

D R A F T

SUMMARY

Modifies conditions under which landlord may terminate month-to-month tenancy after first year of occupancy. Requires landlord to pay tenant relocation expenses under certain circumstances. Creates presumption of retaliation in actions between landlord and tenant commenced within six months of certain actions by tenant. Requires landlord to provide 90-day notice for rent increase. Prohibits rent increase during first year of occupancy of month-to-month tenancy.

Permits local government to adopt land use regulations or functional plan provisions, or impose conditions for approval of permits, that effectively establish below-market sales or rental price for up to 30 percent of new residential development or that limit sale or rental to class or group of purchasers or renters in exchange for one or more developer incentives.

Permits local government to waive state or local building and zoning codes during state of emergency or upon finding rental vacancy of four percent or less.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1

2 Relating to housing; creating new provisions; amending ORS 90.220, 90.230,
3 90.385, 90.427, 90.465, 105.124, 197.309 and 401.335; and declaring an emer-
4 gency.

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

6 **SECTION 1.** ORS 90.427 is amended to read:

7 90.427. (1) As used in this section, “first year of occupancy” includes all
8 periods in which any of the tenants has resided in the dwelling unit for one
9 year or less.

10 (2) If a tenancy is a week-to-week tenancy, the landlord or the tenant may
11 terminate the tenancy by a written notice given to the other at least 10 days

1 before the termination date specified in the notice.

2 (3) If a tenancy is a month-to-month tenancy:

3 (a) At any time during the tenancy, the tenant may terminate the tenancy
4 by giving the landlord notice in writing not less than 30 days prior to the
5 date designated in the notice for the termination of the tenancy.

6 (b) At any time during the first year of occupancy, the landlord may ter-
7 minate the tenancy by giving the tenant notice in writing not less than 30
8 days prior to the date designated in the notice for the termination of the
9 tenancy.

10 (c) At any time after the first year of occupancy, the landlord may ter-
11 minate the tenancy by giving the tenant notice in writing not less than
12 [60] **90** days prior to the date designated in the notice for the termination
13 of the tenancy.

14 (4) If the tenancy is for a fixed term of at least one year and by its terms
15 becomes a month-to-month tenancy after the fixed term:

16 (a) At any time during the fixed term, notwithstanding subsection (3) of
17 this section, the landlord or the tenant may terminate the tenancy without
18 cause by giving the other notice in writing not less than 30 days prior to the
19 specified ending date for the fixed term or not less than 30 days prior to the
20 date designated in the notice for the termination of the tenancy, whichever
21 is later.

22 (b) After the specified ending date for the fixed term, at any time during
23 the month-to-month tenancy, the landlord may terminate the tenancy without
24 cause only by giving the tenant notice in writing not less than [60] **90** days
25 prior to the date designated in the notice for the termination of the tenancy.

26 (5) *[Notwithstanding subsections (3)(c) and (4)(b) of this section, the land-*
27 *lord may terminate a month-to-month tenancy at any time by giving the tenant*
28 *notice in writing not less than 30 days prior to the date designated in the no-*
29 *tice for the termination of the tenancy if:]*

30 *[(a) The dwelling unit is purchased separately from any other dwelling*
31 *unit;]*

1 *[(b) The landlord has accepted an offer to purchase the dwelling unit from*
2 *a person who intends in good faith to occupy the dwelling unit as the person's*
3 *primary residence; and]*

4 *[(c) The landlord has provided the notice, and written evidence of the offer*
5 *to purchase the dwelling unit, to the tenant not more than 120 days after ac-*
6 *cepting the offer to purchase.]* **A landlord that terminates a tenancy pur-**
7 **suant to subsection (3)(c) or (4)(b) of this section shall pay the tenant**
8 **relocation assistance in an amount equal to one month's periodic rent.**
9 **Relocation assistance payments are due at the time of delivery of the**
10 **notice for the termination of the tenancy. Failure to include the relo-**
11 **cation assistance payment with the notice for termination of the**
12 **tenancy shall render the notice void.**

13 (6) The tenancy shall terminate on the date designated and without regard
14 to the expiration of the period for which, by the terms of the tenancy, rents
15 are to be paid. Unless otherwise agreed, rent is uniformly apportionable from
16 day to day.

