# Enrolled
# House Bill 3482

Sponsored by Representatives PARRISH, HOYLE; Representatives KENNEMER, READ

CHAPTER .....

AN ACT

Relating to manufactured dwellings; creating new provisions; amending ORS 86A.203, 90.100, 90.412, 90.510, 90.532, 90.543, 90.555, 90.634, 90.643, 90.680, 90.725, 90.730 and 90.740; and declaring an emergency.

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

**HAZARD TREES ON RENTED SPACE FOR MANUFACTURED DWELLING**

**SECTION 1.** ORS 90.100 is amended to read:

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

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

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

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

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

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

(4) "Building and housing codes" includes any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

(5) "Carbon monoxide alarm" has the meaning given that term in ORS 105.836.

(6) "Carbon monoxide source" has the meaning given that term in ORS 105.836.

(7) "Conduct" means the commission of an act or the failure to act.

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

[*(8)*] **(9)** "Dealer" means any person in the business of selling, leasing or distributing new or used manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling or floating home for use as a residence.

[*(9)*] **(10)** "Domestic violence" means:

(a) Abuse between family or household members, as those terms are defined in ORS 107.705; or

(b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.

[*(10)*] **(11)** "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.

[*(11)*] **(12)** "Dwelling unit" means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit" regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home as defined in ORS 830.700, but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself.

[*(12)*] **(13)** "Essential service" means:

(a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.840:

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

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

(b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.840:

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

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

[*(13)*] **(14)** "Facility" means a manufactured dwelling park or a marina.

[*(14)*] **(15)** "Facility purchase association" means a group of three or more tenants who reside in a facility and have organized for the purpose of eventual purchase of the facility.

[*(15)*] **(16)** "Fee" means a nonrefundable payment of money.

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

[*(17)*] **(18)** "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a specific ending date and terminating on that date without requiring further notice to effect the termination.

[*(18)*] **(19)** "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes an accessory building or structure.

[*(19)*] **(20)** "Good faith" means honesty in fact in the conduct of the transaction concerned.

**(21) "Hazard tree" means a tree that:**

**(a) Is located on a rented space in a manufactured dwelling park;**

**(b) Measures at least eight inches DBH; and**

**(c) Is considered, by an arborist licensed as a landscape construction professional pursuant to ORS 671.560 and certified by the International Society of Arboriculture, to pose an unreasonable risk of causing serious physical harm or damage to individuals or property in the near future.**

[*(20)*] **(22)** "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

[*(21)*] **(23)** "Informal dispute resolution" means, but is not limited to, consultation between the landlord or landlord's agent and one or more tenants, or mediation utilizing the services of a third party.

[*(22)*] **(24)** "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor or sublessor to manage the premises or to enter into a rental agreement.

[*(23)*] **(25)** "Landlord's agent" means a person who has oral or written authority, either express or implied, to act for or on behalf of a landlord.

[*(24)*] **(26)** "Last month's rent deposit" means a type of security deposit, however designated, the primary function of which is to secure the payment of rent for the last month of the tenancy.

[*(25)*] **(27)** "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003. "Manufactured dwelling" includes an accessory building or structure. "Manufactured dwelling" does not include a recreational vehicle.

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

[*(27)*] **(29)** "Marina" means a moorage of contiguous dwelling units that may be legally transferred as a single unit and are owned by one person where four or more floating homes are secured, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

[*(28)*] **(30)** "Month-to-month tenancy" means a tenancy that automatically renews and continues for successive monthly periods on the same terms and conditions originally agreed to, or as revised by the parties, until terminated by one or both of the parties.

[*(29)*] **(31)** "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

[*(30)*] **(32)** "Owner" includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

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

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

[*(31)*] **(33)** "Person" includes an individual or organization.

[*(32)*] **(34)** "Premises" means:

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

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

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

[*(33)*] **(35)** "Prepaid rent" means any payment of money to the landlord for a rent obligation not yet due. In addition, "prepaid rent" means rent paid for a period extending beyond a termination date.

[*(34)*] **(36)** "Recreational vehicle" has the meaning given that term in ORS 446.003.

[*(35)*] **(37)** "Rent" means any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others. "Rent" does not include security deposits, fees or utility or service charges as described in ORS 90.315 (4) and 90.532.

[*(36)*] **(38)** "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental agreement shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

[*(37)*] **(39)** "Roomer" means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure.

[*(38)*] **(40)** "Screening or admission criteria" means a written statement of any factors a landlord considers in deciding whether to accept or reject an applicant and any qualifications required for acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the applicant.

[*(39)*] **(41)** "Security deposit" means a refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement. "Security deposit" does not include a fee.

[*(40)*] **(42)** "Sexual assault" has the meaning given that term in ORS 147.450.

[*(41)*] **(43)** "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does not include a tenant who holds over as described in ORS 90.427 (7).

[*(42)*] **(44)** "Stalking" means the behavior described in ORS 163.732.

[*(43)*] **(45)** "Statement of policy" means the summary explanation of information and facility policies to be provided to prospective and existing tenants under ORS 90.510.

[*(44)*] **(46)** "Surrender" means an agreement, express or implied, as described in ORS 90.148 between a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a dwelling unit.

[*(45)*] **(47)** "Tenant":

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

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

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

(b) For purposes of ORS 90.505 to 90.840, means only a person who owns and occupies as a residence a manufactured dwelling or a floating home in a facility and persons residing with that tenant under the terms of the rental agreement.

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

[*(46)*] **(48)** "Transient lodging" means a room or a suite of rooms.

[*(47)*] **(49)** "Transient occupancy" means occupancy in transient lodging that has all of the following characteristics:

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

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

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

[*(48)*] **(50)** "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

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

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

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

[*(49)*] **(51)** "Victim" means:

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

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

[*(50)*] **(52)** "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

(a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven days;

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

(c) There are no fees or security deposits, although the landlord may require the payment of an applicant screening charge, as provided in ORS 90.295.

**SECTION 2.** ORS 90.730 is amended to read:

90.730. (1) As used in this section, "facility common areas" means all areas under control of the landlord and held out for the general use of tenants.

(2) A landlord who rents a space for a manufactured dwelling or floating home shall at all times during the tenancy maintain the rented space, vacant spaces in the facility and the facility common areas in a habitable condition. The landlord does not have a duty to maintain a dwelling or home. A landlord's habitability duty under this section includes only the matters described in subsections (3) to [*(5)*] **(6)** of this section.

(3) For purposes of this section, a rented space is considered unhabitable if it substantially lacks:

(a) A sewage disposal system and a connection to the space approved under applicable law at the time of installation and maintained in good working order to the extent that the sewage disposal system can be controlled by the landlord;

(b) If required by applicable law, a drainage system reasonably capable of disposing of storm water, ground water and subsurface water, approved under applicable law at the time of installation and maintained in good working order;

(c) A water supply and a connection to the space approved under applicable law at the time of installation and maintained so as to provide safe drinking water and to be in good working order to the extent that the water supply system can be controlled by the landlord;

(d) An electrical supply and a connection to the space approved under applicable law at the time of installation and maintained in good working order to the extent that the electrical supply system can be controlled by the landlord;

(e) At the time of commencement of the rental agreement, buildings, grounds and appurtenances that are kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin;

(f) Except as otherwise provided by local ordinance or by written agreement between the landlord and the tenant, an adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the time of commencement of the rental agreement, and for which the landlord shall provide and maintain appropriate serviceable receptacles thereafter and arrange for their removal; and

(g) Completion of any landlord-provided space improvements, including but not limited to installation of carports, garages, driveways and sidewalks, approved under applicable law at the time of installation.

