

House Bill 2528

Sponsored by Representative DOHERTY (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires residential tenancies to prorate rent calculated based on full days of tenant's occupancy.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to apportionment of residential rent; amending ORS 90.100, 90.300, 90.427, 90.555, 90.630,
3 90.632 and 90.634; and declaring an emergency.

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

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

6 90.100. As used in this chapter, unless the context otherwise requires:

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

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

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

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

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

19 (4) "Building and housing codes" includes any law, ordinance or governmental regulation con-
20 cerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or ap-
21 pearance of any premises or dwelling unit.

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

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

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

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

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

30 (10) "Domestic violence" means:

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

- 1 (b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.
- 2 (11) "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.
- 3 (12) "Dwelling unit" means a structure or the part of a structure that is used as a home, resi-
4 dence or sleeping place by one person who maintains a household or by two or more persons who
5 maintain a common household. "Dwelling unit" regarding a person who rents a space for a manu-
6 factured dwelling or recreational vehicle or regarding a person who rents moorage space for a
7 floating home as defined in ORS 830.700, but does not rent the home, means the space rented and
8 not the manufactured dwelling, recreational vehicle or floating home itself.
- 9 (13) "Essential service" means:
- 10 (a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or
11 recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.850:
- 12 (A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior
13 doors, latches for windows and any cooking appliance or refrigerator supplied or required to be
14 supplied by the landlord; and
- 15 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320,
16 the lack or violation of which creates a serious threat to the tenant's health, safety or property or
17 makes the dwelling unit unfit for occupancy.
- 18 (b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or rec-
19 reational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.850:
- 20 (A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any
21 drainage system; and
- 22 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730,
23 the lack or violation of which creates a serious threat to the tenant's health, safety or property or
24 makes the rented space unfit for occupancy.
- 25 (14) "Facility" means a manufactured dwelling park or a marina.
- 26 (15) "Fee" means a nonrefundable payment of money.
- 27 (16) "First class mail" does not include certified or registered mail, or any other form of mail
28 that may delay or hinder actual delivery of mail to the recipient.
- 29 (17) "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a
30 specific ending date and terminating on that date without requiring further notice to effect the ter-
31 mination.
- 32 (18) "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes
33 an accessory building or structure.
- 34 (19) "Good faith" means honesty in fact in the conduct of the transaction concerned.
- 35 (20) "Hazard tree" means a tree that:
- 36 (a) Is located on a rented space in a manufactured dwelling park;
- 37 (b) Measures at least eight inches DBH; and
- 38 (c) Is considered, by an arborist licensed as a landscape construction professional pursuant to
39 ORS 671.560 and certified by the International Society of Arboriculture, to pose an unreasonable
40 risk of causing serious physical harm or damage to individuals or property in the near future.
- 41 (21) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.
- 42 (22) "Informal dispute resolution" [*means, but is not limited to,*] **includes** consultation between
43 the landlord or landlord's agent and one or more tenants[,] or mediation utilizing the services of a
44 third party.
- 45 (23) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or

1 premises of which it is a part. “Landlord” includes a person who is authorized by the owner, lessor
 2 or sublessor to manage the premises or to enter into a rental agreement.

3 (24) “Landlord’s agent” means a person who has oral or written authority, either express or
 4 implied, to act for or on behalf of a landlord.

5 (25) “Last month’s rent deposit” means a type of security deposit, however designated, the pri-
 6 mary function of which is to secure the payment of rent for the last month of the tenancy.

7 (26) “Manufactured dwelling” means a residential trailer, a mobile home or a manufactured
 8 home as those terms are defined in ORS 446.003. “Manufactured dwelling” includes an accessory
 9 building or structure. “Manufactured dwelling” does not include a recreational vehicle.

10 (27) “Manufactured dwelling park” means a place where four or more manufactured dwellings
 11 are located, the primary purpose of which is to rent space or keep space for rent to any person for
 12 a charge or fee.

13 (28) “Marina” means a moorage of contiguous dwelling units that may be legally transferred as
 14 a single unit and are owned by one person where four or more floating homes are secured, the pri-
 15 mary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

16 (29) “Marina purchase association” means a group of three or more tenants who reside in a
 17 marina and have organized for the purpose of eventual purchase of the marina.

