

Enrolled House Bill 3219

Sponsored by Representatives MARSH, MORGAN; Representatives GOMBERG, SMITH DB,
WILDE, ZIKA

CHAPTER

AN ACT

Relating to manufactured dwelling parks; creating new provisions; amending ORS 90.100, 90.510, 90.555, 90.634, 446.003 and 446.007; and declaring an emergency.

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

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 197.

SECTION 2. (1) As used in this section, “natural disaster” includes any disaster resulting in the declaration of a state of emergency under ORS 401.165 or 401.309 for wildfires, floods, tsunamis, earthquakes or similar events, including disasters began by negligent or intentional acts.

(2) Notwithstanding ORS 215.130 (5) to (11) or any land use regulation, statewide land use planning goal or Land Conservation and Development Commission rule, a local government:

(a) Shall, if the development complies with the local government’s floodplain and other natural hazard land use regulations, approve an application for the development of a manufactured dwelling park:

- (A) To replace a park destroyed by a natural disaster; or
- (B) That is in an area rezoned under paragraph (b) of this subsection.

(b) May, by approval of the governing body, approve a zoning change for an area within an urban growth boundary near the destroyed park to permit the development of a manufactured dwelling park where the destruction of manufactured dwellings from the natural disaster has contributed to a shortage in housing.

(3) A local government may require an applicant to prove that the destroyed park was assessed as a building or structure for purposes of ad valorem taxation for the most recent property tax year ending before the disaster.

(4) In reviewing an application under this section, a local government may not require that an applicant prove that the destroyed park was lawful under the existing land use regulations at any time, including when the building, structure or use was established, at the time of interruption or destruction or at the time of the application.

(5) The approval of an application for development of a park under this section does not expire.

SECTION 3. Section 4 of this 2021 Act is added to and made a part of ORS 446.003 to 446.200.

SECTION 4. The Director of the Department of Consumer and Business Services may waive any requirements of ORS 446.003 to 446.200 or rules adopted under those sections or

adopt temporary permitting and operating and construction standards in lieu of the requirements if the director determines that:

(1) The waiver is necessary or advisable to allow for the rapid development of a manufactured dwelling park approved under section 2 of this 2021 Act; and

(2) The waiver will not jeopardize the health and safety of the occupants of the manufactured dwelling park.

SECTION 5. Sections 2 and 4 of this 2021 Act apply to manufactured dwelling parks destroyed by natural disasters occurring on or after September 1, 2020.

SECTION 6. ORS 446.003 is amended to read:

446.003. As used in ORS 446.003 to 446.200 and 446.225 to 446.285, and for the purposes of ORS chapters 195, 196, 197, 215 and 227, the following definitions apply, unless the context requires otherwise, or unless administration and enforcement by the State of Oregon under the existing or revised National Manufactured Housing Construction and Safety Standards Act would be adversely affected, and except as provided in ORS 446.007 or 446.265:

(1) "Accessory building or structure" means any portable, demountable or permanent structure established for use of the occupant of the manufactured dwelling and as further defined by rule by the Director of the Department of Consumer and Business Services.

(2)(a) "Alteration" means any change, addition, repair, conversion, replacement, modification or removal of any equipment or installation that may affect the operation, construction or occupancy of a manufactured dwelling.

(b) "Alteration" does not include:

(A) Minor repairs with approved component parts;

(B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;

(C) Adjustment and maintenance of equipment; or

(D) Replacement of equipment or accessories in kind.

(3) "Approved" means approved, licensed or certified by the Department of Consumer and Business Services or its designee.

(4) "Board" means the Residential and Manufactured Structures Board.

(5) "Cabana" means a stationary, lightweight structure that may be prefabricated, or demountable, with two or more walls, used adjacent to and in conjunction with a manufactured dwelling to provide additional living space.

(6) "Certification" means an evaluation process by which the department verifies a manufacturer's ability to produce manufactured dwellings to the department rules and to the department approved quality control manual.

(7) "Dealer" means any person engaged in the business of selling, leasing or distributing manufactured dwellings or equipment, or both, primarily to persons who in good faith purchase or lease manufactured dwellings or equipment, or both, for purposes other than resale.

(8) "Department" means the Department of Consumer and Business Services.

(9) "Director" means the Director of the Department of Consumer and Business Services.

