CHAPTER 60

AN ACT HB 4120

Relating to smoking policies in residential tenancies; creating new provisions; and amending ORS 90.262 and 479.305.

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

SECTION 1. ORS 90.262 is amended to read:

90.262. (1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(a) Its purpose is to promote the convenience, safety or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) It is reasonably related to the purpose for which it is adopted;

(c) It applies to all tenants in the premises in a fair manner;

(d) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply;

(e) It is not for the purpose of evading the obligations of the landlord; and

(f) The tenant has written notice of it at the time the tenant enters into the rental agreement, or when it is adopted.

(2) If a rule or regulation adopted after the tenant enters into the rental agreement works a substantial modification of the bargain, it is not valid unless**:**

(a) The tenant consents to it in writing[.]**; or**

(b)(A) The landlord is amending a smoking policy described in ORS 479.305 to prohibit smoking within the dwelling units or within interior common areas of the premises;

(B) The tenancy is in a dwelling unit developed under a development agreement under ORS 94.504 to 94.528 or that shares a wall with another unit;

(C) The tenancy is not within an accessible unit, as defined in ORS 197A.421;

(D) The change in policy does not apply to a fixed term tenancy until the end of the term;

(E) The landlord provides at least one area on the premises where smoking is allowed and that the landlord has posted as a designated smoking area; and

(F) The landlord gives written notice at least 180 days before the change in policy.

(3) If adopted, an occupancy guideline for a dwelling unit shall not be more restrictive than two people per bedroom and shall be reasonable. Reasonableness shall be determined on a case-by-case basis. Factors to be considered in determining reasonableness include, but are not limited to:

(a) The size of the bedrooms;

(b) The overall size of the dwelling unit; and

(c) Any discriminatory impact on those identified in ORS 659A.421.

(4) As used in this section:

(a) "Bedroom" means a habitable room that:

(A) Is intended to be used primarily for sleeping purposes;

(B) Contains at least 70 square feet; and

(C) Is configured so as to take the need for a fire exit into account.

(b) "Habitable room" means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not included.

SECTION 2. ORS 479.305 is amended to read:

479.305. **(1) As used in this section, "smoking" means inhaling or possessing a lit tobacco product, as defined in ORS 431A.175.**

[*(1)*] **(2)** Except as provided in subsection [*(2)*] **(3)** of this section, the rental agreement for a dwelling unit regulated under ORS chapter 90 must include a disclosure of the smoking policy for the premises on which the dwelling unit is located. The disclosure must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas on the premises. If the smoking policy allows smoking in limited areas on the premises, the disclosure must identify the areas on the premises where smoking is allowed.

[*(2)*] **(3)** This section does not apply to a rental agreement subject to ORS 90.505 to 90.850 for space in a facility as defined in ORS 90.100.

SECTION 3. The amendments to ORS 90.262 and 479.305 by sections 1 and 2 of this 2026 Act apply to rental agreements entered into before, on or after effective date of this 2026 Act.

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