18 (30) “Month-to-month tenancy” means a tenancy that automatically renews and continues for
 19 successive monthly periods on the same terms and conditions originally agreed to, or as revised by
 20 the parties, until terminated by one or both of the parties.

21 (31) “Organization” includes a corporation, government, governmental subdivision or agency,
 22 business trust, estate, trust, partnership or association, two or more persons having a joint or com-
 23 mon interest, and any other legal or commercial entity.

24 (32) “Owner” includes a mortgagee in possession and means one or more persons, jointly or se-
 25 verally, in whom is vested:

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

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

29 (33) “Person” includes an individual or organization.

30 (34) “Premises” means:

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

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

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

36 (35) “Prepaid rent” means any payment of money to the landlord for a rent obligation not yet
 37 due. In addition, “prepaid rent” means rent paid for a period extending beyond a termination date.

38 **(36) “Prorated” means apportioned based on the ratio of full days of a tenant’s occupancy**
 39 **in the month to the number of days in the calendar month, except that in a week-to-week**
 40 **tenancy, “prorated” means the ratio of full days of the tenant’s occupancy to the number**
 41 **of days in the week.**

42 [(36)] (37) “Recreational vehicle” has the meaning given that term in ORS 446.003.

43 [(37)] (38) “Rent” means any payment to be made to the landlord under the rental agreement,
 44 periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a
 45 dwelling unit to the exclusion of others and to use the premises. “Rent” does not include security

1 deposits, fees or utility or service charges as described in ORS 90.315 (4) and 90.532.

2 [(38)] (39) "Rental agreement" means all agreements, written or oral, and valid rules and regu-
 3 lations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the
 4 use and occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental
 5 agreement shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

6 [(39)] (40) "Roomer" means a person occupying a dwelling unit that does not include a toilet and
 7 either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and
 8 where one or more of these facilities are used in common by occupants in the structure.

9 [(40)] (41) "Screening or admission criteria" means a written statement of any factors a landlord
 10 considers in deciding whether to accept or reject an applicant and any qualifications required for
 11 acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history,
 12 character references, public records, criminal records, credit reports, credit references and incomes
 13 or resources of the applicant.

14 [(41)] (42) "Security deposit" means a refundable payment or deposit of money, however desig-
 15 nated, the primary function of which is to secure the performance of a rental agreement or any part
 16 of a rental agreement. "Security deposit" does not include a fee.

17 [(42)] (43) "Sexual assault" has the meaning given that term in ORS 147.450.

18 [(43)] (44) "Squatter" means a person occupying a dwelling unit who is not so entitled under a
 19 rental agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter"
 20 does not include a tenant who holds over as described in ORS 90.427 (7).

21 [(44)] (45) "Stalking" means the behavior described in ORS 163.732.

22 [(45)] (46) "Statement of policy" means the summary explanation of information and facility
 23 policies to be provided to prospective and existing tenants under ORS 90.510.

24 [(46)] (47) "Surrender" means an agreement, express or implied, as described in ORS 90.148 be-
 25 tween a landlord and tenant to terminate a rental agreement that gave the tenant the right to oc-
 26 cupy a dwelling unit.

27 [(47)] (48) "Tenant":

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

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

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

33 (b) For purposes of ORS 90.505 to 90.850, means only a person who owns and occupies as a
 34 residence a manufactured dwelling or a floating home in a facility and persons residing with that
 35 tenant under the terms of the rental agreement.

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

37 [(48)] (49) "Transient lodging" means a room or a suite of rooms.

38 [(49)] (50) "Transient occupancy" means occupancy in transient lodging that has all of the fol-
 39 lowing characteristics:

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

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

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

44 [(50)] (51) "Vacation occupancy" means occupancy in a dwelling unit, not including transient
 45 occupancy in a hotel or motel, that has all of the following characteristics:

- 1 (a) The occupant rents the unit for vacation purposes only, not as a principal residence;
- 2 (b) The occupant has a principal residence other than at the unit; and
- 3 (c) The period of authorized occupancy does not exceed 45 days.

4 [(51)] (52) "Victim" means:

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

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

10 [(52)] (53) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

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

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

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

17 **SECTION 2.** ORS 90.220 is amended to read:

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

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

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

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

29 (5) Notwithstanding ORS 90.245 (1), the parties to a rental agreement to which ORS 90.100 to
30 90.465 apply may include in the rental agreement a provision for informal dispute resolution.

