

HB 4120 A STAFF MEASURE SUMMARY

Senate Committee On Housing and Development

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Meeting Dates: 2/26

WHAT THE MEASURE DOES:

The measure modifies residential rental use and occupancy regulations to permit a landlord to amend a smoking policy in an ongoing rental agreement without the tenant’s written consent, under specified circumstances. The measure creates this exception for amending a smoking policy to prohibit smoking within dwelling units or interior common areas, but only for tenancies in dwelling units built under a specified development agreement or in units that share a wall with another unit. The exception does not apply to Type A accessible units. The measure prohibits the change from taking effect during a fixed-term tenancy until the end of the term. The landlord must provide at least one designated smoking area on the premises, post the area accordingly, and give tenants at least 180 days’ written notice before the policy change takes effect.

Fiscal impact: Minimal fiscal impact

Revenue impact: Minimal revenue impact

HOUSE VOTE: Ayes, 51; Nays, 2

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under current law, a landlord may adopt and enforce rules governing a tenant’s use and occupancy of a dwelling only if the rules meet specified standards related to fairness, notice, and purpose (ORS 90.262). However, when a landlord adopts a new rule after a tenant has entered into a rental agreement, additional limits apply. Specifically, if a post-lease rule or regulation substantially modifies the bargain between the landlord and tenant, the rule is not valid unless the tenant provides written consent. This provision reflects the principle that the material terms of a rental agreement generally may not be unilaterally altered during an ongoing tenancy in a way that significantly changes the tenant’s rights or obligations. As a result, under current law, landlords are typically restricted from implementing mid-tenancy changes, such as new use restrictions or prohibitions, that materially affect how a tenant may use the dwelling, unless the tenant agrees in writing or the change does not constitute a substantial modification.