**(4) A rented space is considered unhabitable if the landlord does not maintain a hazard tree as required by section 5 of this 2013 Act.**

[*(4)*] **(5)** A vacant space in a facility is considered unhabitable if the space substantially lacks safety from the hazards of fire or injury.

[*(5)*] **(6)** A facility common area is considered unhabitable if it substantially lacks:

(a) Buildings, grounds and appurtenances that are kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin;

(b) Safety from the hazards of fire;

(c) Trees, shrubbery and grass maintained in a safe manner; and

(d) If supplied or required to be supplied by the landlord to a common area, a water supply system, sewage disposal system or system for disposing of storm water, ground water and subsurface water approved under applicable law at the time of installation and maintained in good working order to the extent that the system can be controlled by the landlord.

[*(6)*] **(7)** The landlord and tenant may agree in writing that the tenant is to perform specified repairs, maintenance tasks and minor remodeling only if:

(a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord;

(b) The agreement does not diminish the obligations of the landlord to other tenants on the premises; and

(c) The terms and conditions of the agreement are clearly and fairly disclosed and adequate consideration for the agreement is specifically stated.

**SECTION 3.** ORS 90.740 is amended to read:

90.740. A tenant shall:

(1) Install the tenant's manufactured dwelling or floating home and any accessory building or structure on a rented space in compliance with applicable laws and the rental agreement.

(2) Except as provided by the rental agreement, dispose from the dwelling or home and the rented space all ashes, garbage, rubbish and other waste in a clean, safe and legal manner. With regard to needles, syringes and other infectious waste, as defined in ORS 459.386, the tenant may not dispose of these items by placing them in garbage receptacles or in any other place or manner except as authorized by state and local governmental agencies.

(3) Behave, and require persons on the premises with the consent of the tenant to behave, in compliance with the rental agreement and with any laws or ordinances that relate to the tenant's behavior as a tenant.

(4) Except as provided by the rental agreement:

(a) Use the rented space and the facility common areas in a reasonable manner considering the purposes for which they were designed and intended;

(b) Keep the rented space in every part free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin as the condition of the rented space permits and to the extent that the tenant is responsible for causing the problem. The tenant shall cooperate to a reasonable extent in assisting the landlord in any reasonable effort to remedy the problem;

(c) Keep the dwelling or home, and the rented space, safe from the hazards of fire;

(d) Install and maintain in the dwelling or home a smoke alarm approved under applicable law;

(e) Install and maintain storm water drains on the roof of the dwelling or home and connect the drains to the drainage system, if any;

(f) Use electrical, water, storm water drainage and sewage disposal systems in a reasonable manner and maintain the connections to those systems;

(g) Refrain from deliberately or negligently destroying, defacing, damaging, impairing or removing any part of the facility, other than the tenant's own dwelling or home, or knowingly permitting any person to do so;

(h) Maintain, water and mow or prune any [*trees,*] shrubbery or grass on the rented space; [*and*]

**(i) Maintain and water trees, including cleanup and removal of fallen branches and leaves, on the rented space for a manufactured dwelling except for hazard trees as provided in section 5 of this 2013 Act; and**

[*(i)*] **(j)** Behave, and require persons on the premises with the consent of the tenant to behave, in a manner that does not disturb the peaceful enjoyment of the premises by neighbors.

**SECTION 4. Section 5 of this 2013 Act is added to and made a part of ORS 90.505 to 90.840.**

**SECTION 5. (1) As used in this section:**

**(a) "Maintaining a tree" means removing or trimming a tree for the purpose of eliminating features of the tree that cause the tree to be hazardous, or that may cause the tree to become hazardous in the near future.**

**(b) "Removing a tree" includes:**

**(A) Felling and removing the tree; and**

**(B) Grinding or removing the stump of the tree.**

**(2) The landlord or tenant that is responsible for maintaining a tree must engage a landscape construction professional with a valid license issued pursuant to ORS 671.560 to maintain any tree with a DBH of eight inches or more.**

**(3) A landlord:**

**(a) Shall maintain a tree that is a hazard tree, that was not planted by the current tenant, on a rented space in a manufactured dwelling park if the landlord knows or should know that the tree is a hazard tree.**

**(b) May maintain a tree on the rented space to prevent the tree from becoming a hazard tree, after providing the tenant with reasonable written notice and a reasonable opportunity to maintain the tree.**

**(c) Has discretion to decide whether the appropriate maintenance is removal or trimming of the hazard tree.**

**(d) Is not responsible for maintaining a tree that is not a hazard tree or for maintaining any tree for aesthetic purposes.**

**(4) A landlord shall comply with ORS 90.725 before entering a tenant's space to inspect or maintain a tree.**

**(5) Except as provided in subsection (3) of this section, a tenant is responsible for maintaining the trees on the tenant's space in a manufactured dwelling park at the tenant's expense. The tenant may retain an arborist licensed as a landscape construction professional pursuant to ORS 671.560 and certified by the International Society of Arboriculture to inspect a tree on the tenant's rented space at the tenant's expense and if the arborist determines that the tree is a hazard, the tenant may:**

**(a) Require the landlord to maintain a tree that is the landlord's responsibility under subsection (3) of this section; or**

**(b) Maintain the tree at the tenant's expense, after providing the landlord with reasonable written notice of the proposed maintenance and a copy of the arborist's report.**

**(6) If a manufactured dwelling cannot be removed from a space without first removing or trimming a tree on the space, the owner of the manufactured dwelling may remove or trim the tree at the dwelling owner's expense, after giving reasonable written notice to the landlord, for the purpose of removing the manufactured dwelling.**

**SECTION 6.** ORS 90.725 is amended to read:

90.725. **(1) As used in this section:**

**(a) "Emergency" includes but is not limited to:**

**(A) A repair problem that, unless remedied immediately, is likely to cause serious physical harm or damage to individuals or property.**

**(B) The presence of a hazard tree on a rented space in a manufactured dwelling park.**

**(b) "Unreasonable time" refers to a time of day, day of the week or particular time that conflicts with the tenant's reasonable and specific plans to use the space.**

**(c) "Yard maintenance, equipment servicing or grounds keeping" includes, but is not limited to, servicing individual septic tank systems or water pumps, weeding, mowing grass and pruning trees and shrubs.**

[*(1)*] **(2)** A landlord or a landlord's agent may enter onto a rented space, not including the tenant's manufactured dwelling or floating home or an accessory building or structure, [*in order*] to**:**

**(a)** Inspect the space[*,*]**;**

**(b)** Make necessary or agreed repairs, decorations, alterations or improvements[*,*]**;**

**(c) Inspect or maintain trees;**

**(d)** Supply necessary or agreed services[*,*]**;**

**(e)** Perform agreed yard maintenance, equipment servicing or grounds keeping**;** or

**(f)** Exhibit the space to prospective or actual purchasers of the facility, mortgagees, tenants, workers or contractors.