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

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

34 (a) Rent is payable without demand or notice at the time and place agreed upon by the parties.
35 Unless otherwise agreed, rent is payable at the dwelling unit, periodic rent is payable at the be-
36 ginning of any term of one month or less and otherwise in equal monthly or weekly installments at
37 the beginning of each month or week, depending on whether the tenancy is month-to-month or
38 week-to-week. **Rent must be prorated.** Rent may not be considered to be due prior to the first day
39 of each rental period. Rent increases must comply with the provisions of ORS 90.323.

40 (b) If a rental agreement does not create a week-to-week tenancy, as defined in ORS 90.100, or
41 a fixed term tenancy, the tenancy shall be a month-to-month tenancy.

42 (8) Except as provided by ORS 90.427 (7), a tenant is responsible for payment of **prorated** rent
43 until the earlier of:

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

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

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

2 (d) The date that the tenancy terminates as a result of the landlord failing to use reasonable
3 efforts to rent the dwelling unit to a new tenant as provided under ORS 90.410 (3);

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

5 (f) Thirty days after delivery of possession without prior notice of termination of a month-to-
6 month tenancy; or

7 (g) Ten days after delivery of possession without prior notice of termination of a week-to-week
8 tenancy.

9 (9)(a) Notwithstanding a provision in a rental agreement regarding the order of application of
10 tenant payments, a landlord shall apply tenant payments in the following order:

11 (A) Outstanding rent from prior rental periods;

12 (B) Rent for the current rental period;

13 (C) Utility or service charges;

14 (D) Late rent payment charges; and

15 (E) Fees or charges owed by the tenant under ORS 90.302 or other fees or charges related to
16 damage claims or other claims against the tenant.

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

18 **SECTION 3.** ORS 90.300 is amended to read:

19 90.300. (1) As used in this section, "security deposit" includes any last month's rent deposit.

20 (2)(a) Except as otherwise provided in this section, a landlord may require a tenant to pay a
21 security deposit. The landlord shall provide the tenant with a receipt for any security deposit the
22 tenant pays. The landlord shall hold a security deposit or prepaid rent for the tenant who is a party
23 to the rental agreement. A tenant's claim to the security deposit or prepaid rent is prior to the claim
24 of a creditor of the landlord, including a trustee in bankruptcy.

25 (b) Except as provided in ORS 86.782 (10), the holder of the landlord's interest in the premises
26 at the time the tenancy terminates is responsible to the tenant for any security deposit or prepaid
27 rent and is bound by this section.

28 (3) A written rental agreement, if any, must list a security deposit paid by a tenant or required
29 by a landlord.

30 (4) A landlord may not charge a tenant a pet security deposit for keeping a service animal or
31 companion animal that a tenant with a disability requires as a reasonable accommodation under fair
32 housing laws.

33 (5)(a) Except as otherwise provided in this subsection, a landlord may not change the rental
34 agreement to require the tenant to pay a new or increased security deposit during the first year
35 after the tenancy has begun. Subject to subsection (4) of this section, the landlord may require an
36 additional deposit if the landlord and tenant agree to modify the terms and conditions of the rental
37 agreement to permit a pet or for other cause and the additional deposit relates to the modification.
38 This paragraph does not prevent a landlord from collecting a security deposit that an initial rental
39 agreement provided for but that remained unpaid at the time the tenancy began.

40 (b) If a landlord requires a new or increased security deposit after the first year of the tenancy,
41 the landlord shall allow the tenant at least three months to pay the new or increased deposit.

42 (6) The landlord may claim all or part of the security deposit only if the landlord required the
43 security deposit for any or all of the purposes specified in subsection (7) of this section.

44 (7)(a) The landlord may claim from the security deposit only the amount reasonably necessary:

45 (A) To remedy the tenant's defaults in the performance of the rental agreement including, but

1 not limited to, unpaid rent; and

2 (B) To repair damages to the premises caused by the tenant, not including ordinary wear and
3 tear.

4 (b) A landlord is not required to repair damage caused by the tenant in order for the landlord
5 to claim against the deposit for the cost to make the repair. Any labor costs the landlord assesses
6 under this subsection for cleaning or repairs must be based on a reasonable hourly rate. The land-
7 lord may charge a reasonable hourly rate for the landlord's own performance of cleaning or repair
8 work.

