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Chapter 90

1991 EDITION

Residential Landlord and Tenant

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GENERAL PROVISIONS

90.100 General definitions. Subject to additional definitions contained in ORS 90.100 to 90.940 which apply to specific sections or parts thereof, and unless the context otherwise requires, in ORS 90.100 to 90.940:

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

(2) "Building and housing codes" include 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.

(3) "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, as defined in ORS 90.505, or 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 or floating home itself.

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

(5) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by ORS 90.305.

(6) "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.

(7) "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.

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

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(10) "Recreational vehicle" has the meaning given that term in ORS 446.003.

(11) "Rent" means all payments to be made to the landlord under the rental agreement.

(12) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under ORS 90.330 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(13) "Residential vehicle" means a vehicle or structure other than a manufactured dwelling as defined in ORS 446.003, constructed for movement on the public highways that has sleeping, cooking or plumbing facilities, is intended for human occupancy and is being used as a residence.

(14) "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.

(15) "Tenant" means a person 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. As used in ORS 90.500 to 90.840, "tenant" includes 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.

(16) "Transient lodging" means a room or a suite of rooms.

(17) "Transient occupancy" means occupancy in transient lodging which has all of the following characteristics:

(a) Occupancy is charged on a daily basis and is payable no less frequently than every two weeks;

(b) The lodging operator provides maid and linen service daily or every two days;

(c) The period of occupancy does not exceed 30 days; and

(d) If the occupancy exceeds five days, the occupant has a business address or a residence other than at the transient lodging. [Formerly 91.705; 1991 c.844 §3]

90.105 Short title. ORS 90.100 to 90.940 shall be known and may be cited as the "Residential Landlord and Tenant Act." [Formerly 91.700]

90.110 Exclusions from application of ORS 90.100 to 90.940. Unless created to avoid the application of ORS 90.100 to 90.940,

the following arrangements are not governed by ORS 90.100 to 90.940:

(1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service, but not including residence in off-campus nondormitory housing.

(2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the interest of the purchaser.

(3) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

(4) Transient occupancy in a hotel or motel.

(5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises.

(6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

(7) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes. [Formerly 91.710]

90.115 Territorial application. ORS 90.100 to 90.940 apply to, regulate and determine rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit located within this state. [Formerly 91.715]

90.120 Applicability of other statutory lien, tenancy and rent provisions. The provisions of ORS 87.162 to 87.212, 91.010 to 91.110, 91.210 and 91.220 do not apply to the rights and obligations of landlords and tenants governed by ORS 90.100 to 90.940. Any provisions of ORS 90.100 to 90.940 which reasonably apply only to the structure that is used as a home, residence or sleeping place shall not apply to dwelling units in facilities where space is rented but the manufactured dwelling or floating home is not rented. [Formerly 91.720; 1991 c.844 §28]

90.125 Administration of remedies; enforcement. (1) The remedies provided by ORS 90.100 to 90.940 shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) Any right or obligation declared by ORS 90.100 to 90.940 is enforceable by action unless the provision declaring it specifies a different and limited effect. [Formerly 91.725]

90.130 Obligation of good faith. Every duty under ORS 90.100 to 90.940 and every act which must be performed as a condition precedent to the exercise of a right or remedy under ORS 90.100 to 90.940 imposes an obligation of good faith in its performance or enforcement. [Formerly 91.730]

90.135 Unconscionability. (1) If the court, as a matter of law, finds:

(a) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(b) A settlement in which a party waives or agrees to forego a claim or right under ORS 90.100 to 90.940 or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(2) If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose and effect of the rental agreement or settlement to aid the court in making the determination. [Formerly 91.735]

CONTENT OF AGREEMENTS

90.240 Terms and conditions of rental agreement. (1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by ORS 90.100 to 90.940 or other rule of law including rent, term of the agreement and other provisions governing the rights and obligations of the parties.

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

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

(4) Except as otherwise provided by ORS 90.100 to 90.940:

(a) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit, periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month, and rent may not be increased without a 30-day written notice thereof.

(b) Unless the rental agreement fixes a definite term, the tenancy is week to week

in case of a roomer who pays weekly rent regardless of length of stay or amount of prepaid rent, and in all other cases month to month. [Formerly 91.740]

90.245 Prohibited provisions in rental agreements. (1) A rental agreement may not provide that the tenant:

(a) Agrees to waive or forego rights or remedies under ORS 90.100 to 90.940;

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to the exculpation or limitation of any liability arising as a result of the other party's willful misconduct or negligence or to indemnify the other party for that liability or costs connected therewith.

(2) A provision prohibited by subsection (1) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by the landlord to be prohibited and attempts to enforce such provisions, the tenant may recover in addition to the actual damages of the tenant an amount up to three months' periodic rent. [Formerly 91.745]

90.250 Separation of rents and obligations to maintain premises prohibited. A rental agreement, assignment, conveyance, trust deed or security instrument may not permit the receipt of rent free of the obligation to comply with ORS 90.320 (1). [Formerly 91.750]

90.255 Attorney fees. In any action on a rental agreement or arising under ORS 90.100 to 90.940, reasonable attorney fees at trial and on appeal may be awarded to the prevailing party together with costs and necessary disbursements, notwithstanding any agreement to the contrary. As used in this section, "prevailing party" means the party in whose favor final judgment is rendered. [Formerly 91.755]

90.260 Late payment charge; restrictions. (1) No landlord may impose a late charge:

(a) With respect to any rental payment received by 5 p.m. on the fourth day after commencement of the rental period for which rent is payable.

(b) Unless the rental agreement provides for payment of a late charge on delinquent rent payments and the rental agreement or a monthly coupon, billing or notice provided by the landlord discloses the date on which payments are due and the time at which a late charge becomes due.

(c) More than once on any single installment.

(2) Nonpayment of a late fee alone shall not constitute grounds for eviction for nonpayment of rent. [1989 c.506 §15]

Note: 90.260 was added to and made a part of 90.100 to 90.940 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

90.265 Interest in alternative energy device installed by tenant. (1) An alternative energy device installed in a dwelling unit by a tenant with the landlord's written permission is not a fixture in which the landlord has a legal interest, except as otherwise expressly provided in a written agreement between the landlord and tenant.

(2) As a condition to a grant of written permission referred to in subsection (1) of this section, a landlord may require a tenant to do one or more of the following:

(a) Provide a waiver of the landlord's liability for any injury to the tenant or other installer resulting from the tenant's or installer's negligence in the installation of the alternative energy device;

(b) Secure a waiver of the right to a lien against the property of the landlord from each contractor, subcontractor, laborer and material supplier who would obtain the right to a lien when the tenant installs or causes the installation of the alternative energy device; or

(c) Post a bond or pay a deposit in an amount not to exceed the cost of restoring the premises to its condition at the time of installation of the alternative energy device.

(3) Nothing in this section:

(a) Authorizes the installation of an alternative energy device in a dwelling unit without the landlord's written permission; or

(b) Limits a landlord's right to recover damages and obtain injunctive relief as provided in ORS 90.400 (5).

(4) As used in this section, "alternative energy device" has the meaning given that term in ORS 469.160. [Formerly 91.757]

LANDLORD OBLIGATIONS

90.300 Security deposits. (1) For the purposes of this section, "security deposit" means any 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, but does not mean a payment or deposit, including an advance payment of rent, made to secure the execution of a rental agreement. "Security deposit" shall not include a fee if such fee is clearly designated as nonrefundable.

(2) A security deposit shall be held by the landlord for the tenant who is a party to the

rental agreement. The claim of a tenant to the security deposit shall be prior to the claim of any creditor of the landlord, including a trustee in bankruptcy.

(3) The landlord may claim all or part of the security deposit only if the deposit was made for any or all of the purposes provided by subsection (4) of this section.

(4) The landlord may claim from the security deposit only the amount reasonably necessary:

(a) To remedy the tenant's defaults in the performance of the rental agreement; and

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

(5) A security deposit shall not be required or forfeited to the landlord upon the failure of the tenant to maintain a tenancy for a specified term.

(6) In order to claim all or part of the security deposit, within 30 days after the termination of the tenancy and delivery of possession the landlord shall give to the tenant a written accounting which states specifically the basis or bases of the claim.

