly rent.

7 (8) Before a landlord may assess a charge in lieu of a security de-  
8 posit, the tenant must separately sign an agreement as a separate  
9 addendum to the rental agreement that includes information in sub-  
10 stantially the following form:

11 \_\_\_\_\_

12 • This agreement has been entered into voluntarily between  
13 \_\_\_\_\_ (Tenant) and \_\_\_\_\_ (Land-  
14 lord).

15 • Tenant agrees to pay Landlord a recurring monthly charge of  
16 \$\_\_\_\_\_ due in addition to Tenant's rent on the first day of each  
17 rental period, instead of a single security deposit in the amount of  
18 \$\_\_\_\_\_.

19 • Tenant may freely choose whether to pay the recurring monthly  
20 charge in lieu of the security deposit under this agreement or a secu-  
21 rity deposit in the amount above. At any time, Tenant may pay the  
22 landlord the security deposit and stop paying the recurring charge.

23 • The charge is paid only to secure Tenant's occupancy without a  
24 requirement of paying a security deposit.

25 • Landlord may collect a \$5 late fee for each month that Tenant  
26 does not pay the charge on time after an initial warning.

27 • The charge is not a security deposit and payment of the charge  
28 does not absolve Tenant of any obligations under the rental agree-  
29 ment, including the obligation to pay rent as it becomes due and to  
30 pay Landlord for any damages to the rental unit beyond normal wear  
31 and tear.

1 • **Tenant is aware that Landlord has purchased insurance that will**  
2 **pay claims made by Landlord up to a policy limit of \$\_\_\_\_\_.**  
3 **Landlord may make claims based on Tenant’s nonpayment of rent or**  
4 **the costs of repairing Tenant’s damages beyond wear and tear.**

5 • **Tenant further understands that Tenant is not insured under this**  
6 **policy, and that this insurance does not preclude the insurer or land-**  
7 **lord from recovering from Tenant the unpaid rent, charges and dam-**  
8 **ages for which Tenant is responsible, together with reasonable**  
9 **attorney fees and costs.**

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11 **SECTION 3.** ORS 90.100 is amended to read:

12 90.100. As used in this chapter, unless the context otherwise requires:

13 (1) “Accessory building or structure” means any portable, demountable  
14 or permanent structure, including but not limited to cabanas, ramadas,  
15 storage sheds, garages, awnings, carports, decks, steps, ramps, piers and  
16 pilings, that is:

17 (a) Owned and used solely by a tenant of a manufactured dwelling or  
18 floating home; or

19 (b) Provided pursuant to a written rental agreement for the sole use of  
20 and maintenance by a tenant of a manufactured dwelling or floating home.

21 (2) “Action” includes recoupment, counterclaim, setoff, suit in equity and  
22 any other proceeding in which rights are determined, including an action for  
23 possession.

24 (3) “Applicant screening charge” means any payment of money required  
25 by a landlord of an applicant prior to entering into a rental agreement with  
26 that applicant for a residential dwelling unit, the purpose of which is to pay  
27 the cost of processing an application for a rental agreement for a residential  
28 dwelling unit.

29 (4) “Building and housing codes” includes any law, ordinance or govern-  
30 mental regulation concerning fitness for habitation, or the construction,  
31 maintenance, operation, occupancy, use or appearance of any premises or

1 dwelling unit.

2 (5) “Carbon monoxide alarm” has the meaning given that term in ORS  
3 105.836.

4 (6) “Carbon monoxide source” has the meaning given that term in ORS  
5 105.836.

6 (7) “Conduct” means the commission of an act or the failure to act.

7 (8) “DBH” means the diameter at breast height, which is measured as the  
8 width of a standing tree at four and one-half feet above the ground on the  
9 uphill side.

10 (9) “Dealer” means any person in the business of selling, leasing or dis-  
11 tributing new or used manufactured dwellings or floating homes to persons  
12 who purchase or lease a manufactured dwelling or floating home for use as  
13 a residence.

14 (10) “Domestic violence” means:

15 (a) Abuse between family or household members, as those terms are de-  
16 fined in ORS 107.705; or

17 (b) Abuse, as defined in ORS 107.705, between partners in a dating re-  
18 lationship.

19 (11) “Drug and alcohol free housing” means a dwelling unit described in  
20 ORS 90.243.

21 (12) “Dwelling unit” means a structure or the part of a structure that is  
22 used as a home, residence or sleeping place by one person who maintains a  
23 household or by two or more persons who maintain a common household.  
24 “Dwelling unit” regarding a person who rents a space for a manufactured  
25 dwelling or recreational vehicle or regarding a person who rents moorage  
26 space for a floating home as defined in ORS 830.700, but does not rent the  
27 home, means the space rented and not the manufactured dwelling, recre-  
28 ational vehicle or floating home itself.

29 (13) “Essential service” means:

30 (a) For a tenancy not consisting of rental space for a manufactured  
31 dwelling, floating home or recreational vehicle owned by the tenant and not

1 otherwise subject to ORS 90.505 to 90.850:

2 (A) Heat, plumbing, hot and cold running water, gas, electricity, light  
3 fixtures, locks for exterior doors, latches for windows and any cooking ap-  
4 pliance or refrigerator supplied or required to be supplied by the landlord;  
5 and

6 (B) Any other service or habitability obligation imposed by the rental  
7 agreement or ORS 90.320, the lack or violation of which creates a serious  
8 threat to the tenant's health, safety or property or makes the dwelling unit  
9 unfit for occupancy.