9 (c) Defaults and damages for which a landlord may recover under this subsection include, but
10 are not limited to:

11 (A) Carpet cleaning, other than the use of a common vacuum cleaner, if:

12 (i) The cleaning is performed by use of a machine specifically designed for cleaning or
13 shampooing carpets;

14 (ii) The carpet was cleaned or replaced after the previous tenancy or the most recent significant
15 use of the carpet and before the tenant took possession; and

16 (iii) The written rental agreement provides that the landlord may deduct the cost of carpet
17 cleaning regardless of whether the tenant cleans the carpet before the tenant delivers possession
18 as described in ORS 90.147.

19 (B) Loss of use of the dwelling unit during the performance of necessary cleaning or repairs for
20 which the tenant is responsible under this subsection if the cleaning or repairs are performed in a
21 timely manner.

22 (8) A landlord may not require a tenant to pay or to forfeit a security deposit or prepaid rent
23 to the landlord for the tenant's failure to maintain a tenancy for a minimum number of months in
24 a month-to-month tenancy.

25 (9) The landlord must apply any last month's rent deposit to the rent due for the last month of
26 the tenancy:

27 (a) When either the landlord or the tenant gives to the other a notice of termination, pursuant
28 to this chapter, other than a notice of termination under ORS 90.394;

29 (b) When the landlord and tenant agree to terminate the tenancy; or

30 (c) When the tenancy terminates in accordance with the provisions of a written rental agree-
31 ment for a term tenancy.

32 (10) A landlord shall account for and refund as provided in subsections (12) to (14) of this section
33 any **prorated** portion of a last month's rent deposit the landlord does not apply as provided under
34 subsection (9) of this section. Unless the tenant and landlord agree otherwise, the tenant may not
35 require the landlord to apply a last month's rent deposit to rent due for any period other than the
36 last month of the tenancy. A last month's rent deposit does not limit the amount of rent charged
37 unless a written rental agreement provides otherwise.

38 (11) When the tenancy terminates, a landlord shall account for and refund to the tenant, in the
39 same manner this section requires for security deposits, the unused balance of any prepaid rent the
40 landlord has not previously refunded to the tenant under ORS 90.380 and 105.120 (5)(b) or any other
41 provision of this chapter. The landlord may claim from the remaining prepaid rent only the amount
42 reasonably necessary to pay the tenant's unpaid rent.

43 (12) In order to claim all or part of any prepaid rent or security deposit, within 31 days after
44 the tenancy terminates and the tenant delivers possession the landlord shall give to the tenant a
45 written accounting that states specifically the basis or bases of the claim. The landlord shall give

1 a separate accounting for security deposits and for prepaid rent.

2 (13) The landlord shall return to the tenant the security deposit or prepaid rent or the portion
 3 of the security deposit or prepaid rent that the landlord does not claim in the manner provided by
 4 subsections (11) and (12) of this section not later than 31 days after the tenancy terminates and the
 5 tenant delivers possession to the landlord.

6 (14) The landlord shall give the written accounting required under subsection (12) of this section
 7 or shall return the security deposit or prepaid rent as required by subsection (13) of this section by
 8 personal delivery or by first class mail.

9 (15) If a security deposit or prepaid rent secures a tenancy for a space for a manufactured
 10 dwelling or floating home the tenant owns and occupies, whether or not in a facility, and the
 11 dwelling or home is abandoned as described in ORS 90.425 (2) or 90.675 (2), the 31-day period de-
 12 scribed in subsections (12) and (13) of this section commences on the earliest of:

- 13 (a) Waiver of the abandoned property process under ORS 90.425 (26) or 90.675 (23);
- 14 (b) Removal of the manufactured dwelling or floating home from the rented space;
- 15 (c) Destruction or other disposition of the manufactured dwelling or floating home under ORS
 16 90.425 (10)(b) or 90.675 (10)(b); or
- 17 (d) Sale of the manufactured dwelling or floating home pursuant to ORS 90.425 (10)(a) or 90.675
 18 (10)(a).

19 (16) If the landlord fails to comply with subsection (13) of this section or if the landlord in bad
 20 faith fails to return all or any **prorated** portion of any prepaid rent or security deposit due to the
 21 tenant under this chapter or the rental agreement, the tenant may recover the money due in an
 22 amount equal to twice the amount:

- 23 (a) Withheld without a written accounting under subsection (12) of this section; or
- 24 (b) Withheld in bad faith.