(7) The security deposit or portion of the deposit not claimed in the manner provided by subsection (6) of this section shall be returned to the tenant not later than 30 days after the termination of the tenancy and delivery of possession to the landlord.

(8) If the landlord fails to comply with subsection (7) of this section or if the landlord in bad faith fails to return all or any portion of any prepaid rent or deposit due to the tenant under ORS 90.100 to 90.940 or the rental agreement, the tenant may recover the property and money due in an amount equal to twice the amount:

(a) Withheld without a written accounting under subsection (6) of this section; or

(b) Withheld in bad faith.

(9) This section does not preclude the landlord or tenant from recovering other damages under ORS 90.100 to 90.940.

(10) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. [Formerly 91.760]

90.305 Disclosure of certain matters; retention of rental agreement; inspection of agreement. (1) The landlord or any person authorized to enter into a rental agreement on behalf of the landlord shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(a) The person authorized to manage the premises; and

(b) An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(2) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(3) A person who fails to comply with subsection (1) of this section becomes an agent of each person who is a landlord for:

(a) Service of process and receiving and receipting for notices and demands; and

(b) Performing the obligations of the landlord under ORS 90.100 to 90.940 and under the rental agreement and expending or making available for that purpose all rent collected from the premises.

(4)(a) A landlord shall retain a copy of each rental agreement at the resident manager's office or at the address provided to the tenant under paragraph (a) of subsection (1) of this section.

(b) A tenant may request to see the rental agreement and, within a reasonable time, the landlord shall make the agreement available for inspection. At the request of the tenant and upon payment of a reasonable charge, not to exceed the lessor of 25 cents per page or the actual copying costs, the landlord shall provide the tenant with a copy of the rental agreement. This subsection shall not diminish the landlord's obligation to furnish the tenant an initial copy of the rental agreement and any amendments under ORS 90.240 (2). [Formerly 91.765]

90.310 Disclosure of legal proceedings; tenant remedies for failure to disclose; liability of manager. (1) If at the time of the execution of a rental agreement for a dwelling unit in premises containing no more than four dwelling units the premises are subject to:

(a) Any outstanding notice of default under a trust deed, mortgage or contract of sale, or notice of trustee's sale under a trust deed;

(b) Any pending suit to foreclose a mortgage, trust deed or vendor's lien under a contract of sale;

(c) Any pending declaration of forfeiture or suit for specific performance of a contract of sale; or

(d) Any pending proceeding to foreclose a tax lien;

the landlord shall disclose that circumstance to the tenant in writing before the execution of the rental agreement.

(2) If the tenant moves as a result of a circumstance which the landlord failed to disclose as required by subsection (1) of this section, the tenant may recover twice the actual damages or twice the monthly rent, whichever is greater, and all prepaid rent, in addition to any other remedy which the law may provide.

(3) This section shall not apply to premises managed by a court appointed receiver.

(4) A manager who has complied with ORS 90.305 shall not be liable for damages under this section if the manager had no knowledge of the circumstances which gave rise to a duty of disclosure under subsection (1) of this section. [Formerly 91.766]

90.315 Disclosure of utility or service payments benefiting other tenants or landlord. (1) The landlord shall disclose to the tenant in writing at or before the commencement of the tenancy any utility or service which the tenant pays directly to a utility or service provider which benefits, directly, the landlord or other tenants. A tenant's payment for a given utility or service benefits the landlord or other tenants if the utility or service is delivered to any area other than the tenant's dwelling unit.

(2) For the purpose of this section, "utility or service" includes electricity, natural gas, oil, water, hot water, heat, air conditioning, and garbage collection and disposal.

(3) If the landlord knowingly fails to disclose those matters required under this section, the tenant may recover twice the actual damages sustained or one month's rent, whichever is greater. [Formerly 91.767]

90.318 Criteria for landlord's provision of certain recycling services. (1) In a city or the county within the urban growth boundary of a city that has implemented multifamily recycling service, a landlord who has five or more residential dwelling units on a single premises or five or more manufactured dwellings in a single facility shall at all times during tenancy provide to all tenants:

(a) A separate location for containers or depots for at least four principal recyclable materials or for the number of materials required to be collected under the residential on-route collection program, whichever is less, adequate to hold the reasonably anticipated volume of each material;

(b) Regular collection service of the source separated recyclable materials; and

(c) Notice at least once a year of the opportunity to recycle with a description of the location of the containers or depots on the premises and information about how to recycle. New tenants shall be notified of the opportunity to recycle at the time of entering into a rental agreement.

(2) As used in this section, "recyclable material" and "source separate" have the meaning given those terms in ORS 459.005. [1991 c.385 §16]

90.320 Landlord to maintain premises in habitable condition; agreement with tenant to maintain premises. (1) A landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition. For purposes of this section, a dwelling unit shall be considered unhabitable if it substantially lacks:

(a) Effective waterproofing and weather protection of roof and exterior walls, including windows and doors;

(b) Plumbing facilities which conform to applicable law in effect at the time of installation, and maintained in good working order;

(c) A water supply approved under applicable law, which is:

(A) Under the control of the tenant or landlord and is capable of producing hot and cold running water;

(B) Furnished to appropriate fixtures;

(C) Connected to a sewage disposal system approved under applicable law; and

(D) Maintained so as to provide safe drinking water and to be in good working order to the extent that the system can be controlled by the landlord;

(d) Adequate heating facilities which conform to applicable law at the time of installation and maintained in good working order;

(e) Electrical lighting with wiring and electrical equipment which conform to applicable law at the time of installation and maintained in good working order;

(f) Building, grounds and appurtenances at the time of the commencement of the rental agreement in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin;

(g)(A) An adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the time of the commencement of the lease or rental agreement, and the landlord shall provide and maintain appropriate serviceable receptacles thereafter and arrange for their removal un-

less the parties by written agreement provide otherwise; and

(B) In addition to the provisions of subparagraph (A) of this paragraph, in a city with a population of over 250,000 people, garbage removal service at least once a week for containers that allow for 30 gallons accumulation a week;

(h) Floors, walls, ceilings, stairways and railings maintained in good repair;

(i) Ventilating, air conditioning and other facilities and appliances, including elevators, maintained in good repair if supplied or required to be supplied by the landlord;

(j) Safety from the hazards of fire; or

(k) Working locks for all dwelling entrance doors, and, unless contrary to applicable law, latches for all windows, by which access may be had to that portion of the premises which the tenant is entitled under the rental agreement to occupy to the exclusion of others and keys for such locks which require keys.

(2) The landlord and tenant may agree in writing that the tenant is to perform specified repairs, maintenance tasks and minor remodeling only if:

(a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord;

(b) The agreement does not diminish the obligations of the landlord to other tenants in the premises; and

(c) The terms and conditions of the agreement are clearly and fairly disclosed and adequate consideration for the agreement is specifically stated. [Formerly 91.770]

TENANT OBLIGATIONS

90.325 Tenant to maintain premises. The tenant shall:

(1) Use the parts of the premises including the living room, bedroom, kitchen, bathroom and dining room in a reasonable manner considering the purposes for which they were designed and intended;

(2) Keep all areas of the premises under control of the tenant in every part as clean, sanitary and free from all accumulations of debris, filth, rubbish and garbage, as the condition of the premises permits;

(3) Dispose from the dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe manner;

(4) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(5) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances including elevators in the premises;

(6) Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

(7) Conduct the tenant and require other persons on the premises with the consent of the tenant to conduct themselves in a manner that will not disturb the neighbors' peaceful enjoyment of the premises. [Formerly 91.775]

90.330 Use and occupancy rules and regulations; adoption; enforceability; restrictions. (1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(a) Its purpose is to promote the convenience, safety or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) It is reasonably related to the purpose for which it is adopted;

(c) It applies to all tenants in the premises in a fair manner;

(d) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply;

(e) It is not for the purpose of evading the obligations of the landlord; and

(f) The tenant has notice of it at the time the tenant enters into the rental agreement, or when it is adopted.

(2) If a rule or regulation adopted after the tenant enters into the rental agreement works a substantial modification of the bargain, it is not valid unless the tenant consents to it in writing.

(3) If adopted, an occupancy guideline for a dwelling unit shall not be more restrictive than two people per bedroom and shall be reasonable. Reasonableness shall be determined on a case-by-case basis. Factors to be considered in determining reasonableness include, but are not limited to:

(a) The size of the bedrooms;

(b) The overall size of the dwelling unit; and

(c) Any discriminatory impact on those identified in ORS 659.033.