10 (b) For a tenancy consisting of rental space for a manufactured dwelling,  
11 floating home or recreational vehicle owned by the tenant or that is other-  
12 wise subject to ORS 90.505 to 90.850:

13 (A) Sewage disposal, water supply, electrical supply and, if required by  
14 applicable law, any drainage system; and

15 (B) Any other service or habitability obligation imposed by the rental  
16 agreement or ORS 90.730, the lack or violation of which creates a serious  
17 threat to the tenant's health, safety or property or makes the rented space  
18 unfit for occupancy.

19 (14) "Facility" means a manufactured dwelling park or a marina.

20 (15) "Fee" means a nonrefundable payment of money.

21 (16) "First class mail" does not include certified or registered mail, or any  
22 other form of mail that may delay or hinder actual delivery of mail to the  
23 recipient.

24 (17) "Fixed term tenancy" means a tenancy that has a fixed term of ex-  
25 istence, continuing to a specific ending date and terminating on that date  
26 without requiring further notice to effect the termination.

27 (18) "Floating home" has the meaning given that term in ORS 830.700.  
28 "Floating home" includes an accessory building or structure.

29 (19) "Good faith" means honesty in fact in the conduct of the transaction  
30 concerned.

31 (20) "Hazard tree" means a tree that:

- 1 (a) Is located on a rented space in a manufactured dwelling park;
- 2 (b) Measures at least eight inches DBH; and
- 3 (c) Is considered, by an arborist licensed as a landscape construction  
4 professional pursuant to ORS 671.560 and certified by the International So-  
5 ciety of Arboriculture, to pose an unreasonable risk of causing serious  
6 physical harm or damage to individuals or property in the near future.

7 (21) “Hotel or motel” means “hotel” as that term is defined in ORS  
8 699.005.

9 (22) “Informal dispute resolution” includes voluntary consultation be-  
10 tween the landlord or landlord’s agent and one or more tenants or voluntary  
11 mediation utilizing the services of a third party, but does not include man-  
12 datory mediation or arbitration.

13 (23) “Landlord” means the owner, lessor or sublessor of the dwelling unit  
14 or the building or premises of which it is a part. “Landlord” includes a  
15 person who is authorized by the owner, lessor or sublessor to manage the  
16 premises or to enter into a rental agreement.

17 (24) “Landlord’s agent” means a person who has oral or written authority,  
18 either express or implied, to act for or on behalf of a landlord.

19 (25) “Last month’s rent deposit” means a type of security deposit, however  
20 designated, the primary function of which is to secure the payment of rent  
21 for the last month of the tenancy.

22 (26) “Manufactured dwelling” means a residential trailer, a mobile home  
23 or a manufactured home as those terms are defined in ORS 446.003 or a  
24 prefabricated structure. “Manufactured dwelling” includes an accessory  
25 building or structure.

26 (27) “Manufactured dwelling park” means a place where four or more  
27 manufactured dwellings are located, the primary purpose of which is to rent  
28 space or keep space for rent to any person for a charge or fee.

29 (28) “Marina” means a moorage of contiguous dwelling units that may be  
30 legally transferred as a single unit and are owned by one person where four  
31 or more floating homes are secured, the primary purpose of which is to rent



1 space or keep space for rent to any person for a charge or fee.

2 (29) “Marina purchase association” means a group of three or more ten-  
3 ants who reside in a marina and have organized for the purpose of eventual  
4 purchase of the marina.

5 (30) “Month-to-month tenancy” means a tenancy that automatically re-  
6 news and continues for successive monthly periods on the same terms and  
7 conditions originally agreed to, or as revised by the parties, until terminated  
8 by one or both of the parties.

9 (31) “Organization” includes a corporation, government, governmental  
10 subdivision or agency, business trust, estate, trust, partnership or associ-  
11 ation, two or more persons having a joint or common interest, and any other  
12 legal or commercial entity.

13 (32) “Owner” includes a mortgagee in possession and means one or more  
14 persons, jointly or severally, in whom is vested:

15 (a) All or part of the legal title to property; or

16 (b) All or part of the beneficial ownership and a right to present use and  
17 enjoyment of the premises.

18 (33) “Person” includes an individual or organization.

19 (34) “Prefabricated structure” means a structure that is substantially  
20 constructed or assembled using closed construction at an off-site location in  
21 compliance with the state building code and that is sited and occupied by the  
22 owner in compliance with local codes.

23 (35) “Premises” means:

24 (a) A dwelling unit and the structure of which it is a part and facilities  
25 and appurtenances therein;

26 (b) Grounds, areas and facilities held out for the use of tenants generally  
27 or the use of which is promised to the tenant; and

28 (c) A facility for manufactured dwellings or floating homes.

29 (36) “Prepaid rent” means any payment of money to the landlord for a  
30 rent obligation not yet due. In addition, “prepaid rent” means rent paid for  
31 a period extending beyond a termination date.

1 (37) “Recreational vehicle” has the meaning given that term in ORS  
2 174.101.

3 (38)(a) “Rent” means any payment to be made to the landlord under the  
4 rental agreement, periodic or otherwise, in exchange for the right of a tenant  
5 and any permitted pet to occupy a dwelling unit to the exclusion of others  
6 and to use the premises.

7 (b) “Rent” does not include security deposits, fees or utility or service  
8 charges as described in ORS 90.315 (4) and 90.562 **or a charge in lieu of a**  
9 **security deposit under section 2 of this 2022 Act.**

10 (39) “Rental agreement” means all agreements, written or oral, and valid  
11 rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the  
12 terms and conditions concerning the use and occupancy of a dwelling unit  
13 and premises. “Rental agreement” includes a lease. A rental agreement is  
14 either a week-to-week tenancy, month-to-month tenancy or fixed term  
15 tenancy.