25 (17)(a) A security deposit or prepaid rent in the possession of the landlord is not garnishable
 26 property, as provided in ORS 18.618.

27 (b) If a landlord delivers a security deposit or prepaid rent to a garnishor in violation of ORS
 28 18.618 (1)(b), the landlord that delivered the security deposit or prepaid rent to the garnishor shall
 29 allow the tenant at least 30 days after a copy of the garnishee response required by ORS 18.680 is
 30 delivered to the tenant under ORS 18.690 to restore the security deposit or prepaid rent. If the
 31 tenant fails to restore a security deposit or prepaid rent under the provisions of this paragraph be-
 32 fore the tenancy terminates, and the landlord retains no security deposit or prepaid rent from the
 33 tenant after the garnishment, the landlord is not required to refund or account for the security de-
 34 posit or prepaid rent under subsection (11) of this section.

35 (18) This section does not preclude the landlord or tenant from recovering other damages under
 36 this chapter.

37 **SECTION 4.** ORS 90.427 is amended to read:

38 90.427. (1) As used in this section, “first year of occupancy” includes all periods in which any
 39 of the tenants has resided in the dwelling unit for one year or less.

40 (2) If a tenancy is a week-to-week tenancy, the landlord or the tenant may terminate the tenancy
 41 by a written notice given to the other at least 10 days before the termination date specified in the
 42 notice.

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

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

1 of the tenancy.

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

5 (c) At any time after the first year of occupancy, the landlord may terminate the tenancy by
6 giving the tenant notice in writing not less than 60 days prior to the date designated in the notice
7 for the termination of the tenancy.

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

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

14 (b) After the specified ending date for the fixed term, at any time during the month-to-month
15 tenancy, the landlord may terminate the tenancy without cause only by giving the tenant notice in
16 writing not less than 60 days prior to the date designated in the notice for the termination of the
17 tenancy.

18 (5) Notwithstanding subsections (3)(c) and (4)(b) of this section, the landlord may terminate a
19 month-to-month tenancy at any time by giving the tenant notice in writing not less than 30 days
20 prior to the date designated in the notice for the termination of the tenancy if:

21 (a) The dwelling unit is purchased separately from any other dwelling unit;

22 (b) The landlord has accepted an offer to purchase the dwelling unit from a person who intends
23 in good faith to occupy the dwelling unit as the person's primary residence; and

24 (c) The landlord has provided the notice, and written evidence of the offer to purchase the
25 dwelling unit, to the tenant not more than 120 days after accepting the offer to purchase.

26 (6) The tenancy shall terminate on the date designated and without regard to the expiration of
27 the period for which, by the terms of the tenancy, rents are to be paid[. *Unless otherwise agreed, rent*
28 *is uniformly apportionable from day to day*] **and rent must be prorated.**

29 (7) If the tenant remains in possession without the landlord's consent after expiration of the
30 term of the rental agreement or its termination, the landlord may bring an action for possession. In
31 addition, the landlord may recover from the tenant any actual damages resulting from the tenant
32 holding over, including the value of any rent accruing from the expiration or termination of the
33 rental agreement until the landlord knows or should know that the tenant has relinquished pos-
34 session to the landlord. If the landlord consents to the tenant's continued occupancy, ORS 90.220 (7)
35 applies.

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

38 (b) Notwithstanding paragraph (a) of this subsection, a landlord or tenant may include in a no-
39 tice of termination given under subsection (2) or (3) of this section an explanation of the reason for
40 the termination without having to prove the reason. An explanation does not give the person re-
41 ceiving the notice of termination a right to cure the reason if the notice states that:

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

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

44 (C) The person giving the notice need not prove the reason for the termination in a court action.

45 (9) Subsections (2) to (5) of this section do not apply to a month-to-month tenancy subject to ORS

1 90.429 or other tenancy created by a rental agreement subject to ORS 90.505 to 90.850.