(4) As used in this section:

(a) "Bedroom" means a habitable room that:

(A) Is intended to be used primarily for sleeping purposes;

(B) Contains at least 70 square feet; and

(C) Is configured so as to take the need for a fire exit into account.

(b) "Habitable room" means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not included. [Formerly 91.780; 1991 c.852 §1]

90.335 Landlord's access to premises; manner of entry. (1) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit or any portion of premises under the tenant's exclusive control in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

(2)(a) A landlord may enter the dwelling unit or any portion of premises under a tenant's exclusive control without consent of the tenant in case of emergency.

(b) A landlord may enter upon premises under the tenant's exclusive control not including the dwelling unit without consent of the tenant for the purpose of serving notices required or permitted under ORS 90.100 to 90.940, the rental agreement or any provision of applicable law.

(c) A landlord and tenant may agree that the landlord or the landlord's agent may enter the dwelling unit and the premises without notice at reasonable times for the purpose of showing the premises to a prospective buyer, provided that the agreement:

(A) Is executed at a time when the landlord is actively engaged in attempts to sell the premises;

(B) Is reflected in a writing separate from the rental agreement and signed by both parties; and

(C) Is supported by separate consideration recited in the agreement.

(3)(a) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency, agreement to the contrary or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours' notice of the intent of the landlord to enter and may enter only at reasonable times.

(b) If repairs or maintenance are requested by the tenant, or entry of the tenant's dwelling unit or portions of the premises under the tenant's exclusive control is necessary to perform repairs or maintenance required for other portions of the premises, except in the case of an emergency or an agreement to the contrary or unless it is impracticable to do so, the landlord or persons acting on behalf of the landlord may enter upon demand or in the tenant's absence until completing the repairs or maintenance, provided:

(A) The landlord has given at least 24 hours' notice in writing, specifying the purposes of the entry and the persons who will perform the repairs or maintenance, and stating that those persons are authorized by the landlord to enter upon demand or in the tenant's absence;

(B) The entry is for the purposes stated in the notice and by the persons specified in the notice or persons acting under their supervision; and

(C) The entry occurs at reasonable times.

(4) In the case of a mobile home or manufactured dwelling park, as defined in ORS 446.003, the landlord may, upon less than 24 hours' notice to the tenant and during reasonable hours of the day, enter onto the rented space for the purpose of normal maintenance only.

(5) A landlord has no other right of access except:

(a) Pursuant to court order;

(b) As permitted by ORS 90.410 (2); or

(c) When the tenant has abandoned or surrendered the premises. [Formerly 91.785]

90.340 Occupancy of premises as dwelling unit only; notice of tenant's absence. Unless otherwise agreed, the tenant shall occupy the dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven days no later than the first day of the extended absence. [Formerly 91.790]

TENANT REMEDIES

90.360 Effect of landlord noncompliance with rental agreement or obligation to maintain premises; generally. (1)(a) Except as provided in ORS 90.100 to 90.940, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with ORS 90.320, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in seven days in the case of

an essential service or 30 days in all other cases, and the rental agreement shall terminate as provided in the notice subject to paragraphs (b) to (d) of this subsection.

(b) If the breach is remediable by repairs, the payment of damages or otherwise and if the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(c) If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least 14 days' written notice specifying the breach and the date of termination of the rental agreement.

(d) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the family of the tenant or other person on the premises with the consent of the tenant.

(2) Except as provided in ORS 90.100 to 90.940, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or ORS 90.320.

(3) The remedy provided in subsection (2) of this section is in addition to any right of the tenant arising under subsection (1) of this section.

(4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant under ORS 90.300 and all prepaid rent. [Formerly 91.800]

90.365 Effect of deliberate refusal or negligent failure of landlord to supply heat, water, electricity or other essential services. (1) If contrary to the rental agreement or ORS 90.320 the landlord deliberately refuses or is grossly negligent in failing to supply any essential service, the tenant may give written notice to the landlord specifying the breach and may:

(a) Procure reasonable amounts of the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) In addition to the remedy provided in paragraph (c) of subsection (1) of this section the tenant may recover the actual and reasonable cost or fair and reasonable value of reasonably comparable substitute housing.

(3) If contrary to the rental agreement or ORS 90.320 the landlord negligently fails to repair any cooking appliance or refrigerator supplied or required to be supplied by the landlord, or to supply any other essential service, the tenant may give written notice to the landlord specifying the breach and may cause the necessary work to be done in a workmanlike manner and, after submitting to the landlord receipts or an agreed upon itemized statement, deduct from the rent the actual and reasonable cost or the fair and reasonable value of the work not exceeding $200:

(a) The landlord and tenant may agree, at any time, to allow the tenant to exceed the monetary limits of this subsection when making reasonable repairs.

(b) Notwithstanding paragraph (a) of subsection (5) of this section, in case of emergency, written notice required by this subsection, or attempted oral notice followed by written notice, may be given as promptly as the conditions permit.

(c) In the case of a faulty cooking appliance or refrigerator, "reasonable notice" under paragraph (a) of subsection (5) of this section shall be determined in light of the degree to which the tenant has been deprived of cooking or refrigeration facilities.

(d) This subsection shall not be construed to require a landlord to supply a cooking appliance or a refrigerator if the landlord did not supply or agree to supply a cooking appliance or refrigerator to the tenant.

(4) If the tenant proceeds under this section, the tenant may not proceed under ORS 90.360 as to that breach.

(5) Rights of the tenant under this section do not arise:

(a) Until the tenant has given reasonable notice under the circumstances, in writing, to the landlord to enable the landlord to provide the essential service; or

(b) If the condition was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family or other person on the premises with the tenant's consent.

(6) Notice required under this section shall be delivered personally or sent by first class mail. For purposes of this section, "first class mail" does not include certified or registered mail, or any other form of mail which may delay or hinder actual delivery of mail to the recipient.

(7) The landlord may specify people to do all work under this section as long as the

tenant's rights under this section are not diminished. [Formerly 91.805]

90.370 Tenant counterclaims in action by landlord for possession or rent. (1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount, not in excess of the jurisdictional limits of the court in which the action is brought, that the tenant may recover under the rental agreement or ORS 90.100 to 90.940. In the event the tenant counterclaims, the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and shall be paid the balance by the other party. The court may at any time release money paid into court to either party if the parties agree or if the court finds such party to be entitled to the sum so released. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession.

(2) In an action for rent when the tenant is not in possession, the tenant may counterclaim as provided in subsection (1) of this section but is not required to pay any rent into court.

(3) If the tenant does not comply with an order to pay rent into the court as provided in subsection (1) of this section, the tenant shall not be permitted to assert a counterclaim in the action for possession.

(4) If the total amount found due to the tenant on any counterclaims is less than any rent found due to the landlord, and the tenant retains possession solely because the tenant paid rent into court under subsection (1) of this section, no attorney fees shall be awarded to the tenant unless the tenant paid at least the balance found due to the landlord into court no later than the commencement of the trial.

(5) When a tenant is granted a continuance for a longer period than two days, and has not been ordered to pay rent into court under subsection (1) of this section, the tenant shall be ordered to pay rent into court under ORS 105.140 (2). [Formerly 91.810]

90.375 Effect of unlawful ouster or exclusion; willful diminution of services. If a landlord unlawfully removes or excludes the tenant from the premises, seriously attempts or threatens unlawfully to remove or exclude the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric or other essential service, the tenant may obtain injunctive relief to recover possession or may terminate the rental agreement and recover an amount up to two months' periodic rent or twice the actual damages sustained by the tenant, whichever is greater. If the rental agreement is terminated the landlord shall return all security recoverable under ORS 90.300 and all prepaid rent. The tenant need not terminate the rental agreement, obtain injunctive relief or recover possession to recover damages under this section. [Formerly 91.815]

90.380 Effect of rental of dwelling in violation of building or housing codes. (1) If a governmental agency has posted a dwelling as unlawful to occupy due to the existence of conditions that violate state or local law and materially affect health or safety, a landlord shall not enter into a rental agreement for the dwelling unit until the conditions leading to the posting are corrected.