**(3)** The right of access of the landlord or landlord's agent is limited as follows:

(a) A landlord or landlord's agent may enter upon the rented space without consent of the tenant and without notice to the tenant for the purpose of serving notices required or permitted under this chapter, the rental agreement or any provision of applicable law.

(b) In case of an emergency, a landlord or landlord's agent may enter the rented space without consent of the tenant, without notice to the tenant and at any time. [*"Emergency" includes but is not limited to a repair problem that, unless remedied immediately, is likely to cause serious damage to the premises.*] If a landlord or landlord's agent makes an emergency entry in the tenant's absence,

the landlord shall give the tenant actual notice within 24 hours after the entry, and the notice shall include the fact of the entry, the date and time of the entry, the nature of the emergency and the names of the persons who entered.

(c) If the tenant requests repairs or maintenance in writing, the landlord or landlord's agent, without further notice, may enter upon demand, in the tenant's absence or without consent of the tenant, for the purpose of making the requested repairs until the repairs are completed. The tenant's written request may specify allowable times. Otherwise, the entry must be at a reasonable time. The authorization to enter provided by the tenant's written request expires after seven days, unless the repairs are in progress and the landlord or landlord's agent is making a reasonable effort to complete the repairs in a timely manner. If the person entering to do the repairs is not the landlord, upon request of the tenant, the person must show the tenant written evidence from the landlord authorizing that person to act for the landlord in making the repairs.

(d)[*(A)*] If a written agreement requires the landlord to perform yard maintenance, equipment servicing or grounds keeping for the space:

[*(i)*] **(A)** A landlord and tenant may agree that the landlord or landlord's agent may enter for that purpose upon the space, without notice to the tenant, at reasonable times and with reasonable frequency. The terms of the right of entry must be described in the rental agreement or in a separate written agreement.

[*(ii)*] **(B)** A tenant may deny consent for a landlord or landlord's agent to enter upon the space pursuant to this paragraph if the entry is at an unreasonable time or with unreasonable frequency. The tenant must assert the denial by giving actual notice of the denial to the landlord or landlord's agent prior to, or at the time of, the attempted entry.

[*(B) As used in this paragraph:*]

[*(i) "Yard maintenance, equipment servicing or grounds keeping" includes, but is not limited to, servicing individual septic tank systems or water pumps, weeding, mowing grass and pruning trees and shrubs.*]

[*(ii) "Unreasonable time" refers to a time of day, day of the week or particular time that conflicts with the tenant's reasonable and specific plans to use the space.*]

(e) In all other cases, unless there is an agreement between the landlord and the tenant to the contrary regarding a specific entry, the landlord shall give the tenant at least 24 hours' actual notice of the intent of the landlord to enter and the landlord or landlord's agent may enter only at reasonable times. The landlord or landlord's agent may not enter if the tenant, after receiving the landlord's notice, denies consent to enter. The tenant must assert this denial of consent by giving actual notice of the denial to the landlord or the landlord's agent prior to, or at the time of, the attempt by the landlord or landlord's agent to enter.

**(f) Notwithstanding paragraph (e) of this subsection, a landlord or the landlord's agent may enter a rented space solely to inspect a tree despite a denial of consent by the tenant if the landlord or the landlord's agent has given at least 24 hours' actual notice of the intent to enter to inspect the tree and the entry occurs at a reasonable time.**

[*(2)*] **(4)** A landlord shall not abuse the right of access or use it to harass the tenant. A tenant shall not unreasonably withhold consent from the landlord to enter.

[*(3)*] **(5)** A landlord has no other right of access except:

(a) Pursuant to court order;

(b) As permitted by ORS 90.410 (2);

(c) As permitted under ORS 90.539; or

(d) When the tenant has abandoned or relinquished the premises.

[*(4)*] **(6)** If a landlord is required by a governmental agency to enter a rented space, but the landlord fails to gain entry after a good faith effort in compliance with this section, the landlord shall not be found in violation of any state statute or local ordinance due to the failure.

**(7) If a landlord has a report from an arborist licensed as a landscape construction professional pursuant to ORS 671.560 and certified by the International Society of Arboriculture that a tree on the rented space is a hazard tree that must be maintained by the landlord as**

**described in section 5 of this 2013 Act, the landlord is not liable for any damage or injury as a result of the hazard tree if the landlord is unable to gain entry after a good faith effort in compliance with this section.**

[*(5)*] **(8)** If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or may terminate the rental agreement pursuant to ORS 90.630 (1) and take possession in the manner provided in ORS 105.105 to 105.168. In addition, the landlord may recover actual damages.

[*(6)*] **(9)** If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but that have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or may terminate the rental agreement pursuant to ORS 90.620 (1). In addition, the tenant may recover actual damages not less than an amount equal to one month's rent.

**SECTION 7.** ORS 90.412 is amended to read:

90.412. (1) As used in this section and ORS 90.414 and 90.417, "rent" does not include funds paid under the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) Except as otherwise provided in this section, a landlord waives the right to terminate a rental agreement for a particular violation of the rental agreement or of law if the landlord:

(a) During three or more separate rental periods, accepts rent with knowledge of the violation by the tenant; or

(b) Accepts performance by a tenant that varies from the terms of the rental agreement.

(3) A landlord has not accepted rent for purposes of subsection (2) of this section if:

(a) Within 10 days after receipt of the rent payment, the landlord refunds the rent; or

(b) The rent payment is made in the form of a check that is dishonored.

(4) A landlord does not waive the right to terminate a rental agreement for a violation under any of the following circumstances:

(a) The landlord and tenant agree otherwise after the violation has occurred.

(b) The violation concerns the tenant's conduct and, following the violation but prior to acceptance of rent for three rental periods or performance as described in subsection (2) of this section, the landlord gives a written warning notice to the tenant regarding the violation that:

(A) Describes specifically the conduct that constitutes the violation, either as a separate and distinct violation, a series or group of violations or a continuous or ongoing violation;

(B) States that the tenant is required to discontinue the conduct or correct the violation; and

(C) States that a reoccurrence of the conduct that constitutes a violation may result in a termination of the tenancy pursuant to ORS 90.392, 90.398, 90.405 or 90.630.

(c) The tenancy consists of rented space for a manufactured dwelling or floating home as described in ORS 90.505, and the violation concerns:

(A) Disrepair or deterioration of the manufactured dwelling or floating home pursuant to ORS 90.632; or

(B) A failure to maintain the rented space, as provided by ORS 90.740 (2), (4)(b) and (4)(h) **and (i)**.

(d) The termination is under ORS 90.396.

(e) The landlord accepts:

(A) A last month's rent deposit collected at the beginning of the tenancy, regardless of whether the deposit covers a period beyond a termination date;

(B) Rent distributed pursuant to a court order releasing money paid into court as provided by ORS 90.370 (1); or

(C) Rent paid for a rent obligation not yet due and paid more than one rental period in advance.