2 **SECTION 5.** ORS 90.630, as amended by section 22, chapter 820, Oregon Laws 2015, is amended
3 to read:

4 90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a
5 rental agreement that is a month-to-month or fixed term tenancy for space for a manufactured
6 dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the
7 date designated in the notice for termination if the tenant:

8 (a) Violates a law or ordinance related to the tenant's conduct as a tenant, including but not
9 limited to a material noncompliance with ORS 90.740;

10 (b) Violates a rule or rental agreement provision related to the tenant's conduct as a tenant and
11 imposed as a condition of occupancy, including but not limited to a material noncompliance with a
12 rental agreement regarding a program of recovery in drug and alcohol free housing;

13 (c) Is classified as a level three sex offender under ORS 163A.100 (3); or

14 (d) Fails to pay a:

15 (A) Late charge pursuant to ORS 90.260;

16 (B) Fee pursuant to ORS 90.302; or

17 (C) Utility or service charge pursuant to ORS 90.534 or 90.536.

18 (2) A violation making a tenant subject to termination under subsection (1) of this section in-
19 cludes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or
20 rule, but does not include the physical condition of the dwelling or home. Termination of a rental
21 agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS
22 90.632.

23 (3) The notice required by subsection (1) of this section shall state facts sufficient to notify the
24 tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination
25 by correcting the violation as provided in subsection (4) of this section.

26 (4) The tenant may avoid termination of the tenancy by correcting the violation within the
27 30-day period specified in subsection (1) of this section. However, if substantially the same act or
28 omission that constituted a prior violation of which notice was given recurs within six months after
29 the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice
30 specifying the violation and the date of termination of the tenancy.

31 (5) Notwithstanding subsection (3) or (4) of this section, a tenant who is given a notice of ter-
32 mination under subsection (1)(c) of this section does not have a right to correct the violation. A
33 notice given to a tenant under subsection (1)(c) of this section must state that the tenant does not
34 have a right to avoid the termination.

35 (6) This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent
36 under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying
37 with ORS 105.105 to 105.168.

38 (7) A tenancy terminates on the date designated in the notice and without regard to the expi-
39 ration of the period for which, by the terms of the rental agreement, rents are to be paid[. *Unless*
40 *otherwise agreed, rent is uniformly apportionable from day to day*] **and rent must be prorated.**

41 (8) Notwithstanding any other provision of this section or ORS 90.394, 90.396 or 90.398, the
42 landlord may terminate the rental agreement for space for a manufactured dwelling or floating home
43 because of repeated late payment of rent by giving the tenant not less than 30 days' notice in
44 writing before the date designated in that notice for termination and may take possession as pro-
45 vided in ORS 105.105 to 105.168 if:

1 (a) The tenant has not paid the monthly rent prior to the eighth day of the rental period as
2 described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394 (2)(b)
3 in at least three of the preceding 12 months and the landlord has given the tenant a nonpayment
4 of rent termination notice pursuant to ORS 90.394 (2) during each of those three instances of non-
5 payment;

6 (b) The landlord warns the tenant of the risk of a 30-day notice for termination with no right
7 to correct the cause, upon the occurrence of a third nonpayment of rent termination notice within
8 a 12-month period. The warning must be contained in at least two nonpayment of rent termination
9 notices that precede the third notice within a 12-month period or in separate written notices that
10 are given concurrent with, or a reasonable time after, each of the two nonpayment of rent termi-
11 nation notices; and

12 (c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for
13 termination of the tenancy and is given to the tenant concurrent with or after the third or a sub-
14 sequent nonpayment of rent termination notice.

15 (9) Notwithstanding subsection (4) of this section, a tenant who receives a 30-day notice of ter-
16 mination pursuant to subsection (8) of this section does not have a right to correct the cause for the
17 notice.

18 (10) The landlord may give a copy of the notice required by subsection (8) of this section to any
19 lienholder of the manufactured dwelling or floating home by first class mail with certificate of
20 mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a
21 tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice
22 in good faith to a lienholder. A lienholder's rights and obligations regarding an abandoned manu-
23 factured dwelling or floating home shall be as provided under ORS 90.675.

24 **SECTION 6.** ORS 90.632 is amended to read:

25 90.632. (1) A landlord may terminate a month-to-month or fixed term rental agreement and re-
26 quire the tenant to remove a manufactured dwelling or floating home from a facility, due to the
27 physical condition of the exterior of the manufactured dwelling or floating home, only by complying
28 with this section and ORS 105.105 to 105.168. A termination shall include removal of the dwelling
29 or home.

30 (2) A landlord may not require removal of a manufactured dwelling or floating home, or consider
31 a dwelling or home to be in disrepair or deteriorated, because of the age, size, style or original
32 construction material of the dwelling or home or because the dwelling or home was built prior to
33 adoption of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42
34 U.S.C. 5403), in compliance with the standards of that Act in effect at that time or in compliance
35 with the state building code as defined in ORS 455.010.