(10) "Distributor" means any person engaged in selling and distributing manufactured dwellings or equipment for resale.

(11) "Equipment" means materials, appliances, subassembly, devices, fixtures, fittings and apparatuses used in the construction, plumbing, mechanical and electrical systems of a manufactured dwelling.

(12) "Federal manufactured housing construction and safety standard" means a standard for construction, design and performance of a manufactured dwelling promulgated by the Secretary of Housing and Urban Development pursuant to the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383).

(13) "Fire Marshal" means the State Fire Marshal.

(14) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.

(15) "Insignia of compliance" means the HUD label for a manufactured dwelling.

(16) “Inspecting authority” or “inspector” means the Director of the Department of Consumer and Business Services or representatives as appointed or authorized to administer and enforce provisions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this section.

(17) “Installation” in relation to:

(a) Construction means the arrangements and methods of construction, fire and life safety, electrical, plumbing and mechanical equipment and systems within a manufactured dwelling.

(b) Siting means the manufactured dwelling and cabana foundation support and tiedown, the structural, fire and life safety, electrical, plumbing and mechanical equipment and material connections and the installation of skirting and temporary steps.

(18) “Installer” means any individual licensed by the director to install, set up, connect, hook up, block, tie down, secure, support, install temporary steps for, install skirting for or make electrical, plumbing or mechanical connections to manufactured dwellings or cabanas or who provides consultation or supervision for any of these activities, except architects registered under ORS 671.010 to 671.220 or engineers registered under ORS 672.002 to 672.325.

(19) “Listed” means equipment or materials included in a list, published by an organization concerned with product evaluation acceptable to the department that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or materials meets appropriate standards or has been tested and found suitable in a specified manner.

(20) “Lot” means any space, area or tract of land, or portion of a manufactured dwelling park, mobile home park or recreation park that is designated or used for occupancy by one manufactured dwelling.

(21)(a) “Manufactured dwelling” means a residential trailer, mobile home or manufactured home.

(b) “Manufactured dwelling” does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code, the Low-Rise Residential Dwelling Code adopted pursuant to ORS [455.100 to 455.450 and 455.610 to 455.630] **455.020 or 455.610** or the Small Home Specialty Code adopted under section 2, chapter 401, Oregon Laws 2019.

(22)(a) “Manufactured dwelling park” means any place where four or more manufactured dwellings **or prefabricated structures, as defined in ORS 455.010, that are relocatable and more than eight and one-half feet wide**, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

(b) “Manufactured dwelling park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

(23)(a) “Manufactured home,” except as provided in paragraph (b) of this subsection, means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

(b) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, “manufactured home” has the meaning given the term in the contract.

(24) “Manufacturer” means any person engaged in manufacturing, building, rebuilding, altering, converting or assembling manufactured dwellings or equipment.

(25) “Manufacturing” means the building, rebuilding, altering or converting of manufactured dwellings that bear or are required to bear an Oregon insignia of compliance.

(26) "Minimum safety standards" means the plumbing, mechanical, electrical, thermal, fire and life safety, structural and transportation standards prescribed by rules adopted by the director.

(27) "Mobile home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(28) "Mobile home park":

(a) Means any place where four or more manufactured dwellings, recreational vehicles as defined in ORS 174.101, or a combination thereof, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

(b) Does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

(29) "Municipality" means a city, county or other unit of local government otherwise authorized by law to enact codes.

(30) "Residential trailer" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

(31) "Sale" means rent, lease, sale or exchange.

(32) "Skirting" means a weather resistant material used to enclose the space below a manufactured dwelling.

(33) "Tiedown" means any device designed to anchor a manufactured dwelling securely to the ground.

(34) "Transitional housing accommodations" means accommodations described under ORS 446.265.

(35) "Utilities" means the water, sewer, gas or electric services provided on a lot for a manufactured dwelling.

SECTION 7. ORS 446.003, as amended by section 1b, chapter 422, Oregon Laws 2019, is amended to read:

446.003. As used in ORS 446.003 to 446.200 and 446.225 to 446.285, and for the purposes of ORS chapters 195, 196, 197, 215 and 227, the following definitions apply, unless the context requires otherwise, or unless administration and enforcement by the State of Oregon under the existing or revised National Manufactured Housing Construction and Safety Standards Act would be adversely affected, and except as provided in ORS 446.007 or 446.265:

(1) "Accessory building or structure" means any portable, demountable or permanent structure established for use of the occupant of the manufactured dwelling and as further defined by rule by the Director of the Department of Consumer and Business Services.