(2) If a landlord knowingly violates subsection (1) of this section, the tenant may recover either two months' periodic rent or up to twice the actual damages sustained as a result of the violation, whichever is greater. If the tenant elects to terminate the tenancy as a result of the conditions leading to the posting, or if the agency charged with code enforcement requires that the tenant vacate the premises, the tenant also may recover:

(a) All of the security deposit owed to the tenant under ORS 90.300; and

(b) All prepaid rent.

(3) If conditions at premises which were not caused by the tenant pose an imminent and serious threat to the health or safety of occupants of the premises within one year from the beginning of the tenancy, the tenant may immediately terminate the rental agreement by giving the landlord actual notice of the termination and the reason for the termination. If the conditions existed at the outset of the tenancy, the tenant may recover from the landlord within 72 hours:

(a) All of any security deposit paid to the landlord including any last month's rent; and

(b) All rent prepaid for the month in which the termination occurs. [Formerly 91.817]

Note: 91.817 [renumbered 90.380 in 1989] was enacted into law by the Legislative Assembly but was not added to or made a part of the Residential Landlord and Tenant Act by legislative action. See Preface to Oregon Revised Statutes for further explanation.

90.385 Retaliatory conduct by landlord prohibited; tenant remedies and defenses; action for possession in certain cases. (1) Except as provided in this section, a landlord may not retaliate by increasing rent or de-

creasing services, by serving a notice to terminate the tenancy or by bringing or threatening to bring an action for possession after:

(a) The tenant has complained to, or expressed to the landlord in writing an intention to complain to, a governmental agency charged with responsibility for enforcement of any of the following concerning a violation applicable to the tenancy:

(A) A building, health or housing code materially affecting health or safety;

(B) Laws or regulations concerning the delivery of mail; or

(C) Laws or regulations prohibiting discrimination in rental housing;

(b) The tenant has complained to the landlord of a violation of:

(A) ORS 90.305, 90.315, 90.320, 90.335 or 90.435;

(B) A written rental agreement; or

(C) If there is no written rental agreement, an oral rental agreement;

(c) The tenant has organized or become a member of a tenants' union or similar organization;

(d) The tenant has complained to the landlord of a failure to comply with the notice requirements of ORS 90.240 (4);

(e) The tenant has testified against the landlord in any judicial, administrative or legislative proceeding; or

(f) The tenant successfully defended an action for possession brought by the landlord within the previous six months.

(2) If the landlord acts in violation of subsection (1) of this section the tenant is entitled to the remedies provided in ORS 90.375 and has a defense in any retaliatory action against the tenant for possession.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:

(a) The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in the household of the tenant or upon the premises with the consent of the tenant;

(b) The tenant is in default in rent; or

(c) Compliance with the applicable building or housing code requires alteration, remodeling or demolition which would effectively deprive the tenant of use of the dwelling unit.

(4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under ORS 90.360 (2). [Formerly 91.865]

LANDLORD REMEDIES

90.400 Effect of tenant noncompliance with rental agreement or failure to maintain premises; failure to pay rent; damage to persons or property. (1)(a) Except as provided in ORS 90.100 to 90.940, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with ORS 90.325 materially affecting health and safety, the landlord may deliver a written notice to the tenant terminating the tenancy for cause as provided in this subsection. The notice shall specify the acts and omissions constituting the breach and shall state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice. If the breach is remedial by repairs or the payment of damages or otherwise, the notice shall also state that the tenant can avoid termination by remedying the breach within 14 days.

(b) If the breach is not remedied in 14 days, the rental agreement shall terminate as provided in the notice subject to paragraphs (c) and (d) of this subsection.

(c) If the breach is remedial by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate.

(d) If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least 10 days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven days, including the first day rent is due, the landlord, after 72 hours' written notice of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, may immediately terminate the rental agreement and take possession in the manner provided in ORS 105.105 to 105.165. This subsection may not be used to terminate a tenancy for nonpayment of rent when the only moneys owing represent a late charge.

(3) The landlord, after 24 hours' written notice specifying the causes, may immediately terminate the rental agreement and take possession in the manner provided in ORS 105.105 to 105.165, if:

(a) The tenant, someone in the tenant's control or the tenant's pet seriously threatens immediately to inflict personal injury, or inflicts any substantial personal injury, upon the landlord or other tenants;

(b) The tenant or someone in the tenant's control intentionally inflicts any substantial damage to the premises;

(c) The tenant has vacated the premises, the person in possession is holding contrary to a written rental agreement that prohibits subleasing the premises to another or allowing another person to occupy the premises without the written permission of the landlord, and the landlord has not knowingly accepted rent from the person in possession; or

(d) The tenant or someone in the tenant's control commits any act which is outrageous in the extreme. An "act outrageous in the extreme" includes, but is not limited to, an act which the tenant or person in the tenant's control has in fact committed and which has resulted in:

(A) Service of written notice to the landlord, under any state statute or local ordinance, of drug manufacturing or delivery, gambling or prostitution activity at the premises occupied by the tenant; or

(B) A judgment against the property under ORS chapter 465.

(4) The landlord's 24 hours' written notice given under paragraph (c) of subsection (3) of this section shall not be construed as an admission by the landlord that the individual occupying the premises is a lessee or sublessee of the landlord.

(5) Except as provided in ORS 90.100 to 90.940, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or ORS 90.325. [Formerly 91.820]

90.405 Effect of tenant keeping unpermitted pet. (1) If the tenant, in violation of the rental agreement, keeps on the premises a dog, cat or other pet capable of causing damage to persons or property, the landlord may deliver a written notice specifying the violation and stating that the tenancy will terminate upon a date not less than 10 days after the receipt of the notice unless the tenant removes the pet from the premises prior to the termination date specified in the notice. If the pet is not removed by the date specified, the tenancy shall terminate and the landlord may take possession in the manner provided in ORS 105.105 to 105.165.

(2) If substantially the same act which constituted a prior noncompliance of which notice was given under subsection (1) of this section recurs within six months, the landlord may terminate the rental agreement upon at least 10 days' written notice specifying the breach and the date of termination of the rental agreement.

(3) This section shall not apply to any tenancy governed by ORS 90.505 to 90.760 and 90.770 to 90.940. [Formerly 91.822]

90.410 Effect of tenant's failure to give notice of absence; absence; abandonment. (1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as permitted by ORS 90.340 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(2) During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary.

(3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it for a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, the rental agreement terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month to month or week to week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be. [Formerly 91.825]

90.415 Waiver; exceptions of right of landlord to terminate tenancy. (1) Except as otherwise provided in this section, a landlord waives the right to terminate a rental agreement for a particular breach if the landlord:

(a) Accepts rent with knowledge of the default by the tenant; or

(b) Accepts performance by a tenant that varies from the terms of the rental agreement.

(2) A landlord does not waive the right to terminate as described in subsection (1) of this section if the landlord and tenant agree otherwise after the breach has occurred.

(3) A landlord's acceptance of partial rent for a rental period is not a waiver under subsection (1) of this section of the right to terminate the rental agreement during the rental period for nonpayment if:

(a) The landlord accepted the partial rent before the landlord gave any notice of intent to terminate under ORS 90.400 (2) based on the tenant's agreement to pay the balance by a time certain; and

(b) The tenant does not pay the balance of the rent as agreed.

(4) A landlord who accepts partial rent under subsection (3) of this section may proceed to serve a notice under ORS 90.400 (2) to terminate the tenancy if the balance of the rent is not paid, provided:

(a) The notice is served no earlier than it would have been permitted under ORS 90.400 (2) had no rent been accepted; and

(b) The notice permits the tenant to avoid termination of the tenancy for nonpayment of rent by paying the balance within 72 hours or by any date to which the parties agreed, whichever is later.

(5) Unless a landlord and tenant agree otherwise in writing, a landlord waives the right to terminate a rental agreement for nonpayment during a rental period by accepting partial rent for the period if the landlord accepts the partial rent after the landlord has served notice of intent to terminate under ORS 90.400 (2).

(6) A written agreement under subsection (5) of this section may provide that the landlord may proceed to terminate the rental agreement and take possession in the manner provided by ORS 105.105 to 105.165 without serving a new notice under ORS 90.400 (2) in the event the tenant fails to pay the balance of the rent by a time certain.

(7) A landlord who has previously given a termination notice for cause other than nonpayment of rent does not waive the right to terminate the rental agreement for that cause if the landlord accepts rent prorated to the termination date specified in the notice.