36 (3) Except as provided in subsections (4) and (6) of this section, if the exterior of the tenant's
37 dwelling or home is in disrepair or is deteriorated, a landlord may terminate a rental agreement and
38 require the removal of a dwelling or home by giving to the tenant not less than 60 days' written
39 notice before the date designated in the notice for termination.

40 (4) If the disrepair or deterioration of the manufactured dwelling or floating home creates a risk
41 of imminent and serious harm to dwellings, homes or persons within the facility, a landlord may
42 terminate a rental agreement and require the removal of the dwelling or home by giving to the
43 tenant not less than 30 days' written notice before the date designated in the notice for termination.
44 The notice shall describe the risk of harm.

45 (5) The notice required by subsections (3) and (4) of this section must:

1 (a) State facts sufficient to notify the tenant of the specific disrepair or deterioration that is the
2 cause or reason for termination of the tenancy and removal of the dwelling or home;

3 (b) State that the tenant can avoid termination and removal by correcting the cause for termi-
4 nation and removal within the notice period;

5 (c) If reasonably known by the landlord, describe specifically what repairs are required to cor-
6 rect the disrepair or deterioration that is the cause for termination;

7 (d) Describe the tenant's right to give the landlord a written notice of correction, where to give
8 the notice and the deadline for giving the notice in order to ensure a response by the landlord, all
9 as provided by subsection (7) of this section; and

10 (e) Describe the tenant's right to have the termination and correction period extended as pro-
11 vided by subsection (8) of this section.

12 (6) The tenant may avoid termination of the tenancy by correcting the cause within the period
13 specified. However, if substantially the same condition that constituted a prior cause for termination
14 of which notice was given recurs within 12 months after the date of the notice, the landlord may
15 terminate the tenancy and require the removal of the dwelling or home upon at least 30 days'
16 written notice specifying the violation and the date of termination of the tenancy.

17 (7) During the termination notice or extension period, the tenant may give the landlord written
18 notice that the tenant has corrected the cause for termination. Within a reasonable time after the
19 tenant's notice of correction, the landlord shall respond to the tenant in writing, stating whether the
20 landlord agrees that the cause has been corrected. If the tenant's notice of correction is given at
21 least 14 days prior to the end of the termination notice or extension period, failure by the landlord
22 to respond as required by this subsection is a defense to a termination based upon the landlord's
23 notice for termination.

24 (8) Except when the disrepair or deterioration creates a risk of imminent and serious harm to
25 dwellings, homes or persons within the facility, the 60-day period provided for the tenant to correct
26 the cause for termination and removal shall be extended by at least:

27 (a) An additional 60 days if:

28 (A) The necessary correction involves exterior painting, roof repair, concrete pouring or similar
29 work and the weather prevents that work during a substantial portion of the 60-day period; or

30 (B) The nature or extent of the correction work is such that it cannot reasonably be completed
31 within 60 days because of factors such as the amount of work necessary, the type and complexity
32 of the work and the availability of necessary repair persons; or

33 (b) An additional six months if the disrepair or deterioration has existed for more than the
34 preceding 12 months with the landlord's knowledge or acceptance as described in ORS 90.412.

35 (9) In order to have the period for correction extended as provided in subsection (8) of this
36 section, a tenant must give the landlord written notice describing the necessity for an extension in
37 order to complete the correction work. The notice must be given a reasonable amount of time prior
38 to the end of the notice for termination period.

39 (10) A tenancy terminates on the date designated in the notice and without regard to the expi-
40 ration of the period for which, by the terms of the rental agreement, rents are to be paid[. *Unless*
41 *otherwise agreed, rent is uniformly apportionable from day to day*] **and rent must be prorated.**

42 (11) This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent
43 under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.630 by complying
44 with ORS 105.105 to 105.168.

45 (12) A landlord may give a copy of the notice for termination required by this section to any

1 lienholder of the dwelling or home, by first class mail with certificate of mailing or by any other
 2 method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a tenant for any damages in-
 3 curred by the tenant as a result of the landlord giving a copy of the notice in good faith to a
 4 lienholder.