(5) For a continuous or ongoing violation, the landlord's written warning notice under subsection (4)(b) of this section remains effective for 12 months and may be renewed with a new warning notice before the end of the 12 months.

(6) A landlord that must refund rent under this section shall make the refund to the tenant or other payer by personal delivery or first class mail. The refund may be in the form of the tenant's or other payer's check or in any other form of check or money.

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

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

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

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

(c) The facility policy regarding rent adjustment and a rent history for the space to be rented. The rent history must, at a minimum, show the rent amounts on January 1 of each of the five preceding calendar years or during the length of the landlord's ownership, leasing or subleasing of the facility, whichever period is shorter.

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

(e) The installation charges that are imposed by the landlord and the installation fees that are imposed by government agencies.

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

(g) The facility policy regarding facility sale.

(h) The facility policy regarding informal dispute resolution.

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

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

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

**(L) Any facility policy regarding the planting of trees on the rented space for a manufactured dwelling.**

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

(3) The landlord shall give:

(a) Prospective tenants a copy of the statement of policy before the prospective tenants sign rental agreements;

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

(c) All other existing tenants who have not previously received a copy of the statement of policy a copy of the statement of policy upon the expiration of their rental agreements and before the tenants sign new agreements.

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

(a) Mutual agreement of the parties;

[*(b) Actions taken pursuant to ORS 90.530, 90.533, 90.537, 90.543 (3) or 90.600; or*]

**(b) Actions taken pursuant to ORS 90.530, 90.533, 90.537, 90.543 (3), 90.600 or 90.725 (3)(f) and (7) or section 5 of this 2013 Act; or**

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

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

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

(b) The federal fair-housing age classification;

(c) The rent per month;

(d) All personal property, services and facilities to be provided by the landlord;

(e) All security deposits, fees and installation charges imposed by the landlord;

**(f) Any facility policy regarding the planting of trees on the rented space for a manufactured dwelling;**

[*(f)*] **(g)** Improvements that the tenant may or must make to the rental space, including plant materials and landscaping;

[*(g)*] **(h)** Provisions for dealing with improvements to the rental space at the termination of the tenancy;

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

[*(i)*] **(j)** That the tenant may not sell the tenant's manufactured dwelling or floating home to a person who intends to leave the manufactured dwelling or floating home on the rental space until the landlord has accepted the person as a tenant;

[*(j)*] **(k)** The term of the tenancy;

[*(k)*] **(L)** The process by which the rental agreement or rules and regulations may be changed, which shall identify that the rules and regulations may be changed with 60 days' notice unless tenants of at least 51 percent of the eligible spaces file an objection within 30 days; and

[*(L)*] **(m)** The process by which the landlord or tenant shall give notices.

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

(a) The rule or regulation:

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

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

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

(b) The rule or regulation:

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

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

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

(7)(a) A landlord who rents a space for a manufactured dwelling or floating home may adopt a rule or regulation regarding occupancy guidelines. If adopted, an occupancy guideline in a facility must be based on reasonable factors and not be more restrictive than limiting occupancy to two people per bedroom.

(b) As used in this subsection:

(A) Reasonable factors may include but are not limited to:

(i) The size of the dwelling.

(ii) The size of the rented space.

(iii) Any discriminatory impact for reasons identified in ORS 659A.421.

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

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

(8) Intentional and deliberate failure of the landlord to comply with subsections (1) to (3) of this section is cause for suit or action to remedy the violation or to recover actual damages. The prevailing party is entitled to reasonable attorney fees and court costs.

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

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

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

**SECTION 9.** ORS 90.543 is amended to read:

90.543. (1) Except as provided in subsections (2) and (3) of this section, a landlord that assesses the tenants of a manufactured dwelling park containing 200 or more spaces in the facility a utility or service charge for water by the pro rata billing method described in ORS 90.532 (1)(b)(C)(ii) shall convert the method of assessing the utility or service charge to a billing method described in ORS 90.532 (1)(a) or (1)(c). The landlord shall complete the conversion no later than December 31, 2012. A conversion under this section to a billing method described in ORS 90.532 (1)(c) is subject to ORS 90.537.

(2) A landlord that provides water to a manufactured dwelling park solely from a well or from a source other than those listed in ORS 90.532 (8) is not required to comply with subsection (1) of this section.

(3) A landlord that meets the following requirements designed to promote conservation is not required to comply with subsection (1) of this section:

(a) The landlord must:

(A) Bill for water provided to a space using the pro rata billing method described in ORS 90.532 (1)(b)(C)(ii) by apportioning the utility provider's charge to tenants on a pro rata basis, with only the following factors being considered in the apportionment, notwithstanding ORS 90.534 (2)(c):

(i) The number of tenants or occupants in the manufactured dwelling compared with the number of tenants or occupants in the manufactured dwelling park; and

(ii) The size of a tenant's space as a percentage of the total area of the manufactured dwelling park.

(B) Base two-thirds of the charge to the tenants on the factor described in subparagraph (A)(i) of this paragraph and one-third of the charge on the factor described in subparagraph (A)(ii) of this paragraph.

(C) Determine the number of tenants or occupants in each dwelling unit and in the manufactured dwelling park at least annually.

(b) The landlord must demonstrate significant other conservation measures, including:

(A) Testing for leaks in common areas of the manufactured dwelling park at least annually, repairing significant leaks within a reasonable time and making test results available to tenants;

(B) Testing each occupied manufactured dwelling and space for leaks without charge to a tenant occupying the dwelling at least annually and making test results available to the tenant;

(C) Posting annually in any manufactured dwelling park office and in any common area evidence demonstrating that per capita consumption of water in the manufactured dwelling park is below the area average for single-family dwellings, as shown by data from the local provider of water; and

(D) Taking one or more other reasonable measures to promote conservation of water and to control costs, including educating tenants about water conservation, prohibiting the washing of motor vehicles in the manufactured dwelling park and requiring drip irrigation systems or schedules for watering landscaping.

(c) The landlord must amend the rental agreement of each tenant to describe the provisions of this subsection and subsection (4) of this section and to describe the use of the pro rata billing method with additional conservation measures. The landlord may make the amendment to the rental agreement unilaterally and must provide written notice of the amendment to the tenant at least 60 days before the amendment is effective.

(4) If a landlord subject to this section adopts conservation measures described in subsection (3) of this section to avoid having to comply with subsection (1) of this section:

(a) Notwithstanding ORS 90.539 or 90.725 [*(1)*] **(2)**, a tenant must allow a landlord access to the tenant's space and to the tenant's manufactured dwelling so the landlord can test for water leaks as provided by subsection (3)(b)(B) of this section.

(b) The landlord must give notice consistent with ORS 90.725 [*(1)(e)*] **(3)(e)** before entering the tenant's space or dwelling to test for water leaks.

