

House Bill 3476

Sponsored by Representative RUIZ

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 landlords to accept personal checks, cashier's checks and money orders.

A BILL FOR AN ACT

Relating to payments made to residential landlords; amending ORS 90.140 and 90.302.

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

SECTION 1. ORS 90.140 is amended to read:

90.140. (1) A landlord may require or accept the following types of payments:

(a) Applicant screening charges, pursuant to ORS 90.295;

(b) Deposits to secure the execution of a rental agreement, pursuant to ORS 90.297;

(c) Security deposits, pursuant to ORS 90.300;

(d) Fees, pursuant to ORS 90.302;

(e) Rent, as defined in ORS 90.100;

(f) Prepaid rent, as defined in ORS 90.100;

(g) Utility or service charges, pursuant to ORS 90.315 (4), 90.568 or 90.572;

(h) Late charges or fees, pursuant to ORS 90.260; and

(i) Damages, for noncompliance with a rental agreement or ORS 90.325, under ORS 90.401 or as provided elsewhere in this chapter.

(2) A tenant who requests a writing that evidences the tenant's payment is entitled to receive that writing from the landlord as a condition for making the payment. The writing may be a receipt, statement of the tenant's account or other acknowledgment of the tenant's payment. The writing must include the amount paid, the date of payment and information identifying the landlord or the rental property. If the tenant makes the payment by mail, deposit or a method other than in person and requests the writing, the landlord shall within a reasonable time provide the tenant with the writing in a manner consistent with ORS 90.150.

(3) For any payment allowed under this section, a landlord must accept a personal check, cashier's check or money order from a tenant, except that a landlord is not required to accept a personal check from any tenant whose check was returned to the landlord as dishonored within the previous nine months. A landlord must also allow for the tenant to submit a payment by mail unless the landlord provides an accessible, on-site location.

SECTION 2. ORS 90.302 is amended to read:

90.302. (1) A landlord may not charge a fee at the beginning of the tenancy for an anticipated landlord expense and may not require the payment of any fee except as provided in this section. A fee must be described in a written rental agreement.

(2) A landlord may charge a tenant a fee for each occurrence of the following:

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 (a) A late rent payment, pursuant to ORS 90.260.

2 (b) A dishonored check, pursuant to ORS 30.701 (5). The amount of the fee may not exceed the
3 amount described in ORS 30.701 (5) plus any amount that a bank has charged the landlord for pro-
4 cessing the dishonored check.

5 (c) Removal or tampering with a properly functioning smoke alarm, smoke detector or carbon
6 monoxide alarm, as provided in ORS 90.325 (2). The landlord may charge a fee of up to \$250 unless
7 the State Fire Marshal assesses the tenant a civil penalty for the conduct under ORS 479.990 or
8 under ORS 105.836 to 105.842 and 476.725.

9 (d) The violation of a written pet agreement or of a rule relating to pets in a facility, pursuant
10 to ORS 90.530.

11 (e) The abandonment or relinquishment of a dwelling unit during a fixed term tenancy without
12 cause. The fee may not exceed one and one-half times the monthly rent. A landlord may not assess
13 a fee under this paragraph if the abandonment or relinquishment is pursuant to ORS 90.453 (2),
14 90.472 or 90.475. If the landlord assesses a fee under this paragraph:

15 (A) The landlord may not recover unpaid rent for any period of the fixed term tenancy beyond
16 the date that the landlord knew or reasonably should have known of the abandonment or
17 relinquishment;

18 (B) The landlord may not recover damages related to the cost of renting the dwelling unit to a
19 new tenant; and

20 (C) ORS 90.410 (3) does not apply to the abandonment or relinquishment.

21 (3)(a) A landlord may charge a tenant a fee under this subsection for a second noncompliance
22 or for a subsequent noncompliance with written rules or policies that describe the prohibited con-
23 duct and the fee for a second noncompliance, and for any third or subsequent noncompliance, that
24 occurs within one year after a written warning notice described in subparagraph (A) of this para-
25 graph. Except as provided in paragraph (b)(G) or (H) of this subsection, the fee may not exceed \$50
26 for the second noncompliance within one year after the warning notice for the same or a similar
27 noncompliance or \$50 plus five percent of the rent payment for the current rental period for a third
28 or subsequent noncompliance within one year after the warning notice for the same or a similar
29 noncompliance. The landlord:

30 (A) Shall give a tenant a written warning notice that describes:

31 (i) A specific noncompliance before charging a fee for a second or subsequent noncompliance for
32 the same or similar conduct; and

33 (ii) The amount of the fee for a second noncompliance, and for any subsequent noncompliance,
34 that occurs within one year after the warning notice.