5 (13) When a tenant has been given a notice for termination pursuant to this section and has
 6 subsequently abandoned the dwelling or home as described in ORS 90.675, any lienholder shall have
 7 the same rights as provided by ORS 90.675, including the right to correct the cause of the notice,
 8 within the 90-day period provided by ORS 90.675 (20) notwithstanding the expiration of the notice
 9 period provided by this section for the tenant to correct the cause.

10 **SECTION 7.** ORS 90.555 is amended to read:

11 90.555. (1) A facility tenant may not rent the tenant’s manufactured dwelling or floating home
 12 to another person for a period exceeding three days unless the facility landlord, facility tenant and
 13 dwelling or home renter enter into a written subleasing agreement specifying the rights and obli-
 14 gations of the landlord, tenant and renter during the renter’s occupancy of the dwelling or home.
 15 The subleasing agreement shall include, but need not be limited to, provisions that require the
 16 dwelling or home renter to timely pay directly to the facility landlord the space rent, any separately
 17 assessed fees payable under the rental agreement and any separately billed utility or service charge
 18 described in ORS 90.532 (1)(b) or (c), and provisions that grant the dwelling or home renter the same
 19 rights as the facility tenant to cure a violation of the rental agreement for the facility space, to
 20 require facility landlord compliance with ORS 90.730 and to be protected from retaliatory conduct
 21 under ORS 90.765. This subsection does not authorize a facility tenant to rent a manufactured
 22 dwelling or floating home to another person in violation of the rental agreement between the facility
 23 tenant and the facility landlord.

24 (2) Notwithstanding ORS 90.100 [(47)] (48), a facility tenant who enters into a subleasing
 25 agreement continues to be the tenant of the facility space and retains all rights and obligations of
 26 a facility tenant under the rental agreement and this chapter. The occupancy of a manufactured
 27 dwelling or floating home by a renter as provided in a subleasing agreement does not constitute
 28 abandonment of the dwelling or home by the facility tenant.

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

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

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

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

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

42 (A) For nonpayment of facility space rent; or

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

45 (5) Upon termination of a subleasing agreement by the facility landlord, whether with or without

1 cause, the dwelling or home renter and the facility tenant are excused from continued performance
 2 under any agreement for the renter's occupancy of the manufactured dwelling or floating home
 3 owned by the facility tenant.

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

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

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

18 (d) If the dwelling or home renter gives notice to the facility landlord of a violation of ORS
 19 90.730, the renter shall also promptly give a copy of the notice to the facility tenant.

20 (7) If the rental agreement permits the facility tenant to sublease the tenant's manufactured
 21 dwelling or floating home, the landlord shall apply to the dwelling or home renter credit and con-
 22 duct screening criteria that is substantially similar to the credit and conduct screening criteria the
 23 landlord applies to applicants for a tenancy of a dwelling or home that is either owned by the
 24 landlord or on consignment with the landlord under ORS 90.680.

25 **SECTION 8.** ORS 90.634 is amended to read:

26 90.634. (1) A landlord may not assert a lien under ORS 87.162 for dwelling unit rent against a
 27 manufactured dwelling or floating home located in a facility. Notwithstanding ORS 90.100 [(47)] (48)
 28 and 90.675 and regardless of whether the owner of a manufactured dwelling or floating home occu-
 29 pies the dwelling or home as a residence, a facility landlord that is entitled to unpaid rent and re-
 30 ceives possession of the facility space from the sheriff following restitution pursuant to ORS 105.161
 31 may sell or dispose of the dwelling or home as provided in ORS 90.675.

32 (2) If a manufactured dwelling or floating home was occupied immediately prior to abandonment
 33 by a person other than the facility tenant, and the name and address of the person are known to the
 34 landlord, a landlord selling or disposing of the dwelling or home under subsection (1) of this section
 35 shall promptly send the person a copy of the notice sent to the facility tenant under ORS 90.675 (3).
 36 Notwithstanding ORS 90.425, the facility landlord may sell or dispose of goods left in the dwelling
 37 or home or upon the dwelling unit by the person in the same manner as if the goods were left by
 38 the facility tenant. If the name and address of the person are known to the facility landlord, the
 39 landlord shall promptly send the person a copy of the written notice sent to the facility tenant under
 40 ORS 90.425 (3) and allow the person the time described in the notice to arrange for removal of the
 41 goods.

42 **SECTION 9. This 2019 Act being necessary for the immediate preservation of the public**
 43 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
 44 **on its passage.**