16 (40) “Roomer” means a person occupying a dwelling unit that does not  
17 include a toilet and either a bathtub or a shower and a refrigerator, stove  
18 and kitchen, all provided by the landlord, and where one or more of these  
19 facilities are used in common by occupants in the structure.

20 (41) “Screening or admission criteria” means a written statement of any  
21 factors a landlord considers in deciding whether to accept or reject an ap-  
22 plicant and any qualifications required for acceptance. “Screening or admis-  
23 sion criteria” includes, but is not limited to, the rental history, character  
24 references, public records, criminal records, credit reports, credit references  
25 and incomes or resources of the applicant.

26 (42)(a) “Security deposit” means a refundable payment or deposit of  
27 money, however designated, the primary function of which is to secure the  
28 performance of a rental agreement or any part of a rental agreement.

29 (b) “Security deposit” does not include a fee.

30 (43) “Sexual assault” has the meaning given that term in ORS 147.450.

31 (44)(a) “Squatter” means a person occupying a dwelling unit who is not

1 so entitled under a rental agreement or who is not authorized by the tenant  
2 to occupy that dwelling unit.

3 (b) “Squatter” does not include a tenant who holds over as described in  
4 ORS 90.427 (11).

5 (45) “Stalking” means the behavior described in ORS 163.732.

6 (46) “Statement of policy” means the summary explanation of information  
7 and facility policies to be provided to prospective and existing tenants under  
8 ORS 90.510.

9 (47) “Surrender” means an agreement, express or implied, as described in  
10 ORS 90.148 between a landlord and tenant to terminate a rental agreement  
11 that gave the tenant the right to occupy a dwelling unit.

12 (48) “Tenant”:

13 (a) Except as provided in paragraph (b) of this subsection:

14 (A) Means a person, including a roomer, entitled under a rental agree-  
15 ment to occupy a dwelling unit to the exclusion of others, including a  
16 dwelling unit owned, operated or controlled by a public housing authority.

17 (B) Means a minor, as defined and provided for in ORS 109.697.

18 (b) For purposes of ORS 90.505 to 90.850, means only a person who owns  
19 and occupies as a residence a manufactured dwelling or a floating home in  
20 a facility and persons residing with that tenant under the terms of the rental  
21 agreement.

22 (c) Does not mean a guest or temporary occupant.

23 (49) “Transient lodging” means a room or a suite of rooms.

24 (50) “Transient occupancy” means occupancy in transient lodging that has  
25 all of the following characteristics:

26 (a) Occupancy is charged on a daily basis and is not collected more than  
27 six days in advance;

28 (b) The lodging operator provides maid and linen service daily or every  
29 two days as part of the regularly charged cost of occupancy; and

30 (c) The period of occupancy does not exceed 30 days.

31 (51) “Vacation occupancy” means occupancy in a dwelling unit, not in-

1 cluding transient occupancy in a hotel or motel, that has all of the following  
2 characteristics:

3 (a) The occupant rents the unit for vacation purposes only, not as a  
4 principal residence;

5 (b) The occupant has a principal residence other than at the unit; and

6 (c) The period of authorized occupancy does not exceed 45 days.

7 (52) “Victim” means:

8 (a) The person against whom an incident related to domestic violence,  
9 sexual assault or stalking is perpetrated; or

10 (b) The parent or guardian of a minor household member against whom  
11 an incident related to domestic violence, sexual assault or stalking is per-  
12 petrated, unless the parent or guardian is the perpetrator.

13 (53) “Week-to-week tenancy” means a tenancy that has all of the follow-  
14 ing characteristics:

15 (a) Occupancy is charged on a weekly basis and is payable no less fre-  
16 quently than every seven days;

17 (b) There is a written rental agreement that defines the landlord’s and the  
18 tenant’s rights and responsibilities under this chapter; and

19 (c) There are no fees, [or] security deposits **or charges in lieu of a se-**  
20 **curity deposit under section 2 of this 2022 Act**, although the landlord may  
21 require the payment of an applicant screening charge, as provided in ORS  
22 90.295.

23 **SECTION 4.** ORS 90.140 is amended to read:

24 90.140. (1) A landlord may require or accept the following types of pay-  
25 ments:

26 (a) Applicant screening charges, pursuant to ORS 90.295;

27 (b) Deposits to secure the execution of a rental agreement, pursuant to  
28 ORS 90.297;

29 (c) Security deposits, pursuant to ORS 90.300;

30 (d) **Charges in lieu of a security deposit, pursuant to section 2 of**  
31 **this 2022 Act;**

- 1     [(d)] (e) Fees, pursuant to ORS 90.302;  
2     [(e)] (f) Rent[, *as defined in ORS 90.100*];  
3     [(f)] (g) Prepaid rent[, *as defined in ORS 90.100*];  
4     [(g)] (h) Utility or service charges, pursuant to ORS 90.315 (4), 90.568 or  
5     90.572;  
6     [(h)] (i) Late charges or fees, pursuant to ORS 90.260; and  
7     [(i)] (j) Damages, for noncompliance with a rental agreement or ORS  
8     90.325, under ORS 90.401 or as provided elsewhere in this chapter.