(8) A landlord's acceptance of partial rent for a rental period does not waive the right to evict for nonpayment of rent if the entire amount of the partial payment was from funds paid under the United States Housing Act of 1937 (42 U.S.C. §1437) or any state low income rental housing fund administered by the Housing and Community Services Department.

(9) A landlord who has served a notice of termination for cause under ORS 90.400 (1) and who has commenced proceedings under ORS 105.105 to 105.165 to recover possession of the premises does not waive the right to evict on that notice:

(a) By accepting rent for any period beyond the expiration of the notice during which the tenant remains in possession provided:

(A) The landlord notifies the tenant in writing, in or after the service of the notice of termination for cause, that acceptance of rent while an eviction action is pending will not waive the right to evict on that notice; and

(B) The rent does not cover a period extending beyond the date of its acceptance.

(b) By serving a notice of nonpayment of rent under ORS 90.400 (2). [Formerly 91.830; 1991 c.62 §1]

90.420 Enforceability of landlord liens; distraint for rent abolished. (1) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before October 5, 1973.

(2) Distraint for rent is abolished. [Formerly 91.835]

90.425 Disposition of personal property abandoned by tenant; notice to tenant. (1) The landlord may dispose of any goods, chattels, motor vehicles or other personal property left upon the premises by the tenant in the manner provided by subsections (4) and (5) of this section, after giving notice as required by subsection (2) of this section, in the following circumstances only:

(a) A tenancy terminates by expiration of a lease or surrender or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the property upon the premises with no intention of asserting any further claim to the premises or to the property;

(b) The tenant has been absent from the premises continuously for seven days after termination of a tenancy by a court order that has not been executed; or

(c) The landlord elects to remove the property pursuant to ORS 105.165.

(2) To dispose of the tenant's property under this section, the landlord must give a written notice to the tenant which shall be:

(a) Sent by first class mail;

(b) Addressed to the tenant's last-known address and to any of the tenant's alternate addresses known to the landlord; and

(c) Mailed in an envelope indorsed "Please Forward."

(3) "First class mail" for purposes of this section does not include certified or registered mail, or any other form of mail which may delay or hinder actual delivery of mail to the tenant.

(4) The notice required under subsection (2) of this section shall state that the property is considered abandoned and must be removed from the premises or from the place of safekeeping, if the landlord has stored the property as provided in subsection (5) of this section, by a specified day not less than 15 days after delivery of the notice or the property will be sold or otherwise disposed of, and if the abandoned property is not removed:

(a) The landlord may sell the property at a public or private sale; or

(b) The landlord may destroy or otherwise dispose of the property if the landlord reasonably determines that the value of the property is so low that the cost of storage and conducting a public sale probably exceeds the amount that would be realized from the sale; or

(c) The landlord may sell certain items and destroy or otherwise dispose of the remaining property.

(5) After notifying the tenant as required by subsections (2) and (4) of this section the landlord shall store all goods, chattels, motor vehicles and other personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property, except that the landlord may promptly dispose of rotting food and allow an animal control agency to remove any abandoned pets or livestock. The landlord may store a tenant's manufactured dwelling or residential vehicle on the space rented or elsewhere on the premises. The landlord shall be entitled to reasonable storage charges and costs incidental to storage. The landlord may store the property in a commercial storage company, in which case the storage cost shall include the actual storage charge plus the cost of removal of the property to the place of storage.

(6) If the tenant upon the receipt of the notice provided by subsections (2) and (4) of this section or otherwise responds in writing to the landlord on or before the day specified in the landlord's notice that the tenant intends to remove the property from the premises or from the place of safekeeping, if the landlord has stored the property as provided in subsection (5) of this section, and does not do so within the time specified in the notice or within 15 days after the delivery of the tenant's response, whichever is later, the tenant's property shall be conclusively presumed to be abandoned. Except as provided in ORS 105.165, if the tenant removes the property the landlord shall be entitled to the cost of storage for the period the property remains in the landlord's safekeeping, including any cost of removal of the property to the place of storage.

(7) The landlord shall not be responsible for any loss to the tenant resulting from storage of property in compliance with this section unless the loss was caused by the landlord's deliberate or negligent act. In the event of deliberate and malicious violation the landlord shall be liable for twice the actual damages sustained by the tenant.

(8) A public or private sale authorized by this section shall be conducted under the provisions of ORS 79.5040 (3).

(9)(a) The landlord may deduct from the proceeds of the sale:

(A) The reasonable cost of notice, storage and sale; and

(B) Unpaid rent.

(b) After deducting the amounts listed in paragraph (a) of this subsection the landlord shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting.

(c) If the tenant cannot after due diligence be found, the remaining proceeds shall be deposited with the county treasurer of the county in which the sale occurred, and if not claimed within three years shall revert to the general fund of the county available for general purposes.

(10) Complete compliance in good faith with this section shall constitute a complete defense in any action brought by a tenant against a landlord for loss or damage to such personal property disposed of pursuant to this section.

(11) If a landlord seizes and retains a tenant's personal property without complying with this section, the tenant shall be relieved of any liability for damage to the premises caused by conduct which was not deliberate, intentional or grossly negligent and for unpaid rent and may recover up to twice the actual damages sustained by the tenant. [Formerly 91.840]

90.430 Claims for possession, rent, damages after termination of rental agreement. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement. [Formerly 91.845]

90.435 Limitation on recovery of possession of premises. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electricity or other essential service to the tenant, except in case of abandonment, surrender or as permitted in ORS 90.100 to 90.940. [Formerly 91.850]

MANUFACTURED DWELLING AND FLOATING HOME SPACES

(General Provisions)

90.500 Definitions for ORS 90.100 to 90.940. As used in ORS 90.100 to 90.940:

(1) "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.

(2) "Facility" means a manufactured dwelling park, or 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 fee.

(3) "Manufactured dwelling" has the meaning given that term in ORS 446.003.

(4) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(5) "Floating home" has the meaning given that term in ORS 830.700.

(6) "Mobile home park" has the meaning given that term in ORS 446.003.

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

(8) "Statement of policy" means the summary explanation of information and facility policies to be provided to prospective and existing tenants under ORS 90.510. [Formerly 91.868; 1991 c.844 §4]

90.505 "Rent a space for a manufactured dwelling or floating home" defined for certain purposes. As used in ORS 90.510, 90.525, 90.620, 90.630 and 90.680, "rent a space for a manufactured dwelling or floating home" means a transaction in which the owner of a manufactured dwelling or floating home secures the right to locate the home on the property of another for use as a residence in return for value, and in which the owner of the manufactured dwelling or floating home retains no interest in the real property at the end of the transaction. [Formerly 91.873; 1991 c.844 §5]

90.510 Rental agreement to be in writing; contents; effect of tenant refusal to sign; utility services not provided for in rental agreement; sanctions for failure to comply. (1) Effective July 1, 1992, 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 that shall provide 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;

(d) All personal property, services and facilities to be provided by the landlord;

(e) All refundable deposits, nonrefundable fees and installation charges imposed by the landlord and installation fees 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 dispute resolution; and

(i) Utilities and services available, the person furnishing them and the person responsible for payment.

(2) The rental agreement and the facility rules and regulations shall 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 shall be a copy of the agreement entered by the landlord and tenant.

(3) Effective July 1, 1992:

(a) Prospective tenants shall receive a copy of the statement of policy before signing a rental agreement;

(b) Existing tenants who are on month-to-month rental agreements shall receive a copy of the statement of policy at the time the next 90-day notice of a rent increase is issued; and

(c) All other existing tenants shall receive a copy of the statement of policy upon the expiration of their current rental agreement and before signing a new agreement.

(4) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written agreement which shall be signed by the landlord and tenant.

(5) The agreement required by subsection (4) of this section shall 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 to be provided by the landlord;

(e) All rules and regulations which, if violated, may be cause for eviction;

(f) All refundable deposits, nonrefundable fees and installation charges imposed by the landlord, and installation fees imposed by governmental agencies;

(g) Improvements which 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. Such conditions shall be in conformance with state and federal law and may include, but are not limited to, conditions as to pets, number of occupants, credit references, character references and criminal records;

(j) That the tenant shall 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; and

(m) The process by which notices shall be given by either landlord or tenant.