(c) A tenant may be required by the landlord to repair a significant leak in the dwelling found by the landlord's test. The tenant must make the necessary repairs within a reasonable time after written notice from the landlord regarding the leak, given the extent of repair needed and the season. The tenant's responsibility for repairs is limited to leaks within the tenant's dwelling and from the connection at the ground under the dwelling into the dwelling. If the tenant fails to make the repair as required, the landlord may terminate the tenancy pursuant to ORS 90.630.

(d) Notwithstanding ORS 90.730 (3)(c), a landlord is responsible for maintaining the water lines within a tenant's space up to the connection with the dwelling, including repairing significant leaks found in a test.

(e) A landlord may use the pro rata billing method described in ORS 90.532 (1)(b)(C)(ii) with the allocation factors described in ORS 90.534 (2)(c) for common areas.

(f) Notwithstanding ORS 90.534 (4), a landlord may include in the utility or service charge the cost to read water meters and to bill tenants for water if those tasks are performed by a third party service and the landlord allows the tenants to inspect the third party's billing records as provided by ORS 90.538.

(5) A tenant may file an action for injunctive relief to compel compliance by a landlord with the requirements of subsections (1), (3) and (4) of this section and for actual damages plus at least two months' rent as a penalty for noncompliance by the landlord with subsections (1), (3) and (4) of this section. A landlord is not liable for damages for a failure to comply with the requirements of subsections (1), (3) and (4) of this section if the noncompliance is only a good faith mistake by the landlord in counting the number of tenants and occupants in each dwelling unit or the manufactured dwelling park pursuant to subsection (3)(a) of this section.

**SECTION 10.** ORS 90.555 is amended to read:

90.555. (1) A facility tenant may not rent the tenant's manufactured dwelling or floating home to another person for a period exceeding three days unless the facility landlord, facility tenant and dwelling or home renter enter into a written subleasing agreement specifying the rights and obligations of the landlord, tenant and renter during the renter's occupancy of the dwelling or home. The subleasing agreement shall include, but need not be limited to, provisions that require the dwelling or home renter to timely pay directly to the facility landlord the space rent, any separately assessed fees payable under the rental agreement and any separately billed utility or service charge described in ORS 90.532 (1)(b) or (c), and provisions that grant the dwelling or home renter the same rights as the facility tenant to cure a violation of the rental agreement for the facility space, to require facility landlord compliance with ORS 90.730 and to be protected from retaliatory conduct under ORS 90.765. This subsection does not authorize a facility tenant to rent a manufactured dwelling or floating home to another person in violation of the rental agreement between the facility tenant and the facility landlord.

(2) Notwithstanding ORS 90.100 [*(45)*] **(47)**, a facility tenant who enters into a subleasing agreement continues to be the tenant of the facility space and retains all rights and obligations of a facility tenant under the rental agreement and this chapter. The occupancy of a manufactured

dwelling or floating home by a renter as provided in a subleasing agreement does not constitute abandonment of the dwelling or home by the facility tenant.

(3) The rights and obligations of the dwelling or home renter under a subleasing agreement are in addition to the rights and obligations retained by the facility tenant under subsection (2) of this section. The rights and obligations of the dwelling or home renter under the subleasing agreement are separate from any rights or obligations of the renter under ORS 90.100 to 90.465 applicable to the renter's occupancy of the manufactured dwelling or floating home owned by the facility tenant.

(4) Unless otherwise provided in the subleasing agreement, a facility landlord may terminate a subleasing agreement:

(a) Without cause by giving the dwelling or home renter written notice not less than 30 days prior to the termination;

(b) If a condition described in ORS 90.380 (5)(b) exists for the facility space, by giving the renter the same notice to which the facility tenant is entitled under ORS 90.380 (5)(b); or

(c) Subject to the cure right established in subsection (1) of this section and regardless of whether the landlord terminates the rental agreement of the facility tenant:

(A) For nonpayment of facility space rent; or

(B) For any conduct by the dwelling or home renter that would be a violation of the rental agreement under ORS 90.396 or 90.398 if committed by the facility tenant.

(5) Upon termination of a subleasing agreement by the facility landlord, whether with or without cause, the dwelling or home renter and the facility tenant are excused from continued performance under any agreement for the renter's occupancy of the manufactured dwelling or floating home owned by the facility tenant.

(6)(a) If, during the term of a subleasing agreement, the facility landlord gives notice to the facility tenant of a rental agreement violation, of a law or ordinance violation or of the facility's closure, conversion or sale, the landlord shall also promptly give a copy of the notice to the dwelling or home renter. The giving of notice to the dwelling or home renter does not constitute notice to the facility tenant unless the tenant has expressly appointed the renter as the tenant's agent for purposes of receiving notice.

(b) If the facility landlord gives notice to the dwelling or home renter that the landlord is terminating the subleasing agreement, the landlord shall also promptly give a copy of the notice to the facility tenant. The landlord shall give the notice to the facility tenant in the same manner as for giving notice of a rental agreement violation.

(c) If, during the term of a subleasing agreement, the facility tenant gives notice to the facility landlord of a rental agreement violation, termination of tenancy or sale of the manufactured dwelling or floating home, the tenant shall also promptly give a copy of the notice to the dwelling or home renter.

(d) If the dwelling or home renter gives notice to the facility landlord of a violation of ORS 90.730, the renter shall also promptly give a copy of the notice to the facility tenant.

**SECTION 11.** ORS 90.634 is amended to read:

90.634. (1) A landlord may not assert a lien under ORS 87.162 for dwelling unit rent against a manufactured dwelling or floating home located in a facility. Notwithstanding ORS 90.100 [*(45)*] **(47)** and 90.675 and regardless of whether the owner of a manufactured dwelling or floating home occupies the dwelling or home as a residence, a facility landlord that is entitled to unpaid rent and receives possession of the facility space from the sheriff following restitution pursuant to ORS 105.161 may sell or dispose of the dwelling or home as provided in ORS 90.675.

(2) If a manufactured dwelling or floating home was occupied immediately prior to abandonment by a person other than the facility tenant, and the name and address of the person are known to the landlord, a landlord selling or disposing of the dwelling or home under subsection (1) of this section shall promptly send the person a copy of the notice sent to the facility tenant under ORS 90.675 (3). Notwithstanding ORS 90.425, the facility landlord may sell or dispose of goods left in the dwelling or home or upon the dwelling unit by the person in the same manner as if the goods were left by the facility tenant. If the name and address of the person are known to the facility landlord,

the landlord shall promptly send the person a copy of the written notice sent to the facility tenant under ORS 90.425 (3) and allow the person the time described in the notice to arrange for removal of the goods.

**SECTION 12.** ORS 90.643 is amended to read:

90.643. (1) A manufactured dwelling park may be converted to a planned community subdivision of manufactured dwellings pursuant to ORS 92.830 to 92.845. When a manufactured dwelling park is converted pursuant to ORS 92.830 to 92.845:

(a) Conversion does not require closure of the park pursuant to ORS 90.645 or termination of any tenancy on any space in the park or any lot in the planned community subdivision of manufactured dwellings.

(b) After approval of the tentative plan under ORS 92.830 to 92.845, the manufactured dwelling park ceases to exist, notwithstanding the possibility that four or more lots in the planned community subdivision may be available for rent.