17 (7) If the tenant remains in possession without the landlord's consent af-
18 ter expiration of the term of the rental agreement or its termination, the
19 landlord may bring an action for possession. In addition, the landlord may
20 recover from the tenant any actual damages resulting from the tenant hold-
21 ing over, including the value of any rent accruing from the expiration or
22 termination of the rental agreement until the landlord knows or should know
23 that the tenant has relinquished possession to the landlord. If the landlord
24 consents to the tenant's continued occupancy, ORS 90.220 (7) applies.

25 (8)(a) A notice given to terminate a tenancy under subsection (2) or (3)
26 of this section need not state a reason for the termination.

27 (b) Notwithstanding paragraph (a) of this subsection, a landlord or tenant
28 may include in a notice of termination given under subsection (2) or (3) of
29 this section an explanation of the reason for the termination without having
30 to prove the reason. An explanation does not give the person receiving the
31 notice of termination a right to cure the reason if the notice states that:

1 (A) The notice is given without stated cause;

2 (B) The recipient of the notice does not have a right to cure the reason
3 for the termination; and

4 (C) The person giving the notice need not prove the reason for the ter-
5 mination in a court action.

6 (9) Subsections (2) to (5) of this section do not apply to a month-to-month
7 tenancy subject to ORS 90.429 or other tenancy created by a rental agree-
8 ment subject to ORS 90.505 to 90.850.

9 **(10) Subsection (5) of this section does not apply to a tenancy cre-**
10 **ated by a rental agreement subject to ORS 90.230.**

11 **SECTION 2.** ORS 90.385 is amended to read:

12 90.385. (1) Except as provided in this section, a landlord may not retaliate
13 by increasing rent or decreasing services, by serving a notice to terminate
14 the tenancy or by bringing or threatening to bring an action for possession
15 after:

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

20 (A) A building, health or housing code materially affecting health or
21 safety;

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

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

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

26 (c) The tenant has organized or become a member of a tenants' union or
27 similar organization;

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

30 (e) The tenant successfully defended an action for possession brought by
31 the landlord within the previous six months except if the tenant was suc-

1 cessful in defending the action only because:

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

4 (B) The period provided by the termination notice was less than that re-
5 quired by the statute upon which the notice relied to terminate the tenancy;
6 or

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

10 (2) As used in subsection (1) of this section, “decreasing services” in-
11 cludes:

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

15 (b) Intentionally and unreasonably interfering with and substantially im-
16 pairing the enjoyment or use of the premises by the tenant.

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

21 **(b) In an action by or against the tenant, evidence that the tenant**
22 **acted as described in subsection (1) of this section within six months**
23 **of the commencement of the action creates a disputable presumption**
24 **that the landlord’s conduct was in retaliation for the complaint or**
25 **other act by the tenant. This presumption does not arise if the tenant**
26 **acted as described in subsection (1) of this section following receiving**
27 **notice of a proposed rent increase or a decrease in services.**

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

30 *[(a) The complaint by the tenant was made to the landlord or an agent of*
31 *the landlord in an unreasonable manner or at an unreasonable time or was*

1 *repeated in a manner having the effect of unreasonably harassing the landlord.*
2 *A determination whether the manner, time or effect of a complaint was un-*
3 *reasonable shall include consideration of all related circumstances preceding*
4 *or contemporaneous to the complaint;]*

5 [(b)] (a) The violation of the applicable building or housing code was
6 caused primarily by lack of reasonable care by the tenant or other person
7 in the household of the tenant or upon the premises with the consent of the
8 tenant;

9 [(c)] (b) The tenant was in default in rent at the time of the service of
10 the notice upon which the action is based; [or]

11 [(d)] (c) Compliance with the applicable building or housing code requires
12 alteration, remodeling or demolition which would effectively deprive the
13 tenant of use of the dwelling unit[.]; or

14 (d) **The complaint by the tenant was made to the landlord or an**
15 **agent of the landlord in an unreasonable manner or at an unreason-**
16 **able time or was repeated in a manner having the effect of unreason-**
17 **ably harassing the landlord. A determination whether the manner,**
18 **time or effect of a complaint was unreasonable shall include consid-**
19 **eration of all related circumstances preceding or contemporaneous to**
20 **the complaint.**

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

23 (6) For the purposes of subsection [(4)(c)] (4)(b) of this section, a tenant
24 who has paid rent into court pursuant to ORS 90.370 shall not be considered
25 to be in default in rent.

