



OREGON PROPERTY OWNERS
—ASSOCIATION—

**House Committee on Housing and Homelessness
Support Testimony on HB 3522**

Thank you for the opportunity to provide comments today in support of HB 3522. The Oregon Property Owners Association has represented Oregon property owners before the Legislature, local governments, state agencies and Oregon courts for nearly 40 years, with more than 12,000 contributors across the state, including all 36 Oregon counties.

In response to inquiries from property owners, we wrote a blog post nearly a year ago about the problem with squatters. Oregon's landlord/tenant laws found in ORS Chapter 90 are intended to strike a balance between the rights and responsibilities of both landlords and tenants and to give both parties timely court access as a means of resolving issues that can't be resolved through negotiation.

A squatter is NOT a tenant and is not protected by Oregon's landlord/tenant laws. In fact, ORS 90.100(47) defines squatter, and ORS 90.110(5) specifically excludes squatters from both the protections and duties of tenants under Oregon landlord/tenant law. This is because the squatter has trespassed onto private party and is occupying that property without the consent of the owner. There is no landlord/tenant relationship between the parties.

Unfortunately, as a result of legislative oversight, there is a very limited process for evicting a squatter, and it is not timely. Although the local police have the authority to remove the squatter as a trespasser, if there is a factual dispute between the squatter and the property owner, the local police may refuse to step in, treating the issue as a civil matter and forcing the property owner to resort to legal action to remove the squatter.

If the squatter was a tenant, the forcible entry and detainer (FED) provisions of ORS Chapter 105 would be available to both parties, allowing the parties quick access to a local circuit court to resolve their dispute. Unfortunately, the FED provisions do not apply to squatters, meaning a property owner and squatter do not have a quick remedy to appear before a judge and have their matter resolved. Instead, a property owner must typically file an ejectment action against the squatter, which is processed by the court as any other civil matter, meaning a squatter with knowledge of court procedures can delay resolution of the case for years, not months.

Unfortunately, because there is no right for a property owner to resort to the FED process, and because resolution as a general civil matter takes years, a property owner who finds themselves dealing with a squatter is faced with a difficult decision. Do they hire a lawyer, file a lawsuit, and hope the squatter doesn't drag the proceeding out, or do they engage in self-help, forcing the

police to act because of threats of physical harm by one or both parties? Since the squatter is a trespasser, not a tenant, and is not and should not be entitled to the rights of a tenant under Chapter 90, the property owner has the right to remove the squatter from the property. For example, if the squatter temporarily vacates a home, even for a short while, the property owner is free to enter the home and change the locks. If the squatter returns, the property owner is free to refuse to allow entry to the home by the squatter, and to call the police.

The risk to undertake this action is obvious, including the risk of physical violence and injury to both parties. A much better solution is to simply make the FED provisions available to property owners who are unfortunate enough to encounter a squatter on their property. Section 3 of HB 3522 does just that, and is the obvious solution to this issue. The filing of the FED action affords both parties the right to present their issue to the court, and to get the court to rule. If the court rules in favor of the property owner, the local police will have an enforceable court order enabling them to forcibly evict the squatter, meaning the property owner does not have to undertake self-help remedies to resolve the situation.

We were very surprised at the amount of inquiries we received as a result of our squatter article. This is a bigger problem than we realized. Thank you to the sponsors of this legislation for introducing it. It is both a fair and obvious solution to an increasingly common problem.

Contact: dhunnicutt@oregonpropertyowners.org