9     (2) A tenant who requests a writing that evidences the tenant's payment  
10  is entitled to receive that writing from the landlord as a condition for mak-  
11  ing the payment. The writing may be a receipt, statement of the tenant's  
12  account or other acknowledgment of the tenant's payment. The writing must  
13  include the amount paid, the date of payment and information identifying the  
14  landlord or the rental property. If the tenant makes the payment by mail,  
15  deposit or a method other than in person and requests the writing, the  
16  landlord shall within a reasonable time provide the tenant with the writing  
17  in a manner consistent with ORS 90.150.

18     **SECTION 5.** ORS 90.300 is amended to read:

19     90.300. (1) As used in this section, "security deposit" includes any last  
20  month's rent deposit.

21     (2)(a) Except as otherwise provided in this section **and section 2 of this**  
22  **2022 Act**, a landlord may require a tenant to pay a security deposit. The  
23  landlord shall provide the tenant with a receipt for any security deposit the  
24  tenant pays. The landlord shall hold a security deposit or prepaid rent for  
25  the tenant who is a party to the rental agreement. A tenant's claim to the  
26  security deposit or prepaid rent is prior to the claim of a creditor of the  
27  landlord, including a trustee in bankruptcy.

28     (b) Except as provided in ORS 86.782 (10), the holder of the landlord's  
29  interest in the premises at the time the tenancy terminates is responsible to  
30  the tenant for any security deposit or prepaid rent and is bound by this  
31  section.

1 (3) A written rental agreement, if any, must list a security deposit paid  
2 by a tenant or required by a landlord.

3 (4) A landlord may not charge a tenant a pet security deposit for keeping  
4 a service animal or companion animal that a tenant with a disability re-  
5 quires as a reasonable accommodation under fair housing laws.

6 (5)(a) Except as otherwise provided in this subsection, a landlord may not  
7 change the rental agreement to require the tenant to pay a new or increased  
8 security deposit during the first year after the tenancy has begun. Subject  
9 to subsection (4) of this section, the landlord may require an additional de-  
10 posit if the landlord and tenant agree to modify the terms and conditions of  
11 the rental agreement to permit a pet or for other cause and the additional  
12 deposit relates to the modification. This paragraph does not prevent a land-  
13 lord from collecting a security deposit that an initial rental agreement pro-  
14 vided for but that remained unpaid at the time the tenancy began.

15 (b) If a landlord requires a new or increased security deposit after the  
16 first year of the tenancy, the landlord shall allow the tenant at least three  
17 months to pay the new or increased deposit.

18 (6) The landlord may claim all or part of the security deposit only if the  
19 landlord required the security deposit for any or all of the purposes specified  
20 in subsection (7) of this section.

21 (7)(a) The landlord may claim from the security deposit only the amount  
22 reasonably necessary:

23 (A) To remedy the tenant's defaults in the performance of the rental  
24 agreement including, but not limited to, unpaid rent; and

25 (B) To repair damages to the premises caused by the tenant, not including  
26 ordinary wear and tear.

27 (b) A landlord is not required to repair damage caused by the tenant in  
28 order for the landlord to claim against the deposit for the cost to make the  
29 repair. Any labor costs the landlord assesses under this subsection for  
30 cleaning or repairs must be based on a reasonable hourly rate. The landlord  
31 may charge a reasonable hourly rate for the landlord's own performance of

1 cleaning or repair work.

2 (c) Defaults and damages for which a landlord may recover under this  
3 subsection include, but are not limited to:

4 (A) Carpet cleaning, other than the use of a common vacuum cleaner, if:

5 (i) The cleaning is performed by use of a machine specifically designed for  
6 cleaning or shampooing carpets;

7 (ii) The carpet was cleaned or replaced after the previous tenancy or the  
8 most recent significant use of the carpet and before the tenant took pos-  
9 session; and

10 (iii) The written rental agreement provides that the landlord may deduct  
11 the cost of carpet cleaning regardless of whether the tenant cleans the carpet  
12 before the tenant delivers possession as described in ORS 90.147.

13 (B) Loss of use of the dwelling unit during the performance of necessary  
14 cleaning or repairs for which the tenant is responsible under this subsection  
15 if the cleaning or repairs are performed in a timely manner.

16 (8) A landlord may not require a tenant to pay or to forfeit a security  
17 deposit or prepaid rent to the landlord for the tenant's failure to maintain  
18 a tenancy for a minimum number of months in a month-to-month tenancy.

19 (9) The landlord must apply any last month's rent deposit to the rent due  
20 for the last month of the tenancy:

21 (a) When either the landlord or the tenant gives to the other a notice of  
22 termination, pursuant to this chapter, other than a notice of termination  
23 under ORS 90.394;

24 (b) When the landlord and tenant agree to terminate the tenancy; or

25 (c) When the tenancy terminates in accordance with the provisions of a  
26 written rental agreement for a term tenancy.

27 (10) A landlord shall account for and refund as provided in subsections  
28 (12) to (14) of this section any portion of a last month's rent deposit the  
29 landlord does not apply as provided under subsection (9) of this section.  
30 Unless the tenant and landlord agree otherwise, the tenant may not require  
31 the landlord to apply a last month's rent deposit to rent due for any period

1 other than the last month of the tenancy. A last month's rent deposit does  
2 not limit the amount of rent charged unless a written rental agreement  
3 provides otherwise.

4 (11) When the tenancy terminates, a landlord shall account for and refund  
5 to the tenant, in the same manner this section requires for security deposits,  
6 the unused balance of any prepaid rent the landlord has not previously re-  
7 funded to the tenant under ORS 90.380 and 105.120 (5)(b) or any other pro-  
8 vision of this chapter. The landlord may claim from the remaining prepaid  
9 rent only the amount reasonably necessary to pay the tenant's unpaid rent.