(6) When a rental agreement does not specifically provide otherwise, the facility management may elect to bill a tenant separately for utility service fees and charges assessed by the utility for services provided to or for spaces in the facility. Any separately billed utility fees and charges shall not be considered to be included in the rent charged for those spaces under the rental agreement and shall not be considered to be rent or a rent increase. Utility services to which this subsection applies are natural or liquid propane gas, electricity, water, cable television, garbage or refuse service and sewer service. Nothing in this subsection requires rental agreements to provide for separate billing to tenants of fees and charges.

(7) Intentional and deliberate failure of the landlord to comply with subsections (1) to (3) of this section shall be 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.

(8) 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 shall be a defense for the landlord in an action against the landlord for nondelivery of the documents.

(9) A suit or action arising under subsection (7) of this section must be commenced within one year after the discovery or identification of the alleged violation. [Formerly 91.875; 1991 c.844 §6]

90.515 Application of ORS 90.500 to 90.840. The provisions of ORS 90.500 to 90.840 apply only to residential tenancies involving a manufactured dwelling or floating home located in a facility and do not apply to any other tenancy, including but not limited to a tenancy in which a rental space is offered for occupancy by a residential vehicle or recreational vehicle or a tenancy in which both a manufactured dwelling or floating home and a rental space are rented or leased by the tenant. Residential tenancies not subject to ORS 90.500 to 90.840 shall be subject to ORS 90.100 to 90.435 and 90.900 to 90.940. [1991 c.844 §2]

Note: 90.515 was added to and made a part of 90.500 to 90.840 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

90.525 Unreasonable conditions of rental or occupancy prohibited. (1) No landlord shall impose conditions of rental or occupancy which unreasonably restrict the tenant or prospective tenant in choosing a fuel supplier, furnishings, goods, services or accessories.

(2) No landlord of a facility shall require the prospective tenant to purchase a manufactured dwelling or floating home from a particular dealer or one of a group of dealers.

(3) No landlord renting a space for a manufactured dwelling or floating home shall give preference to a prospective tenant who purchased a manufactured dwelling or floating home from a particular dealer.

(4) No manufactured dwelling or floating home dealer shall require, as a condition of sale, a purchaser to rent a space for a manufactured dwelling or floating home in a particular facility or one of a group of facilities. [Formerly 91.895; 1991 c.844 §7]

(Landlord and Tenant Relations)

90.600 Increases in rent; notice; meeting with tenants; effect of failure to comply. (1) In the case of a rental agreement to which ORS 90.500 to 90.940 apply, the landlord may not increase the rent unless:

(a) The landlord gives notice in writing to each affected tenant at least 90 days prior to the effective date of the rent increase specifying the amount of the increase, the amount of the new rent and the date on which the increase becomes effective;

(b) The landlord gives each affected tenant prior notice in writing that the landlord or a representative of the landlord will be available for discussion with tenants at a

specified time which is not less than 10 nor more than 30 days after the date on which the landlord gave notice of the rent increase, and at a specified place which is on the premises in the case of a facility with facilities suitable for that purpose or, in all other cases, at a location reasonably convenient to tenants; and

(c) The landlord or a representative of the landlord is in fact available for discussion with tenants at the time and place specified in the notice required by subsection (2) of this section.

(2) The notice required by paragraph (b) of subsection (1) of this section shall be given with or after the notice of rent increase, and not less than 10 days before the time at which the landlord is available for discussion, unless the time and place that the landlord is available is a regular office hour or regularly scheduled meeting known to the tenants.

(3) In the event an association of tenants or a tenants' association chapter of tenants who reside in the facility requests in writing, within 10 days after mailing of a notice of rent increase under subsection (1) of this section, that the landlord meet to discuss the rent increase, the rent increase shall not become effective unless:

(a) The landlord or a representative of the landlord holds one meeting which shall be open, but may be limited to, all tenants of the facility;

(b) The meeting is held not less than 10 nor more than 30 days after written notice to all tenants of the time and place of the meeting, and not more than 40 days after mailing of the notice of the rent increase; and

(c) The meeting is held on the premises if the facility has facilities suitable for that purpose, or at a location reasonably convenient to the tenants if the facility has no such facilities.

(4) A meeting held under subsection (3) of this section constitutes compliance with paragraphs (b) and (c) of subsection (1) of this section.

(5) This section does not create a right to increase rent that does not otherwise exist.

(6) This section does not require a landlord to compromise or reduce a rent increase that the landlord otherwise is entitled to impose.

(7) ORS 90.510 (1) to (3), requiring a landlord to provide a statement of policy, shall not be construed to create a basis for tenant challenge of a rent increase, judicially or otherwise. [Formerly 91.869; 1991 c.844 §8]

90.605 Persons authorized to receive notice and demands on landlord's behalf; written notice to change designated person. Any person authorized by the landlord of a facility to receive notices and demands on the landlord's behalf retains this authority until the authorized person is notified otherwise. Written notice of any change in the name or address of the person authorized to receive notices and demands shall be delivered to the residence of each person who rents a space for a manufactured dwelling or floating home or, if specified in writing by the tenant, to another specified address. [Formerly 91.935; 1991 c.844 §11]

90.610 Mediation or arbitration when landlord proposes certain changes. (1) Notwithstanding ORS 90.245 (1), the parties to a rental agreement to which ORS 90.500 to 90.840 applies shall provide for a process establishing mediation or arbitration of disputes that may arise concerning the rental agreement for a manufactured dwelling or floating home space.

(2) The landlord may propose changes in rules or regulations, including changes that make a substantial modification of the landlord's bargain with a tenant, and unless tenants of 51 percent of the units in the facility object in writing within 10 days of receiving the proposed change, the change shall be effective for all tenants on a date not less than 30 days after the date that the notice was served by the landlord.

(3) No agreement under this section shall require mediation or arbitration of disputes relating to:

(a) Facility closure;

(b) Facility sale; or

(c) Rent, including but not limited to amount, increase and nonpayment.

(4) ORS 90.510 (1) to (3), requiring a landlord to provide a statement of policy, shall not be construed to create a basis for a tenant to demand mediation or arbitration of a rent increase. [1991 c.844 §10]

Note: 90.610 was added to and made a part of 90.500 to 90.840 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

90.620 Termination by tenant; notice to landlord. (1) The tenant who rents a space for a manufactured dwelling, residential vehicle or floating home may terminate the rental agreement by giving to the landlord not less than 30 days' notice in writing prior to the date designated in the notice for termination.

(2) The agreement to rent required by ORS 90.510 may provide for termination on a specified date not less than 30 days after the parties enter into the agreement.

(3) No tenant shall be required to give the landlord more than 30 days' written notice to terminate. [Formerly 91.880; 1991 c.67 §15]

90.630 Termination by landlord; causes; notice. (1) Except as provided in subsection (3) of this section, the landlord may terminate the rental agreement for space for a manufactured dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the date designated in the notice for termination if the tenant:

(a) Violates a law or ordinance which related to the tenant's conduct as a tenant; or

(b) Violates a rule imposed as a condition of occupancy.

(2) The notice required by subsection (1) of this section shall state facts sufficient to notify the tenant of the reasons for termination of the tenancy.

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

(4) The landlord of a facility, as defined in ORS 90.500, may terminate the rental agreement for a facility space if the facility or a portion of it that includes the space is to be closed and the land or leasehold converted to a different use, which is not required by the exercise of eminent domain or by order of state or local agencies, by:

(a) Not less than 365 days' notice in writing before the date designated in the notice for termination; or

(b) Not less than 180 days' notice in writing before the date designated in the notice for termination, if the landlord finds space acceptable to the tenant to which the tenant can move the manufactured dwelling or floating home and the landlord pays the cost of moving and set-up expenses or $3,500, whichever is less.

(5) The landlord may:

(a) Provide greater financial incentive to encourage the tenant to accept an earlier termination date than that provided in subsection (4) of this section; or

(b) Contract with the tenant for a mutually acceptable arrangement to assist the tenant's move.

(6) The Housing and Community Services Department shall adopt rules to implement the provisions of subsection (4) of this section.

(7)(a) A landlord shall not increase the rent for the purpose of offsetting the payments required under this section.

(b) There shall be no increase in the rent after a notice of termination is given pursuant to this section.