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

28 **SECTION 3.** ORS 105.124 is amended to read:

29 105.124. For a complaint described in ORS 105.123, if ORS chapter 90 ap-
30 plies to the dwelling unit:

31 (1) The complaint must be in substantially the following form and be

1 available from the clerk of the court:

2 _____

3 IN THE CIRCUIT COURT
4 FOR THE COUNTY OF

5 _____

6 No. _____

7
8 RESIDENTIAL EVICTION COMPLAINT

9

10 PLAINTIFF (Landlord or agent):

11 _____

12 _____

13 Address: _____

14 City: _____

15 State: _____ Zip: _____

16 Telephone: _____

17

18 vs.

19

20 DEFENDANT (Tenants/Occupants):

21 _____

22 _____

23 MAILING ADDRESS: _____

24 City: _____

25 State: _____ Zip: _____

26 Telephone: _____

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28 1.

29 Tenants are in possession of the dwelling unit, premises or rental prop-
30 erty described above or located at:

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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] **90-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.

1 **(2) If a tenancy is a week-to-week tenancy, the landlord may not**
2 **increase the rent without giving the tenant written notice at least**
3 **seven days prior to the effective date of the rent increase.**

4 **(3) If a tenancy is a month-to-month tenancy, the landlord may not**
5 **increase the rent at any time during the first year of occupancy.**

6 **(4) If a tenancy is a month-to-month tenancy, the landlord may not**
7 **increase the rent at any time after the first year of occupancy unless**
8 **the landlord gives notice in writing to each affected tenant at least 90**
9 **days prior to the effective date of the rent increase. The notice must**
10 **specify:**

11 **(a) The amount of the increase;**

12 **(b) The amount of the new rent;**

13 **(c) The date on which the increase becomes effective; and**

14 **(d) If the stated increase is five percent or more, the basis for the**
15 **increase.**

16 **SECTION 6.** ORS 90.220 is amended to read:

17 90.220. (1) A landlord and a tenant may include in a rental agreement
18 terms and conditions not prohibited by this chapter or other rule of law in-
19 cluding rent, term of the agreement and other provisions governing the
20 rights and obligations of the parties.

21 (2) The terms of a fixed term tenancy, including the amount of rent, may
22 not be unilaterally amended by the landlord or tenant.

23 (3) The landlord shall provide the tenant with a copy of any written
24 rental agreement and all amendments and additions thereto.

25 (4) Except as provided in this subsection, the rental agreement must in-
26 clude a disclosure of the smoking policy for the premises that complies with
27 ORS 479.305. A disclosure of smoking policy is not required in a rental
28 agreement subject to ORS 90.505 to 90.850 for space in a facility as defined
29 in ORS 90.100.

30 (5) Notwithstanding ORS 90.245 (1), the parties to a rental agreement to
31 which ORS 90.100 to 90.465 apply may include in the rental agreement a

1 provision for informal dispute resolution.

2 (6) In absence of agreement, the tenant shall pay as rent the fair rental
3 value for the use and occupancy of the dwelling unit.

4 (7) Except as otherwise provided by this chapter:

5 (a) Rent is payable without demand or notice at the time and place agreed
6 upon by the parties. Unless otherwise agreed, rent is payable at the dwelling
7 unit, periodic rent is payable at the beginning of any term of one month or
8 less and otherwise in equal monthly or weekly installments at the beginning
9 of each month or week, depending on whether the tenancy is month-to-month
10 or week-to-week. Rent may not be considered to be due prior to the first day
11 of each rental period. [*Rent may not be increased without a 30-day written*
12 *notice thereof in the case of a month-to-month tenancy or a seven-day written*
13 *notice thereof in the case of a week-to-week tenancy.*] **Rent increases must**
14 **comply with section 5 of this 2016 Act.**

15 (b) If a rental agreement does not create a week-to-week tenancy, as de-
16 fined in ORS 90.100, or a fixed term tenancy, the tenancy shall be a month-
17 to-month tenancy.

