

Requested by Representative POWER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2484**

1 On page 1 of the printed bill, delete lines 6 through 31.

2 On page 2, delete lines 1 through 44 and insert:

3 **“SECTION 2. (1) Except as provided in subsection (4) of this section,**
4 **a landlord may not prohibit the tenant’s use of a dwelling as a family**
5 **child care home if:**

6 **“(a) The family child care home is certified under ORS 329A.280 or**
7 **registered under ORS 329A.330; and**

8 **“(b) The tenant has notified the landlord of the use.**

9 **“(2) A landlord shall take reasonable steps to cooperate with a**
10 **tenant who uses, or intends, plans or attempts to use, the dwelling as**
11 **a family child care home, including compliance with rules of the Early**
12 **Learning Council under ORS 329A.280 or 329A.330.**

13 **“(3) A tenant may enforce the requirements of subsections (1) and**
14 **(2) of this section under ORS 90.360.**

15 **“(4) This section and ORS 90.385 do not prohibit a landlord from:**

16 **“(a) Requiring that a tenant pay in advance for costs of modifica-**
17 **tions necessary or desirable for the tenant’s use, certification or reg-**
18 **istration of the dwelling as a family child care home that are not**
19 **required of the landlord under ORS 90.320 or the rental agreement.**

20 **“(b) Prohibiting a use not allowed under the zoning for the dwelling**
21 **unit or an association’s governing documents as defined in ORS 94.550**

1 or 100.005.

2 “(c) Prohibiting a use not allowed under rules established by the
3 Early Learning Council implementing ORS 329A.280.

4 “(5) A landlord may require that a tenant using the property as a
5 family child care home, at the election of the landlord, either:

6 “(a) Require parents of any children under the care of the family
7 child care home sign a document in which the parents:

8 “(A) Agree for themselves and their children that the landlord,
9 owner or association, as defined in ORS 94.550 or 100.005, is not liable
10 for losses from injuries to their children or their guests connected
11 with the operation of the family child care facility; and

12 “(B) Acknowledge that the family home care provider does not
13 maintain liability coverage for losses from injuries to their children
14 or their guests connected with the operation of the family child care
15 facility; or

16 “(b) Notwithstanding ORS 90.222, carry and maintain a surety bond
17 or liability policy covering injuries to their children and guests that:

18 “(A) Provides coverage of claims for injuries sustained on account
19 of the negligence of the tenant or its employees;

20 “(B) Names the landlord, owner or association, as defined in ORS
21 94.550 or 100.005, as an additional insured; and

22 “(C) Provides coverage in an amount no less than amount estab-
23 lished by the Department of Consumer and Business Services by rule.

24 “(6) This section does not require a family child care home to carry
25 any insurance policy unless required by a landlord under subsection
26 (5)(b) of this section.

27 “(7) This section does not apply to housing for older persons as de-
28 fined in ORS 659A.421.

29 “**SECTION 3.** ORS 90.385, as amended by section 9, chapter 3, Oregon
30 Laws 2020 (third special session), is amended to read:

1 “90.385. (1) Except as provided in this section, a landlord may not retali-
2 ate by increasing rent or decreasing services, by serving a notice to termi-
3 nate the tenancy or by bringing or threatening to bring an action for
4 possession after:

5 “(a) The tenant has complained to, or expressed to the landlord in writing
6 an intention to complain to, a governmental agency charged with responsi-
7 bility for enforcement of any of the following concerning a violation appli-
8 cable to the tenancy:

9 “(A) A building, health or housing code materially affecting health or
10 safety;

11 “(B) Laws or regulations concerning the delivery of mail; or

12 “(C) Laws or regulations prohibiting discrimination in rental housing;

13 “(b) The tenant has made any complaint to the landlord that is in good
14 faith and related to the tenancy;

15 “(c) The tenant has organized or become a member of a tenants’ union
16 or similar organization;

17 “(d) The tenant has testified against the landlord in any judicial, admin-
18 istrative or legislative proceeding;

19 “(e) The tenant successfully defended an action for possession brought by
20 the landlord within the previous six months except if the tenant was suc-
21 cessful in defending the action only because:

22 “(A) The termination notice by the landlord was not served or delivered
23 in the manner required by ORS 90.155; or

24 “(B) The period provided by the termination notice was less than that
25 required by the statute upon which the notice relied to terminate the
26 tenancy; [*or*]

27 “(f) **The tenant uses, or intends or attempts to use, the dwelling as**
28 **a family child care home in compliance with section 2 of this 2021 Act;**
29 **or**

30 “[*f*] (g) The tenant has performed or expressed intent to perform any

1 other act for the purpose of asserting, protecting or invoking the protection
2 of any right secured to tenants under any federal, state or local law.

3 “(2) As used in subsection (1) of this section, ‘decreasing services’ in-
4 cludes:

5 “(a) Unreasonably restricting the availability of or placing unreasonable
6 burdens on the use of common areas or facilities by tenant associations or
7 tenants meeting to establish a tenant organization; and

8 “(b) Intentionally and unreasonably interfering with and substantially
9 impairing the enjoyment or use of the premises by the tenant.

10 “(3) If the landlord acts in violation of subsection (1) of this section, the
11 tenant is entitled to recover an amount equal to up to three months’ periodic
12 rent or three times the actual damages sustained by the tenant and has a
13 defense in any retaliatory action against the tenant for possession.