10 (12) In order to claim all or part of any prepaid rent or security deposit,  
11 within 31 days after the tenancy terminates and the tenant delivers pos-  
12 session the landlord shall give to the tenant a written accounting that states  
13 specifically the basis or bases of the claim. The landlord shall give a separate  
14 accounting for security deposits and for prepaid rent.

15 (13) The landlord shall return to the tenant the security deposit or pre-  
16 paid rent or the portion of the security deposit or prepaid rent that the  
17 landlord does not claim in the manner provided by subsections (11) and (12)  
18 of this section not later than 31 days after the tenancy terminates and the  
19 tenant delivers possession to the landlord.

20 (14) The landlord shall give the written accounting required under sub-  
21 section (12) of this section or shall return the security deposit or prepaid  
22 rent as required by subsection (13) of this section by personal delivery or by  
23 first class mail.

24 (15) If a security deposit or prepaid rent secures a tenancy for a space for  
25 a manufactured dwelling or floating home the tenant owns and occupies,  
26 whether or not in a facility, and the dwelling or home is abandoned as de-  
27 scribed in ORS 90.425 (2) or 90.675 (2), the 31-day period described in sub-  
28 sections (12) and (13) of this section commences on the earliest of:

29 (a) Waiver of the abandoned property process under ORS 90.425 (26) or  
30 90.675 (24);

31 (b) Removal of the manufactured dwelling or floating home from the



1 rented space;

2 (c) Destruction or other disposition of the manufactured dwelling or  
3 floating home under ORS 90.425 (10)(b) or 90.675 (10)(b); or

4 (d) Sale of the manufactured dwelling or floating home pursuant to ORS  
5 90.425 (10)(a) or 90.675 (10)(a).

6 (16) If the landlord fails to comply with subsection (13) of this section or  
7 if the landlord in bad faith fails to return all or any portion of any prepaid  
8 rent or security deposit due to the tenant under this chapter or the rental  
9 agreement, the tenant may recover the money due in an amount equal to  
10 twice the amount:

11 (a) Withheld without a written accounting under subsection (12) of this  
12 section; or

13 (b) Withheld in bad faith.

14 (17)(a) A security deposit or prepaid rent in the possession of the landlord  
15 is not garnishable property, as provided in ORS 18.618.

16 (b) If a landlord delivers a security deposit or prepaid rent to a garnishor  
17 in violation of ORS 18.618 (1)(b), the landlord that delivered the security  
18 deposit or prepaid rent to the garnishor shall allow the tenant at least 30  
19 days after a copy of the garnishee response required by ORS 18.680 is deliv-  
20 ered to the tenant under ORS 18.690 to restore the security deposit or pre-  
21 paid rent. If the tenant fails to restore a security deposit or prepaid rent  
22 under the provisions of this paragraph before the tenancy terminates, and the  
23 landlord retains no security deposit or prepaid rent from the tenant after the  
24 garnishment, the landlord is not required to refund or account for the secu-  
25 rity deposit or prepaid rent under subsection (11) of this section.

26 (18) This section does not preclude the landlord or tenant from recovering  
27 other damages under this chapter.

28 **SECTION 6.** ORS 90.302 is amended to read:

29 90.302. (1) A landlord may not charge a fee at the beginning of the  
30 tenancy for an anticipated landlord expense and may not require the payment  
31 of any fee except as provided in this section. A fee must be described in a

1 written rental agreement.

2 (2) A landlord may charge a tenant a fee for each occurrence of the fol-  
3 lowing:

4 (a) A late rent payment, pursuant to ORS 90.260.

5 (b) A dishonored check, pursuant to ORS 30.701 (5). The amount of the fee  
6 may not exceed the amount described in ORS 30.701 (5) plus any amount that  
7 a bank has charged the landlord for processing the dishonored check.

8 (c) Removal or tampering with a properly functioning smoke alarm, smoke  
9 detector or carbon monoxide alarm, as provided in ORS 90.325 (2). The  
10 landlord may charge a fee of up to \$250 unless the State Fire Marshal as-  
11 sesses the tenant a civil penalty for the conduct under ORS 479.990 or under  
12 ORS 105.836 to 105.842 and 476.725.

13 (d) The violation of a written pet agreement or of a rule relating to pets  
14 in a facility, pursuant to ORS 90.530.

15 (e) The abandonment or relinquishment of a dwelling unit during a fixed  
16 term tenancy without cause. The fee may not exceed one and one-half times  
17 the monthly rent. A landlord may not assess a fee under this paragraph if  
18 the abandonment or relinquishment is pursuant to ORS 90.453 (2), 90.472 or  
19 90.475. If the landlord assesses a fee under this paragraph:

20 (A) The landlord may not recover unpaid rent for any period of the fixed  
21 term tenancy beyond the date that the landlord knew or reasonably should  
22 have known of the abandonment or relinquishment;

23 (B) The landlord may not recover damages related to the cost of renting  
24 the dwelling unit to a new tenant; and

25 (C) ORS 90.410 (3) does not apply to the abandonment or relinquishment.