18 (8) Except as provided by ORS 90.427 (7), a tenant is responsible for pay-
19 ment of rent until the earlier of:

20 (a) The date that a notice terminating the tenancy expires;

21 (b) The date that the tenancy terminates by its own terms;

22 (c) The date that the tenancy terminates by surrender;

23 (d) The date that the tenancy terminates as a result of the landlord failing
24 to use reasonable efforts to rent the dwelling unit to a new tenant as pro-
25 vided under ORS 90.410 (3);

26 (e) The date when a new tenancy with a new tenant begins;

27 (f) Thirty days after delivery of possession without prior notice of termi-
28 nation of a month-to-month tenancy; or

29 (g) Ten days after delivery of possession without prior notice of termi-
30 nation of a week-to-week tenancy.

31 (9)(a) Notwithstanding a provision in a rental agreement regarding the

1 order of application of tenant payments, a landlord shall apply tenant pay-
2 ments in the following order:

- 3 (A) Outstanding rent from prior rental periods;
- 4 (B) Rent for the current rental period;
- 5 (C) Utility or service charges;
- 6 (D) Late rent payment charges; and
- 7 (E) Fees or charges owed by the tenant under ORS 90.302 or other fees
8 or charges related to damage claims or other claims against the tenant.

9 (b) This subsection does not apply to rental agreements subject to ORS
10 90.505 to 90.850.

11 **SECTION 7.** ORS 197.309 is amended to read:

12 197.309. *[(1) Except as provided in subsection (2) of this section,]* **Not-**
13 **withstanding ORS 91.225**, a city, county or metropolitan service district
14 may *[not]* adopt a land use regulation or functional plan provision, or impose
15 as a condition for approving a permit under ORS 215.427 or 227.178[,] a re-
16 quirement, that has the effect of establishing the sales **or rental** price for
17 a **new** housing unit or residential building lot or parcel, or that requires a
18 **new** housing unit or residential building lot or parcel to be designated for
19 sale **or rent** to *[any]* a particular class or group of purchasers[.] **or renters**
20 **based on income, provided the regulation, provision or requirement:**

21 (1) **Does not require more than 30 percent of housing units within**
22 **a development to be sold, or rented, at below-market rates; and**

23 (2) **Offers developers one or more of the following incentives:**

24 (a) **Density adjustments.**

25 (b) **Fee waivers or reductions.**

26 (c) **Waivers of system development charges or impact fees.**

27 (d) **Finance-based incentives.**

28 (e) **Preferential treatment for processing of permits.**

29 (f) **Expedited service for local approval processes.**

30 (g) **Modification of height, floor area or other site-specific require-**
31 **ments.**

1 **(h) State-authorized property tax exemptions or abatements.**

2 *[(2) This section does not limit the authority of a city, county or metropol-*
3 *itan service district to:]*

4 *[(a) Adopt or enforce a land use regulation, functional plan provision or*
5 *condition of approval creating or implementing an incentive, contract commit-*
6 *ment, density bonus or other voluntary regulation, provision or condition de-*
7 *signed to increase the supply of moderate or lower cost housing units; or]*

8 *[(b) Enter into an affordable housing covenant as provided in ORS 456.270*
9 *to 456.295.]*

10 **SECTION 8.** ORS 401.335 is amended to read:

11 **401.335. (1) A local government is expressly authorized to waive any**
12 **state or local building code, zoning code, regulation or requirement to**
13 **accommodate the installation of temporary housing units, provided:**

14 **(a) The governing body of the city or county has declared a state**
15 **of emergency pursuant to ORS 401.309; or**

16 **(b) The housing vacancy rate within the jurisdiction of the local**
17 **government is four percent or less.**

18 **(2)** Any political subdivision of this state is expressly authorized to ac-
19 quire, temporarily or permanently, by purchase, lease, or otherwise, sites
20 required for installation of temporary housing units for disaster victims, and
21 to enter into arrangements necessary to prepare or equip such sites to utilize
22 the housing units.