(2) If a park is converted to a subdivision under ORS 92.830 to 92.845, and the landlord closes the park as a result of the conversion, ORS 90.645 applies to the closure.

(3) If a park is converted to a subdivision under ORS 92.830 to 92.845, but the landlord does not close the park as a result of the conversion:

(a) A tenant who does not buy the space occupied by the tenant's manufactured dwelling may terminate the tenancy and move. If the tenant terminates the tenancy after receiving the notice required by ORS 92.839 and before the expiration of the 60-day period described in ORS 92.840 (2), the landlord shall pay the tenant as provided in ORS 90.645 (1)(b).

(b) If the landlord and the tenant continue the tenancy on the lot created in the planned community subdivision, the tenancy is governed by ORS 90.100 to 90.465, except that the following provisions apply and, in the case of a conflict, control:

(A) ORS 90.510 (4) to (7) applies to a rental agreement and rules and regulations concerning the use and occupancy of the subdivision lot until the declarant turns over administrative control of the planned community subdivision of manufactured dwellings to a homeowners association pursuant to ORS 94.600 and 94.604 to 94.621. The landlord shall provide each tenant with a copy of the bylaws, rules and regulations of the homeowners association at least 60 days before the turnover meeting described in ORS 94.609.

(B) ORS 90.530 applies regarding pets.

(C) ORS 90.545 applies regarding the extension of a fixed term tenancy.

(D) ORS 90.600 (1) to (4) applies to an increase in rent.

(E) ORS 90.620 applies to a termination by a tenant.

(F) ORS 90.630 applies to a termination by a landlord for cause. However, the sale of a lot in the planned community subdivision occupied by a tenant to someone other than the tenant is a good cause for termination under ORS 90.630 that the tenant cannot cure or correct and for which the landlord must give written notice of termination that states the cause of termination at least 180 days before termination.

(G) ORS 90.632 applies to a termination of tenancy by a landlord due to the physical condition of the manufactured dwelling.

(H) ORS 90.634 applies to a lien for manufactured dwelling unit rent.

(I) ORS 90.680 applies to the sale of a manufactured dwelling occupying a lot in the planned community subdivision. If the intention of the buyer of the manufactured dwelling is to leave the dwelling on the lot, the landlord may reject the buyer as a tenant if the buyer does not buy the lot also.

(J) ORS 90.710 applies to a cause of action for a violation of ORS 90.510 (4) to (7), 90.630, 90.680 or 90.765.

(K) ORS 90.725 applies to landlord access to a rented lot in a planned community subdivision.

(L) ORS 90.730 (2), (3)**, (4)** and [*(6)*] **(7)** apply to the duty of a landlord to maintain a rented lot in a habitable condition.

(M) ORS 90.750 applies to the right of a tenant to assemble or canvass.

(N) ORS 90.755 applies to the right of a tenant to speak on political issues and to post political signs.

(O) ORS 90.765 applies to retaliatory conduct by a landlord.

(P) ORS 90.771 applies to the confidentiality of information provided to the Office of Manufactured Dwelling Park Community Relations of the Housing and Community Services Department about disputes.

**SECTION 13.** ORS 90.680 is amended to read:

90.680. (1) A landlord may not deny any manufactured dwelling or floating home space tenant the right to sell a manufactured dwelling or floating home on a rented space or require the tenant to remove the dwelling or home from the space solely on the basis of the sale.

(2) The landlord may not exact a commission or fee for the sale of a manufactured dwelling or floating home on a rented space unless the landlord has acted as agent for the seller pursuant to written contract.

(3) The landlord may not deny the tenant the right to place a "for sale" sign on or in a manufactured dwelling or floating home owned by the tenant. The size, placement and character of such signs shall be subject to reasonable rules of the landlord.

(4) If the prospective purchaser of a manufactured dwelling or floating home desires to leave the dwelling or home on the rented space and become a tenant, the landlord may require in the rental agreement:

(a) Except when a termination or abandonment occurs, that a tenant give not more than 10 days' notice in writing prior to the sale of the dwelling or home on a rented space;

(b) That prior to the sale, the prospective purchaser submit to the landlord a complete and accurate written application for occupancy of the dwelling or home as a tenant after the sale is finalized and that a prospective purchaser may not occupy the dwelling or home until after the prospective purchaser is accepted by the landlord as a tenant;

(c) That a tenant give notice to any lienholder, prospective purchaser or person licensed to sell dwellings or homes of the requirements of paragraphs (b) and (d) of this subsection, the location of all properly functioning smoke alarms and any other rules and regulations of the facility such as those described in ORS 90.510 (5)(b), (f), [*(h) and (i)*] **(g), (i) and (j)**; and

(d) If the sale is not by a lienholder, that the prospective purchaser pay in full all rents, fees, deposits or charges owed by the tenant as authorized under ORS 90.140 and the rental agreement, prior to the landlord's acceptance of the prospective purchaser as a tenant.

(5) If a landlord requires a prospective purchaser to submit an application for occupancy as a tenant under subsection (4) of this section, at the time that the landlord gives the prospective purchaser an application the landlord shall also give the prospective purchaser copies of the statement of policy, the rental agreement and the facility rules and regulations, including any conditions imposed on a subsequent sale, all as provided by ORS 90.510. The terms of the statement, rental agreement and rules and regulations need not be the same as those in the selling tenant's statement, rental agreement and rules and regulations.

(6) The following apply if a landlord receives an application for tenancy from a prospective purchaser under subsection (4) of this section:

(a) The landlord shall accept or reject the prospective purchaser's application within seven days following the day the landlord receives a complete and accurate written application. An application is not complete until the prospective purchaser pays any required applicant screening charge and provides the landlord with all information and documentation, including any financial data and references, required by the landlord pursuant to ORS 90.510 [*(5)(h)*] **(5)(i)**. The landlord and the prospective purchaser may agree to a longer time period for the landlord to evaluate the prospective purchaser's application or to allow the prospective purchaser to address any failure to meet the landlord's screening or admission criteria. If a tenant has not previously given the landlord the 10 days' notice required under subsection (4)(a) of this section, the period provided for the landlord to accept or reject a complete and accurate written application is extended to 10 days.

(b) The landlord may not unreasonably reject a prospective purchaser as a tenant. Reasonable cause for rejection includes, but is not limited to, failure of the prospective purchaser to meet the landlord's conditions for approval as provided in ORS 90.510 [*(5)(h)*] **(5)(i)** or failure of the prospective purchaser's references to respond to the landlord's timely request for verification within the time allowed for acceptance or rejection under paragraph (a) of this subsection. Except as provided in paragraph (c) of this subsection, the landlord shall furnish to the seller and purchaser a written statement of the reasons for the rejection.

(c) If a rejection under paragraph (b) of this subsection is based upon a consumer report, as defined in 15 U.S.C. 1681a for purposes of the federal Fair Credit Reporting Act, the landlord may not disclose the contents of the report to anyone other than the purchaser. The landlord shall disclose to the seller in writing that the rejection is based upon information contained within a consumer report and that the landlord may not disclose the information within the report.