35 (B) Shall give a tenant a written notice describing the noncompliance when assessing a fee for
36 a second or subsequent noncompliance that occurs within one year after the warning notice.

37 (C) Shall give a warning notice for a noncompliance or assess a fee for a second or subsequent
38 noncompliance within 30 days after the act constituting noncompliance.

39 (D) May terminate a tenancy for a noncompliance consistent with this chapter instead of as-
40 sessing a fee under this subsection, but may not assess a fee and terminate a tenancy for the same
41 noncompliance.

42 (E) May not deduct a fee assessed pursuant to this subsection from a rent payment for the
43 current or a subsequent rental period.

44 (b) A landlord may charge a tenant a fee for occurrences of noncompliance with written rules
45 or policies as provided in paragraph (a) of this subsection for the following types of noncompliance:

1 (A) The late payment of a utility or service charge that the tenant owes the landlord as de-
2 scribed in ORS 90.315.

3 (B) Failure to clean up pet waste from a part of the premises other than the dwelling unit.

4 (C) Failure to clean up the waste of a service animal or a companion animal from a part of the
5 premises other than the dwelling unit.

6 (D) Failure to clean up garbage, rubbish and other waste from a part of the premises other than
7 the dwelling unit.

8 (E) Parking violations.

9 (F) The improper use of vehicles within the premises.

10 (G) Smoking in a clearly designated nonsmoking unit or area of the premises. The fee for a
11 second or any subsequent noncompliance under this subparagraph may not exceed \$250. A landlord
12 may not assess this fee before 24 hours after the required warning notice to the tenant.

13 (H) Keeping on the premises an unauthorized pet capable of causing damage to persons or
14 property, as described in ORS 90.405. The fee for a second or any subsequent noncompliance under
15 this subparagraph may not exceed \$250. A landlord may not assess this fee before 48 hours after the
16 required warning notice to the tenant.

17 (4) A landlord may not be required to account for or return to the tenant any fee.

18 (5) Except as provided in subsection (2)(e) of this section, a landlord may not charge a tenant
19 any form of liquidated damages, however designated.

20 (6) Nonpayment of a fee is not grounds for termination of a rental agreement for nonpayment
21 of rent under ORS 90.394, but is grounds for termination of a rental agreement for cause under ORS
22 90.392 or 90.630 (1).

23 (7) This section does not apply to:

24 (a) Attorney fees awarded pursuant to ORS 90.255;

25 (b) Applicant screening charges paid pursuant to ORS 90.295;

26 (c) Charges for improvements or other actions that are requested by the tenant and are not re-
27 quired of the landlord by the rental agreement or by law, including the cost to replace a key lost
28 by a tenant;

29 (d) Processing fees charged to the landlord by a credit card company and passed through to the
30 tenant for the use of a credit card by the tenant to make a payment when:

31 (A) The credit card company allows processing fees to be passed through to the credit card
32 holder; and

33 (B) The landlord allows the tenant to pay in cash or *[by check]* **as allowed under ORS 90.140**
34 **(3)**;

35 (e) A requirement by a landlord in a written rental agreement that a tenant obtain and maintain
36 renter's liability insurance pursuant to ORS 90.222; or

37 (f) Assessments, as defined in ORS 94.550 and 100.005, for a dwelling unit that is within a
38 homeowners association organized under ORS 94.625 or an association of unit owners organized
39 under ORS 100.405, respectively, if:

40 (A) The assessments are imposed by the association on a landlord who owns a dwelling unit
41 within the association and the landlord passes the assessments through to a tenant of the unit;

42 (B) The assessments are imposed by the association on any person for expenses related to
43 moving into or out of a unit located within the association;

44 (C) The landlord sets forth the assessment requirement in the written rental agreement at the
45 commencement of the tenancy; and

1 (D) The landlord gives a copy of the assessment the landlord receives from the association to
2 the tenant before or at the time the landlord charges the tenant.

3 (8) If a landlord charges a tenant a fee in violation of this section, the tenant may recover twice
4 the actual damages of the tenant or \$300, whichever is greater. This penalty does not apply to fees
5 described in subsection (2) of this section.

6 (9) The landlord may unilaterally amend a rental agreement for a facility subject to ORS 90.505
7 to 90.850 to impose fees authorized by subsection (3) of this section upon a 90-day written notice to
8 the tenant, except that a marina landlord may not impose a noncompliance fee for parking under
9 subsection (3)(b)(E) of this section.

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