(8) Nothing in this section shall limit a landlord's right to terminate a tenancy for nonpayment of rent or any other cause stated in ORS 90.100 to 90.940 by complying with ORS 105.105 to 105.165.

(9) Nothing in subsection (4) of this section shall prevent a landlord from relocating a floating home to another comparable space in the same facility or another facility owned by the same owner in the same city if the landlord desires or is required to make repairs, to remodel or to modify the tenant's original space. [Formerly 91.886; 1991 c.844 §12]

(Ownership Change)

90.670 Payment of storage charges before removal of dwelling. (1) The landlord may serve a copy of the notice required by ORS 90.425 (2) or 90.690 (2) by certified mail on any lienholder. A tenant or a lienholder to whom the landlord has sent a copy of the notice, or a successor in interest to such a lienholder, shall not remove the manufactured dwelling from the facility without paying to the landlord reasonable storage charges, not exceeding the monthly rent last payable by the tenant, accruing since the notice was sent to the lienholder.

(2) The landlord may screen a purchaser from a lienholder who wishes to remain as a tenant under the same terms and conditions as the landlord could apply to a purchaser from the tenant as provided in ORS 90.510 (5)(i) and 90.680. [Formerly 91.915; 1991 c.844 §13]

90.680 Right to sell dwelling on rented space; notice prior to sale; duties and rights of prospective purchaser. (1) No landlord shall deny any manufactured dwelling or floating home space tenant the right to sell a manufactured dwelling or floating home on a rented space or require the tenant to remove the home from the space solely on the basis of the sale.

(2) The landlord shall not exact a commission or fee for the sale of a manufactured dwelling or floating home on a rented space unless the landlord has acted as agent for the seller pursuant to written contract.

(3) The landlord may not deny the tenant the right to place a "for sale" sign on or in a manufactured dwelling or floating home

owned by the tenant. The size, placement and character of such signs shall be subject to reasonable rules of the landlord.

(4) The landlord may require:

(a) That a tenant give not more than 30 days' notice in writing prior to the sale of a manufactured dwelling or floating home on a rented space if the prospective purchaser of the home desires to leave the home on the rented space and become a tenant; and

(b) That the prospective purchaser complete and submit a complete and accurate written application for occupancy of the home as a tenant when the sale is complete.

(5) The following apply if a landlord receives an application for tenancy from a prospective purchaser under subsection (4) of this section:

(a) The landlord is subject to subsection (6) of this section if the landlord does not accept or reject the prospective purchaser's application within 20 days of receipt or within a longer time period to which the landlord and prospective purchaser agree.

(b) The landlord, for cause as specified in ORS 90.510 (5)(i), may reject the prospective purchaser as a tenant. In such case the landlord shall furnish to the seller and purchaser a written statement of the reasons for the rejection.

(c) If the landlord accepts the potential purchaser as a tenant, the landlord shall inform the purchaser, at the time of acceptance, what conditions will be imposed on a subsequent sale. These conditions need not be the same as those in the previous rental agreement.

(6) The following apply if a landlord does not require a prospective purchaser to submit an application for occupancy as a tenant under subsection (4) of this section or if the landlord does not accept or reject the prospective purchaser as a tenant within the time required under subsection (5) of this section:

(a) The landlord waives any right to bring an action against the tenant under the rental agreement for breach of the landlord's right to establish conditions upon and approve a prospective purchaser of the tenant's home;

(b) The prospective purchaser, upon completion of the sale, may occupy the home as a tenant under the same conditions and terms as the tenant who sold the home; and

(c) If the prospective purchaser becomes a new tenant, the landlord may only impose conditions or terms on the tenancy that are inconsistent with the terms and conditions of the seller's rental agreement if the new tenant agrees in writing. [Formerly 91.890; 1991 c.844 §14]

90.690 Disposition of dwelling upon death of tenant; requirements. (1) If a facility tenant residing alone dies, the landlord may dispose of the manufactured dwelling or floating home pursuant to ORS 90.425 subject to subsection (2) of this section, provided:

(a) The landlord has requested in writing within two years before the tenant's death that the tenant designate a person to be contacted in the event of the tenant's death; or

(b) A personal representative has been duly appointed for the tenant.

(2) If subsection (1) of this section applies, the landlord may proceed as provided by ORS 90.425, except that the notice required by ORS 90.425 (2):

(a) Shall be sent to any personal representative appointed for the tenant and to any person designated by the tenant under paragraph (a) of subsection (1) of this section, except that if the tenant failed to designate a person upon written request and there is no personal representative, the landlord shall send the notice to all living relatives of the tenant for whom the landlord has an address, if any;

(b) Shall state that any person entitled to possession of the manufactured dwelling or floating home may remove it within 90 days of the mailing of the notice after paying reasonable storage charges and costs incidental to storage pursuant to ORS 90.425 (5);

(c) Shall state that the manufactured dwelling or floating home may remain on the premises beyond the 90 days pending the conclusion of probate proceedings if reasonable storage charges not exceeding the tenant's monthly rent are kept current;

(d) Shall state any terms and conditions under which a devisee, legatee, heir or purchaser from the estate of the tenant who is entitled to possession of the manufactured dwelling or floating home may remain as a tenant; and

(e) Shall state that if the manufactured dwelling or floating home is not removed or the costs of its storage brought current by a specified date not less than 90 days from the mailing of the notice, the manufactured dwelling or floating home will be considered abandoned and will be sold or otherwise disposed of, unless a person entitled to possession of the manufactured dwelling or floating home has been accepted as a tenant.

(3) A landlord may screen a devisee, legatee, heir or purchaser from the estate of the tenant who wishes to remain as a tenant under the same terms and conditions as the

landlord could apply to a purchaser from the tenant as provided in ORS 90.510 (5)(i) and 90.680. [Formerly 91.910; 1991 c.844 §15]

(Actions)

90.710 Causes of action; limit on cause of action of tenant; costs and attorney fees. (1) Any person aggrieved by a violation of ORS 90.525, 90.630, 90.680 or 90.765 shall have a cause of action against the violator thereof for any damages sustained as a result of the violation or $200, whichever is greater.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a tenant shall have a cause of action against the landlord for a violation of ORS 90.510 (4) for any damages sustained as a result of such violation, or $100, whichever is greater.

(b) However, the tenant shall have no cause of action if, within 10 days after the tenant requests a written agreement from the landlord, the landlord offers to enter into a written agreement which does not substantially alter the terms of the oral agreement made when the tenant rented the space and which complies with ORS 90.100 to 90.940.

(c) If, within 10 days after being served with a complaint alleging a violation of ORS 90.510, the landlord offers to enter into a written rental agreement with each of the other tenants of the landlord which does not substantially alter the terms of the oral agreement made when each tenant rented the space and which complies with ORS 90.100 to 90.940, then the landlord shall not be subject to any further liability to such other tenants for previous violations of ORS 90.510.

(d) A purchaser shall have a cause of action against a seller for damages sustained or $100, whichever is greater, who sells the tenant's manufactured dwelling or floating home to the purchaser before the landlord has accepted the purchaser as a tenant if:

(A) The landlord rejects the purchaser as a tenant; and

(B) The seller knew the purchaser intended to leave the manufactured dwelling or floating home on the space.

(3) Any person who brings an action under subsection (1) or (2) of this section may also recover costs, necessary disbursements and reasonable attorney fees at trial and on appeal as determined by the court. [Formerly 91.900; 1991 c.67 §16; 1991 c.844 §16]

90.720 Action to enjoin violation of ORS 90.750 or 90.755. In addition to the tenant's cause of action under ORS 90.710, any tenant prevented from exercising the rights in ORS 90.750 or 90.755 may bring an action in the appropriate court having jurisdiction in the county in which the alleged infringement occurred, and upon favorable adjudication, the court shall enjoin the enforcement of any provision contained in any bylaw, rental agreement, regulation or rule, pertaining to a facility, which operates to deprive the tenant of these rights. [Formerly 91.930]

(Tenant Rights)

90.750 Right to assemble or canvass in facility; limitations. No provision contained in any bylaw, rental agreement, regulation or rule pertaining to a facility shall:

(1) Infringe upon the right of persons who rent spaces in a facility to peaceably assemble in an open public meeting for any lawful purpose, at reasonable times and in a reasonable manner, in the common areas or recreational areas of the facility.