26 (3)(a) A landlord may charge a tenant a fee under this subsection for a  
27 second noncompliance or for a subsequent noncompliance with written rules  
28 or policies that describe the prohibited conduct and the fee for a second  
29 noncompliance, and for any third or subsequent noncompliance, that occurs  
30 within one year after a written warning notice described in subparagraph (A)  
31 of this paragraph. Except as provided in paragraph (b)(G) or (H) of this

1 subsection, the fee may not exceed \$50 for the second noncompliance within  
2 one year after the warning notice for the same or a similar noncompliance  
3 or \$50 plus five percent of the rent payment for the current rental period for  
4 a third or subsequent noncompliance within one year after the warning no-  
5 tice for the same or a similar noncompliance. The landlord:

6 (A) Shall give a tenant a written warning notice that describes:

7 (i) A specific noncompliance before charging a fee for a second or subse-  
8 quent noncompliance for the same or similar conduct; and

9 (ii) The amount of the fee for a second noncompliance, and for any sub-  
10 sequent noncompliance, that occurs within one year after the warning notice.

11 (B) Shall give a tenant a written notice describing the noncompliance  
12 when assessing a fee for a second or subsequent noncompliance that occurs  
13 within one year after the warning notice.

14 (C) Shall give a warning notice for a noncompliance or assess a fee for  
15 a second or subsequent noncompliance within 30 days after the act consti-  
16 tuting noncompliance.

17 (D) May terminate a tenancy for a noncompliance consistent with this  
18 chapter instead of assessing a fee under this subsection, but may not assess  
19 a fee and terminate a tenancy for the same noncompliance.

20 (E) May not deduct a fee assessed pursuant to this subsection from a rent  
21 payment for the current or a subsequent rental period.

22 (b) A landlord may charge a tenant a fee for occurrences of noncompli-  
23 ance with written rules or policies as provided in paragraph (a) of this sub-  
24 section for the following types of noncompliance:

25 (A) The late payment of a utility or service charge that the tenant owes  
26 the landlord as described in ORS 90.315.

27 (B) Failure to clean up pet waste from a part of the premises other than  
28 the dwelling unit.

29 (C) Failure to clean up the waste of a service animal or a companion  
30 animal from a part of the premises other than the dwelling unit.

31 (D) Failure to clean up garbage, rubbish and other waste from a part of

1 the premises other than the dwelling unit.

2 (E) Parking violations.

3 (F) The improper use of vehicles within the premises.

4 (G) Smoking in a clearly designated nonsmoking unit or area of the  
5 premises. The fee for a second or any subsequent noncompliance under this  
6 subparagraph may not exceed \$250. A landlord may not assess this fee before  
7 24 hours after the required warning notice to the tenant.

8 (H) Keeping on the premises an unauthorized pet capable of causing  
9 damage to persons or property, as described in ORS 90.405. The fee for a  
10 second or any subsequent noncompliance under this subparagraph may not  
11 exceed \$250. A landlord may not assess this fee before 48 hours after the  
12 required warning notice to the tenant.

13 **(I) The late payment of a charge in lieu of a security deposit under**  
14 **section 2 of this 2022 Act. The maximum fee for a second or subsequent**  
15 **late payment under this subparagraph may not exceed \$5.**

16 (4) A landlord may not be required to account for or return to the tenant  
17 any fee.

18 (5) Except as provided in subsection (2)(e) of this section, a landlord may  
19 not charge a tenant any form of liquidated damages, however designated.

20 (6) Nonpayment of a fee is not grounds for termination of a rental  
21 agreement for nonpayment of rent under ORS 90.394, but is grounds for ter-  
22 mination of a rental agreement for cause under ORS 90.392 or 90.630 (1).

23 (7) This section does not apply to:

24 (a) Attorney fees awarded pursuant to ORS 90.255;

25 (b) Applicant screening charges paid pursuant to ORS 90.295;

26 (c) Charges for improvements or other actions that are requested by the  
27 tenant and are not required of the landlord by the rental agreement or by  
28 law, including the cost to replace a key lost by a tenant;

29 (d) Processing fees charged to the landlord by a credit card company and  
30 passed through to the tenant for the use of a credit card by the tenant to  
31 make a payment when:

1 (A) The credit card company allows processing fees to be passed through  
2 to the credit card holder; and

3 (B) The landlord allows the tenant to pay in cash or by check;

4 (e) A requirement by a landlord in a written rental agreement that a  
5 tenant obtain and maintain renter's liability insurance pursuant to ORS  
6 90.222; or

7 (f) Assessments, as defined in ORS 94.550 and 100.005, for a dwelling unit  
8 that is within a homeowners association organized under ORS 94.625 or an  
9 association of unit owners organized under ORS 100.405, respectively, if:

10 (A) The assessments are imposed by the association on a landlord who  
11 owns a dwelling unit within the association and the landlord passes the as-  
12 sessments through to a tenant of the unit;

13 (B) The assessments are imposed by the association on any person for  
14 expenses related to moving into or out of a unit located within the associ-  
15 ation;

16 (C) The landlord sets forth the assessment requirement in the written  
17 rental agreement at the commencement of the tenancy; and

18 (D) The landlord gives a copy of the assessment the landlord receives from  
19 the association to the tenant before or at the time the landlord charges the  
20 tenant.

21 (8) If a landlord charges a tenant a fee in violation of this section, the  
22 tenant may recover twice the actual damages of the tenant or \$300, which-  
23 ever is greater. This penalty does not apply to fees described in subsection  
24 (2) of this section.

25 (9) The landlord may unilaterally amend a rental agreement for a facility  
26 subject to ORS 90.505 to 90.850 to impose fees authorized by subsection (3)  
27 of this section upon a 90-day written notice to the tenant, except that a  
28 marina landlord may not impose a noncompliance fee for parking under  
29 subsection (3)(b)(E) of this section.

30 **SECTION 7.** ORS 90.392 is amended to read:

31 90.392. (1) Except as provided in this chapter, after delivery of written

1 notice a landlord may terminate the rental agreement for cause and take  
2 possession as provided in ORS 105.105 to 105.168, unless the tenant cures the  
3 violation as provided in this section.