(2)(a) "Alteration" means any change, addition, repair, conversion, replacement, modification or removal of any equipment or installation that may affect the operation, construction or occupancy of a manufactured dwelling.

(b) "Alteration" does not include:

(A) Minor repairs with approved component parts;

(B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;

(C) Adjustment and maintenance of equipment; or

(D) Replacement of equipment or accessories in kind.

(3) "Approved" means approved, licensed or certified by the Department of Consumer and Business Services or its designee.

(4) "Board" means the Residential and Manufactured Structures Board.

(5) “Cabana” means a stationary, lightweight structure that may be prefabricated, or demountable, with two or more walls, used adjacent to and in conjunction with a manufactured dwelling to provide additional living space.

(6) “Certification” means an evaluation process by which the department verifies a manufacturer’s ability to produce manufactured dwellings to the department rules and to the department approved quality control manual.

(7) “Dealer” means any person engaged in the business of selling, leasing or distributing manufactured dwellings or equipment, or both, primarily to persons who in good faith purchase or lease manufactured dwellings or equipment, or both, for purposes other than resale.

(8) “Department” means the Department of Consumer and Business Services.

(9) “Director” means the Director of the Department of Consumer and Business Services.

(10) “Distributor” means any person engaged in selling and distributing manufactured dwellings or equipment for resale.

(11) “Equipment” means materials, appliances, subassembly, devices, fixtures, fittings and apparatuses used in the construction, plumbing, mechanical and electrical systems of a manufactured dwelling.

(12) “Federal manufactured housing construction and safety standard” means a standard for construction, design and performance of a manufactured dwelling promulgated by the Secretary of Housing and Urban Development pursuant to the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383).

(13) “Fire Marshal” means the State Fire Marshal.

(14) “Imminent safety hazard” means an imminent and unreasonable risk of death or severe personal injury.

(15) “Insignia of compliance” means the HUD label for a manufactured dwelling.

(16) “Inspecting authority” or “inspector” means the Director of the Department of Consumer and Business Services or representatives as appointed or authorized to administer and enforce provisions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this section.

(17) “Installation” in relation to:

(a) Construction means the arrangements and methods of construction, fire and life safety, electrical, plumbing and mechanical equipment and systems within a manufactured dwelling.

(b) Siting means the manufactured dwelling and cabana foundation support and tiedown, the structural, fire and life safety, electrical, plumbing and mechanical equipment and material connections and the installation of skirting and temporary steps.

(18) “Installer” means any individual licensed by the director to install, set up, connect, hook up, block, tie down, secure, support, install temporary steps for, install skirting for or make electrical, plumbing or mechanical connections to manufactured dwellings or cabanas or who provides consultation or supervision for any of these activities, except architects registered under ORS 671.010 to 671.220 or engineers registered under ORS 672.002 to 672.325.

(19) “Listed” means equipment or materials included in a list, published by an organization concerned with product evaluation acceptable to the department that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or materials meets appropriate standards or has been tested and found suitable in a specified manner.

(20) “Lot” means any space, area or tract of land, or portion of a manufactured dwelling park, mobile home park or recreation park that is designated or used for occupancy by one manufactured dwelling.

(21)(a) “Manufactured dwelling” means a residential trailer, mobile home or manufactured home.

(b) “Manufactured dwelling” does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code adopted pursuant to ORS [455.100 to 455.450 and 455.610 to 455.630] **455.020, 455.610 or 455.616.**

(22)(a) “Manufactured dwelling park” means any place where four or more manufactured dwellings **or prefabricated structures, as defined in ORS 455.010, that are relocatable and more than eight and one-half feet wide**, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

(b) “Manufactured dwelling park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

(23)(a) “Manufactured home,” except as provided in paragraph (b) of this subsection, means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

(b) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, “manufactured home” has the meaning given the term in the contract.

(24) “Manufacturer” means any person engaged in manufacturing, building, rebuilding, altering, converting or assembling manufactured dwellings or equipment.

(25) “Manufacturing” means the building, rebuilding, altering or converting of manufactured dwellings that bear or are required to bear an Oregon insignia of compliance.