23 **SECTION 9.** ORS 90.230 is amended to read:

24 **90.230. (1)** If a tenancy is for the occupancy of a recreational vehicle in
25 a manufactured dwelling park, mobile home park or recreational vehicle
26 park, all as defined in ORS 197.492, the landlord shall provide a written
27 rental agreement for a month-to-month, week-to-week or fixed-term tenancy.
28 The rental agreement must state:

29 **(a)** If applicable, that the tenancy may be terminated *[by the landlord*
30 *under ORS 90.427 without cause upon 30 or 60 days' written notice for a*
31 *month-to-month tenancy or upon 10 days' written notice for a week-to-week*

1 *tenancy*] as provided in ORS 90.427, except that the landlord shall pro-
2 vide 30 days' written notice for a month-to-month tenancy during the
3 first year of occupancy, 60 days' written notice for a month-to-month
4 tenancy at any time after the first year of occupancy and 10 days'
5 written notice for a week-to-week tenancy.

6 (b) That any accessory building or structure paid for or provided by the
7 tenant belongs to the tenant and is subject to a demand by the landlord that
8 the tenant remove the building or structure upon termination of the tenancy.

9 (c) That the tenancy is subject to the requirements of ORS 197.493 (1) for
10 exemption from placement and occupancy restrictions.

11 (2) If a tenant described in subsection (1) of this section moves following
12 termination of the tenancy by the landlord under ORS 90.427, and the land-
13 lord failed to provide the required written rental agreement before the be-
14 ginning of the tenancy, the tenant may recover the tenant's actual damages
15 or twice the periodic rent, whichever is greater.

16 (3) If the occupancy fails at any time to comply with the requirements
17 of ORS 197.493 (1) for exemption from placement and occupancy restrictions,
18 and a state agency or local government requires the tenant to move as a
19 result of the noncompliance, the tenant may recover the tenant's actual
20 damages or twice the periodic rent, whichever is greater. This subsection
21 does not apply if the noncompliance was caused by the tenant.

22 (4) This section does not apply to a vacation occupancy.

23 **SECTION 10.** ORS 90.465 is amended to read:

24 90.465. (1) A city with a population that exceeds 300,000 shall have a right
25 of action against the owner of any premises to recover the reasonable costs
26 of relocation incurred by the city because the condition of the premises
27 causes condemnation and relocation of the tenants at public expense. In or-
28 der to recover the costs, the city must allege and prove that, due to action
29 or inaction of the owner, the premises are or have been in multiple and
30 material violation of applicable health or safety codes for a period of more
31 than 30 days and that the violation endangers the health or safety of the

1 tenants or the public, or both.

2 (2) It shall be an affirmative defense to recovery of relocation costs in-
3 curred for any tenant that the condition was caused by the action or
4 negligence of that tenant.

5 (3) The official responsible for city code enforcement shall notify the
6 owner in writing when the official finds the premises to be in a condition
7 that may cause tenant relocation. The notice shall also inform the owner of
8 the potential liability for relocation costs.

9 (4) A landlord may not terminate a rental agreement because of the re-
10 ceipt of the notice required by subsection (3) of this section except for the
11 reasons set forth in ORS 90.385 (4). The owner is not liable for tenant relo-
12 cation costs if the termination is for the reasons set forth in ORS 90.385
13 ~~[(4)(b)]~~ (4)(a).

14 (5) The action provided in subsection (1) of this section is in addition to
15 any other action that may be brought against an owner under any other
16 provision of law.

17 **SECTION 11. This 2016 Act being necessary for the immediate**
18 **preservation of the public peace, health and safety, an emergency is**
19 **declared to exist, and this 2016 Act takes effect on its passage.**

20