4 (2) Causes for termination under this section are:

5 (a) Material violation by the tenant of the rental agreement. For pur-  
6 poses of this paragraph, material violation of the rental agreement includes,  
7 but is not limited to, the nonpayment of a late charge under ORS 90.260,  
8 [or] a utility or service charge under ORS 90.315 **or a charge in lieu of a**  
9 **security deposit under section 2 of this 2022 Act.**

10 (b) Material violation by the tenant of ORS 90.325.

11 (c) Failure by the tenant to pay rent.

12 (3) The notice must:

13 (a) Specify the acts and omissions constituting the violation;

14 (b) Except as provided in subsection (5)(a) of this section, state that the  
15 rental agreement will terminate upon a designated date not less than 30 days  
16 after delivery of the notice; and

17 (c) If the tenant can cure the violation as provided in subsection (4) of  
18 this section, state that the violation can be cured, describe at least one  
19 possible remedy to cure the violation and designate the date by which the  
20 tenant must cure the violation.

21 (4)(a) If the violation described in the notice can be cured by the tenant  
22 by a change in conduct, repairs, payment of money or otherwise, the rental  
23 agreement does not terminate if the tenant cures the violation by the desig-  
24 nated date. The designated date must be:

25 (A) At least 14 days after delivery of the notice; or

26 (B) If the violation is conduct that was a separate and distinct act or  
27 omission and is not ongoing, no earlier than the date of delivery of the no-  
28 tice as provided in ORS 90.155. For purposes of this paragraph, conduct is  
29 ongoing if the conduct is constant or persistent or has been sufficiently re-  
30 petitive over time that a reasonable person would consider the conduct to  
31 be ongoing.

1 (b) If the tenant does not cure the violation, the rental agreement termi-  
2 nates as provided in the notice.

3 (5)(a) If the cause of a written notice delivered under subsection (1) of  
4 this section is substantially the same act or omission that constituted a prior  
5 violation for which notice was given under this section within the previous  
6 six months, the designated termination date stated in the notice must be not  
7 less than 10 days after delivery of the notice and no earlier than the desig-  
8 nated termination date stated in the previously given notice. The tenant  
9 does not have a right to cure this subsequent violation.

10 (b) A landlord may not terminate a rental agreement under this sub-  
11 section if the only violation is a failure to pay the current month's rent.

12 (6) When a tenancy is a week-to-week tenancy, the notice period in:

13 (a) Subsection (3)(b) of this section changes from 30 days to seven days;

14 (b) Subsection (4)(a)(A) of this section changes from 14 days to four days;

15 and

16 (c) Subsection (5)(a) of this section changes from 10 days to four days.

17 (7) The termination of a tenancy for a manufactured dwelling or floating  
18 home space in a facility under ORS 90.505 to 90.850 is governed by ORS  
19 90.630 and not by this section.

20 **SECTION 8.** ORS 90.510 is amended to read:

21 90.510. (1) Every landlord who rents a space for a manufactured dwelling  
22 or floating home shall provide a written statement of policy to prospective  
23 and existing tenants. The purpose of the statement of policy is to provide  
24 disclosure of the landlord's policies to prospective tenants and to existing  
25 tenants who have not previously received a statement of policy. The state-  
26 ment of policy is not a part of the rental agreement. The statement of policy  
27 shall provide all of the following information in summary form:

28 (a) The location and approximate size of the space to be rented.

29 (b) The federal fair-housing age classification and present zoning that af-  
30 fect the use of the rented space.

31 (c) The facility policy regarding rent adjustment and a rent history for

1 the space to be rented. The rent history must, at a minimum, show the rent  
2 amounts on January 1 of each of the five preceding calendar years or during  
3 the length of the landlord's ownership, leasing or subleasing of the facility,  
4 whichever period is shorter.

5 (d) The personal property, services and facilities that are provided by the  
6 landlord.

7 (e) The installation charges that are imposed by the landlord and the in-  
8 stallation fees that are imposed by government agencies.

9 (f) The facility policy regarding rental agreement termination including,  
10 but not limited to, closure of the facility.

11 (g) The facility policy regarding facility sale.

12 (h) The facility policy regarding mandatory mediation under ORS 90.767  
13 and informal dispute resolution, if any, under ORS 90.769.

14 (i) The utilities and services that are available, the name of the person  
15 furnishing them and the name of the person responsible for payment.

16 (j) The facility policy regarding methods of billing for utilities and ser-  
17 vices as described in ORS 90.560 to 90.584.

18 (k) If a tenants' association exists for the facility, a one-page summary  
19 about the tenants' association. The tenants' association shall provide the  
20 summary to the landlord.

21 (L) Any facility policy regarding the removal of a manufactured dwelling,  
22 including a statement that removal requirements may impact the market  
23 value of a dwelling.

24 (m) Any facility policy regarding the planting of trees on the rented space  
25 for a manufactured dwelling.

26 (n) Any requirement to obtain and maintain renter's liability insurance  
27 under ORS 90.527.

28 (2) The rental agreement and the facility rules and regulations must be  
29 attached as an exhibit to the statement of policy. If the recipient of the  
30 statement of policy is a tenant, the rental agreement attached to the state-  
31 ment of policy must be a copy of the agreement entered by the landlord and



1 tenant.