(26) “Minimum safety standards” means the plumbing, mechanical, electrical, thermal, fire and life safety, structural and transportation standards prescribed by rules adopted by the director.

(27) “Mobile home” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(28) “Mobile home park”:

(a) Means any place where four or more manufactured dwellings, recreational vehicles as defined in ORS 174.101, or a combination thereof, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

(b) Does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

(29) “Municipality” means a city, county or other unit of local government otherwise authorized by law to enact codes.

(30) “Residential trailer” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

(31) “Sale” means rent, lease, sale or exchange.

(32) “Skirting” means a weather resistant material used to enclose the space below a manufactured dwelling.

(33) “Tiedown” means any device designed to anchor a manufactured dwelling securely to the ground.

(34) “Transitional housing accommodations” means accommodations described under ORS 446.265.

(35) "Utilities" means the water, sewer, gas or electric services provided on a lot for a manufactured dwelling.

SECTION 8. ORS 446.007 is amended to read:

446.007. Notwithstanding ORS 446.003, as used in ORS chapters 195, 196, 197, 215 and 227, the following definitions apply, unless the context requires otherwise:

(1) "Accessory building or structure" means any portable, demountable or permanent structure established for use of the occupant of a manufactured structure and as further defined by rule by the Director of the Department of Consumer and Business Services as provided under ORS 446.003.

(2) "Lot" means any space, area or tract of land, or portion of a manufactured dwelling park, mobile home park or recreation park that is designated or used for occupancy by one manufactured structure.

[(3) "*Manufactured dwelling*":]

[(a) *Means a residential trailer, mobile home or manufactured home.*]

[(b) *Does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.*]

[(4)] (3) "Manufactured structure":

(a) Means a recreational vehicle, manufactured dwelling or recreational structure.

(b) Does not include any building or structure regulated under the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code.

[(5)] (4) "Manufacturer" means any person engaged in manufacturing, building, rebuilding, altering, converting or assembling manufactured structures or equipment.

[(6)] (5) "Manufacturing" means the building, rebuilding, altering or converting of manufactured structures that bear or are required to bear an Oregon insignia of compliance.

[(7)] (6) "Mobile home park":

(a) Means any place where four or more manufactured structures are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

(b) Does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

[(8)] (7) "Recreational structure" means a campground structure with or without plumbing, heating or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric structures or similar structures as further defined, by rule, by the director.

[(9)] (8) "Recreational vehicle" has the meaning given that term in ORS 174.101.

SECTION 9. Sections 10 and 11 of this 2021 Act are added to and made a part of ORS 90.505 to 90.850.

SECTION 10. If a manufactured dwelling park is affected by a natural disaster, as defined in section 2 of this 2021 Act, unless the parties agree otherwise following the natural disaster:

(1) For a manufactured dwelling that is destroyed, the tenancy is immediately terminated and the parties are not further obligated under the rental agreement or this chapter, except that:

(a) The landlord shall, pursuant to ORS 90.300, return to the tenant any deposit and prepaid rent, including prorated rent from the date of the disaster.

(b) Unless a tenant is responsible for the natural disaster, the tenant is not responsible for cleanup of the space or removal of the dwelling.

(c) After the abatement of the emergency, the landlord shall notify the tenant and provide the tenant an opportunity to return to the rented space to search for valuables. A landlord may require the tenant to sign a release of liability related to the tenant's presence on the space.

(2) For a manufactured dwelling that is not destroyed, but either the park or the dwelling is significantly damaged, the tenant may, within 30 days after the date that the dwelling unit is accessible after the disaster, provide written notice to the landlord that the tenant is terminating the tenancy as of the date of the natural disaster and is abandoning the manufactured dwelling under subsection (1) of this section.

(3) If the manufactured dwelling is not destroyed as described in subsection (1) of this section and the tenant does not provide a notice under subsection (2) of this section, the tenant shall continue to pay rent from the date the dwelling unit becomes accessible following the disaster, prorated to reflect any loss of value from damages to the park or the space.

(4) A tenant does not owe rent while the dwelling unit is inaccessible due to the natural disaster or the destruction of the dwelling unit.

(5) As used in this section, a dwelling unit is not considered accessible while a governmental agency has posted the dwelling unit as unsafe or unlawful to occupy, even if a tenant may begin repairs.