14 “(4) Notwithstanding subsections (1) and (3) of this section, a landlord
15 may bring an action for possession if:

16 “(a) The complaint by the tenant was made to the landlord or an agent
17 of the landlord in an unreasonable manner or at an unreasonable time or
18 was repeated in a manner having the effect of unreasonably harassing the
19 landlord[. *A determination whether the manner, time or effect of a complaint*
20 *was unreasonable shall include*] **in** consideration of all related circumstances
21 preceding or contemporaneous to the complaint;

22 “(b) The violation of the applicable building or housing code was caused
23 primarily by lack of reasonable care by the tenant or other person in the
24 household of the tenant or upon the premises with the consent of the tenant;

25 “(c) The tenant was in default in rent at the time of the service of the
26 notice upon which the action is based; or

27 “(d) Compliance with the applicable building or housing code requires
28 alteration, remodeling or demolition which would effectively deprive the
29 tenant of use of the dwelling unit.

30 “(5) For purposes of this section, a complaint made by another on behalf

1 of a tenant is considered a complaint by the tenant.

2 “(6) For the purposes of subsection (4)(c) of this section, a tenant who has
3 paid rent into court pursuant to ORS 90.370 shall not be considered to be in
4 default in rent.

5 “(7) The maintenance of an action under subsection (4) of this section
6 does not release the landlord from liability under ORS 90.360 (2).

7 **“SECTION 3a.** ORS 90.385, as amended by sections 9 and 18, chapter 3,
8 Oregon Laws 2020 (third special session), is amended to read:

9 “90.385. (1) Except as provided in this section, a landlord may not retali-
10 ate by increasing rent or decreasing services, by serving a notice to termi-
11 nate the tenancy or by bringing or threatening to bring an action for
12 possession after:

13 “(a) The tenant has complained to, or expressed to the landlord in writing
14 an intention to complain to, a governmental agency charged with responsi-
15 bility for enforcement of any of the following concerning a violation appli-
16 cable to the tenancy:

17 “(A) A building, health or housing code materially affecting health or
18 safety;

19 “(B) Laws or regulations concerning the delivery of mail; or

20 “(C) Laws or regulations prohibiting discrimination in rental housing;

21 “(b) The tenant has made any complaint to the landlord that is in good
22 faith and related to the tenancy;

23 “(c) The tenant has organized or become a member of a tenants’ union
24 or similar organization;

25 “(d) The tenant has testified against the landlord in any judicial, admin-
26 istrative or legislative proceeding;

27 “(e) The tenant successfully defended an action for possession brought by
28 the landlord within the previous six months except if the tenant was suc-
29 cessful in defending the action only because:

30 “(A) The termination notice by the landlord was not served or delivered

1 in the manner required by ORS 90.155; or

2 “(B) The period provided by the termination notice was less than that
3 required by the statute upon which the notice relied to terminate the
4 tenancy; [or]

5 “(f) **The tenant uses, or intends or attempts to use, the dwelling as**
6 **a family child care home in compliance with section 2 of this 2021 Act;**
7 **or**

8 “[*f*] (g) The tenant has performed or expressed intent to perform any
9 other act for the purpose of asserting, protecting or invoking the protection
10 of any right secured to tenants under any federal, state or local law.

11 “(2) As used in subsection (1) of this section, ‘decreasing services’ in-
12 cludes:

13 “(a) Unreasonably restricting the availability of or placing unreasonable
14 burdens on the use of common areas or facilities by tenant associations or
15 tenants meeting to establish a tenant organization; and

16 “(b) Intentionally and unreasonably interfering with and substantially
17 impairing the enjoyment or use of the premises by the tenant.

18 “(3) If the landlord acts in violation of subsection (1) of this section, the
19 tenant is entitled to the remedies provided in ORS 90.375 and has a defense
20 in any retaliatory action against the tenant for possession.

21 “(4) Notwithstanding subsections (1) and (3) of this section, a landlord
22 may bring an action for possession if:

23 “(a) The complaint by the tenant was made to the landlord or an agent
24 of the landlord in an unreasonable manner or at an unreasonable time or
25 was repeated in a manner having the effect of unreasonably harassing the
26 landlord[. *A determination whether the manner, time or effect of a complaint*
27 *was unreasonable shall include*] **in** consideration of all related circumstances
28 preceding or contemporaneous to the complaint;

29 “(b) The violation of the applicable building or housing code was caused
30 primarily by lack of reasonable care by the tenant or other person in the

1 household of the tenant or upon the premises with the consent of the tenant;

2 “(c) The tenant was in default in rent at the time of the service of the
3 notice upon which the action is based; or

4 “(d) Compliance with the applicable building or housing code requires
5 alteration, remodeling or demolition which would effectively deprive the
6 tenant of use of the dwelling unit.

7 “(5) For purposes of this section, a complaint made by another on behalf
8 of a tenant is considered a complaint by the tenant.

9 “(6) For the purposes of subsection (4)(c) of this section, a tenant who has
10 paid rent into court pursuant to ORS 90.370 shall not be considered to be in
11 default in rent.

12 “(7) The maintenance of an action under subsection (4) of this section
13 does not release the landlord from liability under ORS 90.360 (2).”

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