

Issues to consider regarding the option of deposit insurance (HB 3306):

1. **Overall comment:** OLC supports the policy goals of addressing the high up-front costs of access to housing, and of reducing barriers to housing. We appreciate the leadership of the bill sponsors in identifying these challenges as a priority, and we would be pleased to work together, with impacted communities and other stakeholders, on addressing these challenges. However, we have significant consumer protection concerns about the approach outlined in HB 3306, as detailed below. Many of our concerns are echoed in this recent [article from Shelterforce](#).

There are many ways to address the high up-front costs of access to housing that would not risk the consumer protection issues raised by HB 3306, including:

- Regulation of security deposit amounts.
 - The [PDX FAIR Ordinance](#) is one example. This ordinance caps security deposits at one month's rent, unless a last month's rent is also charged at move-in, in which case the security deposit may only be a ½ month's rent. "Conditional acceptance" tenants may be charged an additional ½ month's rent, with the deposit being paid over three months in installments.
 - Establishment of low-cost loan products for security deposit assistance.
 - Protection against wrongful withholding of a deposit at the end of a tenancy, making it easier for tenants to have access to money to pay the next deposit.
2. **Preserving "choice" for the tenant:** HB 3306 provides a tenant ("T") the choice between paying a traditional upfront security deposit or paying the monthly Lease Lock charge. However, unless security deposits are regulated or capped (similar to PDX ordinance), then a tenant's choice could be significantly constrained – the Landlord ("LL") could choose to require a very large security deposit as a means of encouraging tenants to "choose" the monthly Lease Lock charge.
 - *Note that Section 1(7) of the bill excludes last month rent deposits from the definition of the term "security deposit," so a T who chooses the bond payment could still be required to pay a last month's rent deposit.*
 3. **Fair housing implications of pricing this product:**
 - The bill does not regulate how pricing is calculated for this product. Pricing based on credit history, criminal history, zip-code, neighborhood, or building quality could result in significant fair housing implications.
 - While the proponents of the bill have indicated they are sensitive to these issues and do not assess individual renters for risk, there is nothing in the bill that would protect against fair housing implications.
 4. **Information/disclosure to Ts:** There is risk of confusion to Ts about this product. This product functions as insurance for the L, paid for by the T. The T is not insured. If the L makes a claim against the company, the company is not prohibited from suing the T for reimbursement. The T does not get any money back at the end of the rental agreement, even if they have not caused any damage. If this product were to enter the market, we would advocate for significant consumer notice and informed consent provisions.

- 5. General consumer protections and dispute resolution process:** These products would introduce a new for-profit third party to the L/T relationship, operating outside the court system. A tenant's rights with respect to the landlord are currently governed by the Landlord-Tenant act - how will this third entity impact those rights?
- Arbitration clauses should not be allowed.
 - All Chapter 90 rights should continue to apply.
 - There should be no changes to the statutes of limitations.
 - T must get notice of any claim that the L makes to the company.
 - How would the company evaluate the L's claim? What standards apply for determining fault? What evidence is submitted?
 - How would T challenge a company's decision to make a payment to the L? If T has a concern, do they pursue the company or the landlord? Or both?
 - If the company makes a payment to the landlord, can the company or landlord still sue the T?
 - How would the company prove its claim in court? Would hearsay evidence be allowed?
- 6. Interaction with the Portland deposit ordinance:** How would this bill impact the current deposit regulation ordinance in Portland?
- 7. Credit implications:** Is there a credit implication to the T if surety/bond company pays a claim to the L? If so, the notice and process aspects of any claims/disputes are especially important.
- 8. Total amount of monthly charges collected:** For long-term tenants, the amount of money collected in total could be much higher than most security deposits. Longer-term tenants experience more wear and tear to their units over time. This usually results in a downgrading of the value of property and potential damages that could get charged against the T, even while the T is paying more for the product. Should there be a cap on total amounts charged?
- 9. Assessment and regulation of fees:**
- How will monthly fees be assessed? Do renters pay separately, to the surety/bond company, or to the landlord? If billing is passed thru the landlord, there ought to be billing transparency requirements.
 - Fees should not be allowed to increase after a tenancy begins.
- 10. Technical comments:**
- **Landlord remedies proposed by the bill:** Remedies should be limited to Ls who have complied with the provisions of the bill. The bill provides two "remedies" for landlords to use with Ts who fail to pay the monthly fee:
 - 30/14 termination notice. This notice provides 14 days to cure by paying the fee.
 - Eviction on this basis should be prohibited if the L has not complied with the bill's requirements.
 - Amends 90.302 to allow a non-compliance fee for late payment of the monthly fee.
 - However, there is no specification of what the deadline is for payment or when the payment is "late"

- There is no authority provided for a late charge. The ORS 90.302 amendment just allows a noncompliance fee for paying late.
 - The 90.302 noncompliance fee only applies to a second offense, so it may not work for this situation.
 - The 90.302 noncompliance fee is \$50 for a second and any subsequent violation. A \$50 fee for late payment of a (per Lease Lock, the average) \$28 monthly fee is excessive. The bill should not allow this.
- **The bill should not apply to existing tenants who have already paid a security deposit.**