SECTION 11. (1) A landlord may require a tenant in a manufactured dwelling park to obtain and maintain renter's liability insurance only if:

(a) The insurance requirement is in the park's statement of policy and in the written rental agreement.

(b) The landlord obtains and maintains comparable liability insurance.

(c) Documentation, including a certificate of coverage, that shows the landlord's insurance coverage is posted in a common area or delivered or made available to any tenant by request, orally or in writing.

(d) The amount of required coverage does not exceed \$100,000 per occurrence.

(2) A landlord may require an applicant to:

(a) Provide documentation of renter's liability insurance coverage before the tenancy begins.

(b) Name the landlord as an interested party on the tenant's renter's insurance policy authorizing the insurer to notify the landlord of:

(A) Cancellation or nonrenewal of the policy;

(B) Reduction of policy coverage; or

(C) Removal of the landlord as an interested party.

(c) Provide documentation on a periodic basis related to the coverage period of the renter's liability insurance policy.

(3) A landlord may not:

(a) Require that a tenant obtain renter's liability insurance from a particular insurer;

(b) Require that a tenant name the landlord as an additional insured or as having any special status on the tenant's renter's liability insurance policy other than as an interested party for the purposes described in subsection (2)(b) of this section;

(c) Require that a tenant waive the insurer's subrogation rights; or

(d) Make a claim against the tenant's renter's liability insurance unless:

(A) The claim is for damages or costs for which the tenant is legally liable and not for damages or costs that result from ordinary wear and tear, acts of God or the conduct of the landlord;

(B) The claim is greater than any security deposit of the tenant; and

(C) The landlord provides a copy of the claim to the tenant contemporaneous with filing the claim with the insurer.

SECTION 12. 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.

(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.

(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.

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

(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.

(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 90.850:

(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 90.850:

(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.

(14) "Facility" means a manufactured dwelling park or a marina.

(15) "Fee" means a nonrefundable payment of money.

(16) "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) "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) "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes an accessory building or structure.

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

(20) "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.

(21) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

(22) "Informal dispute resolution" includes voluntary consultation between the landlord or landlord's agent and one or more tenants or voluntary mediation utilizing the services of a third party, but does not include mandatory mediation or arbitration.

(23) "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.

(24) "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.

(25) "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.

(26) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003 **or a prefabricated structure**. "Manufactured dwelling" includes an accessory building or structure.

(27) "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.

(28) "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.

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

(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.

(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.

(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.

(33) "Person" includes an individual or organization.

(34) "Prefabricated structure" means a structure that is substantially constructed or assembled using closed construction at an off-site location in compliance with the state building code and that is sited and occupied by the owner in compliance with local codes.

~~[(34)]~~ **(35) "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.

[(35)] (36) "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.

[(36)] (37) "Recreational vehicle" has the meaning given that term in ORS 174.101.

[(37)] (38) "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 and to use the premises. "Rent" does not include security deposits, fees or utility or service charges as described in ORS 90.315 (4) and 90.562.

[(38)] (39) "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 is either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

[(39)] (40) "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.

[(40)] (41) "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.

[(41)] (42) "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.

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

[(43)] (44) "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 (11).

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

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

[(46)] (47) "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.

[(47)] (48) "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 90.850, 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.

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

[(49)] (50) "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.

[(50)] (51) "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.

[(51)] (52) "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.

[(52)] (53) "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 13. 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 mandatory mediation under ORS 90.767 and informal dispute resolution, if any, under ORS 90.769.

(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) The facility policy regarding methods of billing for utilities and services as described in ORS 90.560 to 90.584.

(k) 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.

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

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

(n) Any requirement to obtain and maintain renter's liability insurance under section 11 of this 2021 Act.

(2) The rental agreement and the facility rules and regulations must 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 amended by one of the parties to the contract except by:

(a) Mutual agreement of the parties;

(b) The landlord unilaterally under ORS 90.155 (4), 90.302 (9), 90.530, 90.566, 90.574, 90.578 (3), 90.600, 90.610, 90.643, 90.725 (3)(f) and (7), 90.727 or 90.767 (9); or

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

(5) The rental 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 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.

(g) Improvements that the tenant may or must make to the rental space, including plant materials and landscaping.

(h) Provisions for dealing with improvements to the rental space at the termination of the tenancy.