2 (3) The landlord shall give:

3 (a) Prospective tenants a copy of the statement of policy before the pro-  
4 spective tenants sign rental agreements;

5 (b) Existing tenants who have not previously received a copy of the  
6 statement of policy and who are on month-to-month rental agreements a copy  
7 of the statement of policy at the time a 90-day notice of a rent increase is  
8 issued; and

9 (c) All other existing tenants who have not previously received a copy  
10 of the statement of policy a copy of the statement of policy upon the expi-  
11 ration of their rental agreements and before the tenants sign new agree-  
12 ments.

13 (4) Every landlord who rents a space for a manufactured dwelling or  
14 floating home shall provide a written rental agreement, except as provided  
15 by ORS 90.710 (2)(d). The agreement must be signed by the landlord and  
16 tenant and may not be amended by one of the parties to the contract except  
17 by:

18 (a) Mutual agreement of the parties;

19 (b) The landlord unilaterally under ORS 90.155 (4), 90.302 (9), 90.530,  
20 90.566, 90.574, 90.578 (3), 90.600, 90.610, 90.643, 90.725 (3)(f) and (7), 90.727 or  
21 90.767 (9); or

22 (c) Those provisions required by changes in statute or ordinance.

23 (5) The rental agreement required by subsection (4) of this section must  
24 specify:

25 (a) The location and approximate size of the rented space.

26 (b) The federal fair-housing age classification.

27 (c) The rent per month.

28 (d) All personal property, services and facilities provided by the landlord.

29 (e) All security deposits **or fees in lieu of a security deposit**, fees and  
30 installation charges imposed by the landlord.

31 (f) Any facility policy regarding the planting of trees on the rented space

1 for a manufactured dwelling.

2 (g) Improvements that the tenant may or must make to the rental space,  
3 including plant materials and landscaping.

4 (h) Provisions for dealing with improvements to the rental space at the  
5 termination of the tenancy.

6 (i) Any conditions the landlord applies in approving a purchaser of a  
7 manufactured dwelling or floating home as a tenant in the event the tenant  
8 elects to sell the home. Those conditions must be in conformance with state  
9 and federal law and may include, but are not limited to, conditions as to  
10 pets, number of occupants and screening or admission criteria.

11 (j) That the tenant may not sell the tenant's manufactured dwelling or  
12 floating home to a person who intends to leave the manufactured dwelling  
13 or floating home on the rental space until the landlord has accepted the  
14 person as a tenant.

15 (k) The term of the tenancy.

16 (L) The process by which the rental agreement or rules and regulations  
17 may be changed that is consistent with ORS 90.610.

18 (m) The process by which the landlord or tenant shall give notices.

19 (n) That either party may request no-cost mandatory mediation of disputes  
20 through the Housing and Community Services Department or a dispute re-  
21 solution program described in ORS 36.155 and the process by which manda-  
22 tory mediation is initiated and conducted that is consistent with ORS 90.767.

23 (o) Any requirement to obtain and maintain renter's liability insurance  
24 under ORS 90.527.

25 (6) Every landlord who rents a space for a manufactured dwelling or  
26 floating home shall provide rules and regulations concerning the tenant's use  
27 and occupancy of the premises. A violation of the rules and regulations may  
28 be cause for termination of a rental agreement. However, this subsection  
29 does not create a presumption that all rules and regulations are identical for  
30 all tenants at all times. A rule or regulation is enforceable against the ten-  
31 ant only if:

1 (a) The rule or regulation:

2 (A) Promotes the convenience, safety or welfare of the tenants;

3 (B) Preserves the landlord's property from abusive use; or

4 (C) Makes a fair distribution of services and facilities held out for the  
5 general use of the tenants.

6 (b) The rule or regulation:

7 (A) Is reasonably related to the purpose for which it is adopted and is  
8 reasonably applied;

9 (B) Is sufficiently explicit in its prohibition, direction or limitation of the  
10 tenant's conduct to fairly inform the tenant of what the tenant shall do or  
11 may not do to comply; and

12 (C) Is not for the purpose of evading the obligations of the landlord.

13 (7)(a) A landlord who rents a space for a manufactured dwelling or  
14 floating home may adopt a rule or regulation regarding occupancy guide-  
15 lines. If adopted, an occupancy guideline in a facility must be based on rea-  
16 sonable factors and not be more restrictive than limiting occupancy to two  
17 people per bedroom.

18 (b) As used in this subsection:

19 (A) Factors to be considered in determining reasonableness include:

20 (i) The size of the dwelling.

21 (ii) The size of the rented space.

22 (iii) Any discriminatory impact as described in ORS 659A.421 and  
23 659A.425.

24 (iv) Limitations placed on utility services governed by a permit for water  
25 or sewage disposal.

26 (B) "Bedroom" means a room that is intended to be used primarily for  
27 sleeping purposes and does not include bathrooms, toilet compartments,  
28 closets, halls, storage or utility space and similar areas.

29 (8) Intentional and deliberate failure of the landlord to comply with sub-  
30 sections (1) to (3) of this section is cause for suit or action to remedy the  
31 violation or to recover actual damages. The prevailing party is entitled to

1 reasonable attorney fees and court costs.

2 (9) A receipt signed by the potential tenant or tenants for documents re-  
3 quired to be delivered by the landlord pursuant to subsections (1) to (3) of  
4 this section is a defense for the landlord in an action against the landlord  
5 for nondelivery of the documents.

6 (10) A suit or action arising under subsection (8) of this section must be  
7 commenced within one year after the discovery or identification of the al-  
8 leged violation.

9 (11) Every landlord who publishes a directory of tenants and tenant ser-  
10 vices must include a one-page summary regarding any tenants' association.  
11 The tenants' association shall provide the summary to the landlord.

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