(7) The following apply if a landlord does not require a prospective purchaser to submit an application for occupancy as a tenant under subsection (4) of this section or if the landlord does not accept or reject the prospective purchaser as a tenant within the time required under subsection (6) of this section:

(a) The landlord waives any right to bring an action against the tenant under the rental agreement for breach of the landlord's right to establish conditions upon and approve a prospective purchaser of the tenant's dwelling or home;

(b) The prospective purchaser, upon completion of the sale, may occupy the dwelling or home as a tenant under the same conditions and terms as the tenant who sold the dwelling or home; and

(c) If the prospective purchaser becomes a new tenant, the landlord may impose conditions or terms on the tenancy that are inconsistent with the terms and conditions of the seller's rental agreement only if the new tenant agrees in writing.

(8) A landlord may not, because of the age, size, style or original construction material of the dwelling or home or because the dwelling or home was built prior to adoption of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403), in compliance with the standards of that Act in effect at that time or in compliance with the state building code as defined in ORS 455.010:

(a) Reject an application for tenancy from a prospective purchaser of an existing dwelling or home on a rented space within a facility; or

(b) Require a prospective purchaser of an existing dwelling or home on a rented space within a facility to remove the dwelling or home from the rented space.

(9) A tenant who has received a notice pursuant to ORS 90.632 may sell the tenant's dwelling or home in compliance with this section during the notice period. The tenant shall provide a prospective purchaser with a copy of any outstanding notice given pursuant to ORS 90.632 prior to a sale. The landlord may also give any prospective purchaser a copy of any such notice. The landlord may require as a condition of tenancy that a prospective purchaser who desires to leave the dwelling or home on the rented space and become a tenant must comply with the notice within the notice period consistent with ORS 90.632. If the tenancy has been terminated pursuant to ORS 90.632, or the notice period provided in ORS 90.632 has expired without a correction of cause or extension of time to correct, a prospective purchaser does not have a right to leave the dwelling or home on the rented space and become a tenant.

(10) Except as provided by subsection (9) of this section, after a tenancy has ended and during the period provided by ORS 90.675 (6) and (8), a former tenant retains the right to sell the tenant's dwelling or home to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant as provided by this section, if the former tenant makes timely periodic payment of all storage charges as provided by ORS 90.675 (7)(b), maintains the dwelling or home and the rented space on which it is stored and enters the premises only with the written permission of the landlord. Payment of the storage charges or maintenance of the dwelling or home and the space does not create or reinstate a tenancy or create a waiver pursuant to ORS 90.412 or 90.417. A former tenant

may not enter the premises without the written permission of the landlord, including entry to maintain the dwelling or home or the space or to facilitate a sale.

**BILLING OF UTILITY OR SERVICE CHARGES**

**SECTION 14.** ORS 90.532, as amended by section 6a, chapter 816, Oregon Laws 2009, and section 6a, chapter 503, Oregon Laws 2011, is amended to read:

90.532. (1) Subject to the policies of the utility or service provider, a landlord may, except as provided in subsections (2) to (5) of this section, provide for utilities or services to tenants by one or more of the following billing methods:

(a) A relationship between the tenant and the utility or service provider in which:

(A) The provider provides the utility or service directly to the tenant's space, including any utility or service line, and bills the tenant directly; and

(B) The landlord does not act as a provider.

(b) A relationship between the landlord, tenant and utility or service provider in which:

(A) The provider provides the utility or service to the landlord;

(B) The landlord provides the utility or service directly to the tenant's space or to a common area available to the tenant as part of the tenancy; and

(C) The landlord:

(i) Includes the cost of the utility or service in the tenant's rent; or

(ii) Bills the tenant for a utility or service charge separately from the rent in an amount determined by apportioning on a pro rata basis the provider's charge to the landlord as measured by a master meter.

(c) A relationship between the landlord, tenant and utility or service provider in which:

(A) The provider provides the utility or service to the landlord;

(B) The landlord provides the utility or service directly to the tenant's space; and

(C) The landlord uses a submeter to measure the utility or service actually provided to the space and bills the tenant for a utility or service charge for the amount provided.

(2) A landlord may not use a separately charged pro rata apportionment billing method as described in subsection (1)(b)(C)(ii) of this section:

(a) For garbage collection and disposal, unless the pro rata apportionment is based upon the number and size of the garbage receptacles used by the tenant.

(b) For water service, if the rental agreement for the dwelling unit was entered into on or after January 1, 2010, unless the landlord was using a separately charged pro rata apportionment billing method for all tenants in the facility immediately before January 1, 2010.

(c) For sewer service, if sewer service is measured by consumption of water and the rental agreement for the dwelling unit was entered into on or after January 1, 2010, unless the landlord was using a separately charged pro rata apportionment billing method for all tenants in the facility immediately before January 1, 2010.

(3) Except as allowed by subsection (2) of this section for rental agreements entered into on or after January 1, 2010, a landlord and tenant may not amend a rental agreement to convert water or sewer utility and service billing from a method described in subsection (1)(b)(C)(i) of this section to a method described in subsection (1)(b)(C)(ii) of this section.

(4) Except as provided in ORS 90.543 (3), a landlord for a manufactured dwelling park containing 200 or more spaces in the facility may not assess a tenant a utility or service charge for water by using the billing method described in subsection (1)(b)(C)(ii) of this section.

(5)(a) A landlord of a manufactured dwelling park built after June 23, 2011, may use only the submeter billing method described in subsection (1)(c) of this section for the provision of water.

(b) A landlord of a manufactured dwelling park that expands to add spaces after June 23, 2011, may use only the submeter billing method described in subsection (1)(c) of this section for the provision of water to any spaces added in excess of 200.

(6) To assess a tenant for a utility or service charge for any billing period using the billing method described in subsection (1)(b)(C)(ii) or (c) of this section, the landlord shall give the tenant a written notice stating the amount of the utility or service charge that the tenant is to pay the landlord and the due date for making the payment. The due date may not be [*less than 14 days from*] **before** the date of service of the notice. The amount of the charge is determined as described in ORS 90.534 or 90.536. If the rental agreement allows delivery of notice of a utility or service charge by electronic means, for purposes of this subsection, "written notice" includes a communication that is transmitted in a manner that is electronic, as defined in ORS 84.004. **If the landlord includes in the notice a statement of the rent due, the landlord shall separately and clearly state the amount of the rent and the amount of the utility or service charge.**

(7) A utility or service charge is not rent or a fee. Nonpayment of a utility or service charge is not grounds for termination of a rental agreement for nonpayment of rent under ORS 90.394, but is grounds for termination of a rental agreement for cause under ORS 90.630. **A landlord may not give a notice of termination of a rental agreement under ORS 90.630 for nonpayment of a utility or service charge sooner than the eighth day, including the first day the utility or service charge is due, after the landlord gives the tenant the written notice stating the amount of the utility or service charge.**

(8) The landlord is responsible for maintaining the utility or service system, including any submeter, consistent with ORS 90.730. After any installation or maintenance of the system on a tenant's space, the landlord shall restore the space to a condition that is the same as or better than the condition of the space before the installation or maintenance.