(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.

(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.

(k) The term of the tenancy.

(L) The process by which the rental agreement or rules and regulations may be changed that is consistent with ORS 90.610.

(m) The process by which the landlord or tenant shall give notices.

(n) That either party may request no-cost mandatory mediation of disputes through the Housing and Community Services Department or a dispute resolution program described in ORS 36.155 and the process by which mandatory mediation is initiated and conducted that is consistent with ORS 90.767.

(o) Any requirement to obtain and maintain renter's liability insurance under section 11 of this 2021 Act.

(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 is 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) Factors to be considered in determining reasonableness include:

(i) The size of the dwelling.

(ii) The size of the rented space.

(iii) Any discriminatory impact as described in ORS 659A.421 and 659A.425.

(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 14. ORS 90.555 is amended to read:

90.555. (1) As used in this section:

(a) "Actively markets for sale" means that the facility tenant:

(A) Places a for-sale sign on the dwelling or home;

(B) Retains a broker, real estate agent, or manufactured structure dealer to assist in the sale; and

(C) Advertises the dwelling or home for sale in a newspaper or online.

(b) "Facility landlord" means the landlord of the facility.

(c) "Facility tenant" means the owner of the manufactured dwelling or floating home, who is the tenant of the facility landlord under the rental agreement.

(d) "Rental agreement" means the rental agreement between the facility landlord and facility tenant.

(e) "Renter" means a person other than the facility tenant who is lawfully occupying the manufactured dwelling or floating home under a subleasing agreement.

(f) "Subleasing agreement" means the written agreement between the facility landlord, facility tenant, and renter concerning the occupancy of the renter and the rights of the parties.

(2) A facility tenant may not rent the facility tenant's manufactured dwelling or floating home to another person for a period exceeding three days unless the facility landlord, facility tenant and renter enter into a written subleasing agreement specifying the rights and obligations of the facility landlord, facility tenant and renter during the renter's occupancy of the dwelling or home. The subleasing agreement shall require the renter to timely pay 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 90.560 to 90.584. The subleasing agreement shall also grant the renter the same rights as the facility tenant to cure a violation of the rental agreement for the facility space, to require the facility landlord to comply with ORS 90.730 and to be protected from retaliatory conduct under ORS 90.765. This subsection does not authorize a facility tenant to sublease to a renter in violation of the rental agreement.

(3) Notwithstanding ORS 90.100 [(47)] (48), a facility tenant who enters into a subleasing agreement remains the tenant of the facility space and retains all rights and obligations under the rental agreement and this chapter. The occupancy by a renter does not constitute abandonment of the dwelling or home by the facility tenant.

(4) The rights and obligations of the renter under a subleasing agreement are in addition to the rights and obligations retained by the facility tenant under subsection (3) of this section and any rights or obligations of the facility tenant and renter under ORS 90.100 to 90.465.

(5) Unless otherwise provided in the subleasing agreement, and without regard to whether the facility landlord terminates the rental agreement, a facility landlord may terminate a subleasing agreement:

(a) Without cause by giving the 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 right to cure:

(A) For nonpayment of facility space rent under ORS 90.394 or 90.630; or

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

(6) Upon termination of a subleasing agreement by the facility landlord, whether with or without cause, the renter and the facility tenant are excused from continued performance under any subleasing agreement.

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

(b) If the facility landlord gives notice to the renter that the landlord is terminating the subleasing agreement, the landlord shall also promptly give a copy of the notice to the facility tenant by written notice.

(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 facility tenant shall also promptly give a copy of the notice to the renter.

(d) If the 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.

(8) Before entering into a sublease agreement, the facility landlord may screen a renter under ORS 90.303, but may not apply to the renter credit and conduct screening criteria that is more restrictive than the landlord applies to applicants for a tenancy of a dwelling or home that is either owned by the landlord or on consignment with the landlord under ORS 90.680.

(9) Notwithstanding subsection (2) of this section, if a facility landlord rents or has a policy of renting manufactured dwellings or floating homes that are listed for sale by the facility landlord, the facility landlord may not prohibit the facility tenant from entering into a subleasing agreement while the facility tenant actively markets for sale the facility tenant's manufactured dwelling or floating home.

SECTION 15. 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 [(47)] (48) 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 16. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 28, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State