(9) A landlord may not assess a utility or service charge for water unless the water is provided to the landlord by a:

(a) Public utility as defined in ORS 757.005;

(b) Municipal utility operating under ORS chapter 225;

(c) People's utility district organized under ORS chapter 261;

(d) Cooperative organized under ORS chapter 62;

(e) Domestic water supply district organized under ORS chapter 264; or

(f) Water improvement district organized under ORS chapter 552.

(10) A landlord that provides utilities or services only to tenants of the landlord in compliance with this section and ORS 90.534 and 90.536 is not a public utility for purposes of ORS chapter 757.

(11) The authority granted in this section for a utility or service provider to apply policy regarding the billing methods described in subsection (1) of this section does not authorize the utility or service provider to dictate either the amount billed to tenants or the rate at which tenants are billed under ORS 90.534 or 90.536.

## MORTGAGE LOAN ORIGINATION

**SECTION 15.** ORS 86A.203 is amended to read:

86A.203. (1) Except as provided in subsection (2) of this section, an individual may not engage in business as a mortgage loan originator in this state without first:

(a) Obtaining and maintaining a mortgage loan originator's license under ORS 86A.212 or renewing a mortgage loan originator's license under ORS 86A.218; and

(b) Obtaining a unique identifier from the Nationwide Mortgage Licensing System and Registry.

(2) Subsection (1) of this section does not apply to:

(a) A registered mortgage loan originator who acts within the scope of the registered mortgage loan originator's employment;

(b) An individual who offers or negotiates terms of a residential mortgage loan with or on behalf of the individual's spouse, child, sibling, parent, grandparent, grandchild or a relative in a similar relationship with the individual that is created by law, marriage or adoption;

(c) An individual who offers or negotiates terms of a residential mortgage loan that is secured by a dwelling that served as the individual's residence; [*or*]

(d) An attorney licensed or otherwise authorized to practice law in this state if the attorney:

(A) Negotiates the terms of a residential mortgage loan as an ancillary matter in the attorney's representation of a client; and

(B) Does not receive compensation from a mortgage banker, mortgage broker, mortgage loan originator or lender or an agent of the mortgage banker, mortgage broker, mortgage loan originator or lender[.]**;**

**(e) An individual who is licensed as a manufactured structure dealer under ORS 446.691 and who:**

**(A) Offers or negotiates terms of a residential mortgage loan related to a sale for occupancy of a previously owned manufactured dwelling in a manufactured dwelling park three or fewer times in any 12-month period; and**

**(B) Uses a written sale agreement form with the purchaser that complies with the requirements of ORS 646A.050, 646A.052 and 646A.054, with any rules adopted under ORS 646A.050, 646A.052 and 646A.054 and with any other applicable requirements for residential mortgages for manufactured dwellings; or**

**(f) An individual who is licensed as a limited manufactured structure dealer under ORS 446.706 and who:**

**(A) Has an ownership interest in a manufactured dwelling park;**

**(B) Offers or negotiates terms of a residential mortgage loan related to a sale for occupancy of a previously owned manufactured dwelling in any manufactured dwelling park in which the individual has an ownership interest, five or fewer times in any 12-month period; and**

**(C) Uses a written sale agreement form with the purchaser that complies with the requirements of ORS 646A.050, 646A.052 and 646A.054, with any rules adopted under ORS 646A.050, 646A.052 and 646A.054 and with any other applicable requirements for residential mortgages for manufactured dwellings.**

**(3) An individual who offers or negotiates terms for a residential mortgage loan, and who claims an exemption under subsection (2)(e) of this section from the requirements set forth in subsection (1) of this section, may not at any time hold more than eight residential mortgage loans without meeting the requirements set forth in subsection (1) of this section.**

**(4) An individual who offers or negotiates terms for a residential mortgage loan, and who claims an exemption under subsection (2)(f) of this section from the requirements set forth in subsection (1) of this section, may not at any time hold more than 12 residential mortgage loans without meeting the requirements set forth in subsection (1) of this section.**

[*(3)*] **(5)** The Director **of the Department of Consumer and Business Services** by rule may exempt [*a person*] **an individual** from the requirement to obtain a mortgage loan originator's license under ORS 86A.200 to 86A.239 if the United States [*Department of Housing and Urban Development*] **Consumer Financial Protection Bureau** requires or permits the exemption under 12 U.S.C. 5101 et seq.

**(6) Notwithstanding the exemption from licensing for an individual described in subsection (2)(e) or (f) of this section, subsection (1) of this section applies to the individual if the United States Consumer Financial Protection Bureau determines, in a guideline, rule, regulation or interpretive letter, that the exemption is inconsistent with requirements set forth in 12 U.S.C. 5101 et seq.**

[*(4)(a)*] **(7)(a)** Except as provided in paragraph (b) of this subsection, an employee of a [*dealer, as defined in ORS 446.003,*] **manufactured structure dealer licensed under ORS 446.691** is not subject to the provisions of ORS 86A.200 to 86A.239 if the employee:

(A) Performs only administrative or clerical tasks; and

(B) Receives in connection with a sale or other transaction related to a manufactured structure, as defined in ORS 446.003, only a salary or commission that is customary among dealers and employees of dealers.

(b) An employee of a dealer is subject to the provisions of ORS 86A.200 to 86A.239 if the United States [*Department of Housing and Urban Development*] **Consumer Financial Protection Bureau determines,** in a guideline, rule, regulation or interpretive letter**,** [*determines*] that the exemption granted in paragraph (a) of this subsection is inconsistent with requirements set forth in 12 U.S.C. 5101 et seq.

**TRANSITION PROVISIONS AND OPERATIVE DATE**

**SECTION 16. (1) A landlord may unilaterally amend a rental agreement to:**

**(a) Comply with requirements in section 5 of this 2013 Act and other provisions in the Residential Landlord and Tenant Act regarding the maintenance of trees, including hazard trees; and**

**(b) Establish the policies regarding trees that are described in the amendments to ORS 90.510 by section 8 of this 2013 Act.**

**(2) A landlord may take action under this section before the operative date of sections 4 and 5 of this 2013 Act and the amendments to ORS 90.100, 90.412, 90.532, 90.543, 90.555, 90.634, 90.643, 90.680, 90.725, 90.730 and 90.740 by sections 1 to 3, 6, 7 and 9 to 14 of this 2013 Act.**

**SECTION 17. Sections 4 and 5 of this 2013 Act and the amendments to ORS 90.100, 90.412, 90.532, 90.543, 90.555, 90.634, 90.643, 90.680, 90.725, 90.730 and 90.740 by sections 1 to 3, 6, 7 and 9 to 14 of this 2013 Act become operative January 1, 2014.**

**CAPTIONS**

**SECTION 18. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.**

**EMERGENCY CLAUSE**

**SECTION 19. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.**

**Passed by House April 25, 2013**

**Repassed by House June 11, 2013**

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 6, 2013**

.....
Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2013

**Approved:**

.....M.,....., 2013

.....
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2013

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Kate Brown, Secretary of State