(2) Infringe upon the right of persons who rent spaces in a facility to communicate or assemble among themselves, at reasonable times and in a reasonable manner, for the purpose of discussing any matter, including but not limited to any matter relating to the facility or manufactured dwelling or floating home living. The discussions may be held in the common areas or recreational areas of the facility, including halls or centers, or any resident's dwelling unit or floating home. The landlord of a facility, however, may enforce reasonable rules and regulations including but not limited to place, scheduling, occupancy densities and utilities.

(3) Prohibit any person who rents a space for a manufactured dwelling or floating home from canvassing other persons in the same facility for purposes described in this section. As used in this subsection, "canvassing" includes door-to-door contact, an oral or written request, the distribution, the circulation, the posting or the publication of a notice or newsletter or a general announcement or any other matter relevant to the membership of a tenants' association.

(4) This section is not intended to require a landlord to permit any person to solicit money, except that a tenants' association member, whether or not a tenant of the facility, may personally collect delinquent dues owed by an existing member of a tenants' association.

(5) This section is not intended to require a landlord to permit any person to disregard a tenant's request not to be canvassed. [Formerly 91.920; 1991 c.844 §17]

90.755 Right to speak on political issues; limitations. No provision in any bylaw, rental agreement, regulation or rule shall infringe upon the right of a person who

rents a space for a manufactured dwelling or floating home to invite public officers, candidates for public office or officers or representatives of a tenant organization to appear and speak upon matters of public interest in the common areas or recreational areas of the facility at reasonable times and in a reasonable manner in an open public meeting. The landlord of a facility, however, may enforce reasonable rules and regulations relating to the time, place and scheduling of the speakers that will protect the interests of the majority of the homeowners. [Formerly 91.925; 1991 c.844 §18]

90.760 Notice to tenants' association when park becomes subject to listing agreement. (1) A tenants' association or a facility purchase association may give written notice to the landlord of a facility in which some or all of the members of the associations reside as tenants requesting that the associations be notified, by first class mail to no more than three specified persons and addresses for each association, in the event the facility becomes subject to a listing agreement for the sale of all or part of the facility.

(2) If an association requests notice pursuant to subsection (1) of this section, the landlord shall give written notice to the persons and addresses designated in the request as soon as all or any portion of the facility becomes subject to a listing agreement entered into by or on behalf of the owner. [Formerly 91.905; 1991 c.844 §23]

90.765 Prohibitions on retaliatory conduct by landlord. (1) In addition to the prohibitions of ORS 90.385, a landlord who rents a space for a manufactured dwelling, residential vehicle or floating home may not retaliate by increasing rent or decreasing services, by serving a notice to terminate the tenancy or by bringing or threatening to bring an action for possession after:

(a) The tenant has expressed an intention to complain to agencies listed in ORS 90.385;

(b) The tenant has made any complaint to the landlord which is in good faith;

(c) The tenant has filed or expressed intent to file a complaint under ORS 659.045; or

(d) The tenant has performed or expressed intent to perform any other act for the purpose of asserting, protecting or invoking the protection of any right secured to tenants under any federal, state or local law.

(2) If the landlord acts in violation of subsection (1) of this section the tenant is entitled to the remedies provided in ORS 90.710 (1) and has a defense in any retaliatory action against the tenant for possession. [Formerly 91.870; 1991 c.67 §17]

90.770 Confidentiality of information received from facility tenants. The agency shall establish procedures to maintain the confidentiality of the information pertaining to individual tenants of facilities. These procedures shall meet the following requirements:

(1) The agency or designee of the agency shall not disclose, except to state agencies, the identity of any tenant unless the complainant or the tenant, or the legal representative of either, consents in writing to the disclosure and specifies to whom the disclosure may be made.

(2) The identity of any complainant or tenant on whose behalf a complaint is made, or individual providing information on behalf of the tenant or complainant, shall be confidential. If the complaint becomes the subject of judicial proceedings, the investigative information held by the agency shall be disclosed for the purpose of the proceedings if requested by the court. [Formerly 91.950; 1991 c.844 §29]

90.775 Rules; adoption. The Housing and Community Services Department may adopt rules necessary to carry out the provisions of ORS 90.770. [Formerly 91.955]

(Facility Purchase by Tenants)

90.800 Policy. (1) The State of Oregon encourages affordable housing options for all Oregonians. One housing alternative chosen by many Oregonians is facility living. The Legislative Assembly finds that many facility residents would like to join together to purchase the facility in which they live in order to have greater control over the costs and environment of their housing. The Legislative Assembly also finds that current market conditions place residents at a disadvantage with other potential investors in the purchase of facilities.

(2) It is the policy of the State of Oregon to encourage facility residents to participate in the housing marketplace by insuring that technical assistance, financing opportunities, notice of sale of facilities and the option to purchase facilities are made available to residents who choose to participate in the purchase of a facility.

(3) The purpose of ORS 90.100, 90.500, 90.630, 90.760, 90.800 to 90.840, 308.905, 446.003, 456.579 and 456.581 is to strengthen the private housing market in Oregon by encouraging all Oregonians to have the ability to participate in the purchase of housing of their choice. [1989 c.919 §1; 1991 c.844 §24]

Note: 90.800 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 90 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

90.810 Tenant notification of possible sale of facility. (1) A facility owner shall notify, as described in ORS 90.760, the tenants' association and, as defined in ORS 90.500, a facility purchase association within 10 days of receipt of:

(a) Any written offer received by the owner or agent of the owner to purchase the facility which the owner intends to consider; or

(b) Any listing agreement entered into, by the owner or agent of the owner, to effect the sale of the facility.

(2) The notice required by subsection (1) of this section shall be mailed to any association and facility purchase association. [1989 c.919 §8; 1991 c.844 §25]

90.815 Incorporation of facility purchase association. A facility purchase association shall comply with the provisions of ORS chapters 60, 62 and 65 before making the offer provided for under ORS 90.820. [1989 c.919 §9; 1991 c.844 §26]

90.820 Facility purchase by association; procedures. (1) Within 14 days of receipt of the notice required by ORS 90.760 (2) or 90.810, a tenants' association or facility purchase association may notify the facility owner by certified mail or personal service at the address disclosed to the tenants under ORS 90.305 (1)(a) that it is interested in purchasing the facility.

(2) Upon receipt of the notice required by subsection (1) of this section, the owner shall negotiate in good faith with the association and provide it a reasonable opportunity to purchase the facility as the owner would any bona fide third party potential purchaser.

(3) A facility purchase association, actively involved in negotiations with a facility owner may waive or reduce the time periods for notice described in this section.

(4) This section, ORS 90.760 (2) and 90.810 do not apply to:

(a) Any sale or transfer to a person who would be included within the table of descent and distribution if the facility owner were to die intestate.

(b) Any transfer by gift, devise or operation of law.

(c) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation or any other corporation or entity owned or controlled, directly or indirectly, by any shareholder of the transferring corporation.

(d) Any transfer by a partnership to any of its partners.

(e) Any conveyance of an interest in a facility incidental to the financing of such facility.

(f) Any conveyance resulting from the foreclosure of a mortgage, deed of trust or other instrument encumbering a facility or any deed given in lieu of such foreclosure.

(g) Any sale or transfer between or among joint tenants or tenants in common owning a facility.

(h) Any exchange of a facility for other real property, whether or not such exchange also involves the payment of cash or other boot.

(i) The purchase of a facility by a governmental entity under its powers of eminent domain. [1989 c.919 §10; 1991 c.844 §19]

90.830 Facility owner; affidavit of compliance with procedures. (1) A facility owner may at any time record, in the County Clerk Lien Record of the county where a facility is situated, an affidavit in which the facility owner certifies that:

(a) With reference to an offer by the owner for the sale of such facility, the owner has complied with the provisions of ORS 90.820;

(b) With reference to an offer received by the owner for the purchase of such facility, or with reference to a counteroffer which the owner intends to make, or has made, for the sale of such facility, the owner has complied with the provisions of ORS 90.820;

(c) Notwithstanding compliance with the provisions of ORS 90.820, no contract has been executed for the sale of such facility between the owner and the facility purchase association;

(d) The provisions of ORS 90.820 are inapplicable to a particular sale or transfer of such facility by the owner, and compliance with such subsections is not required; or

(e) A particular sale or transfer of such facility is exempted from the provisions of this section and ORS 90.820.

(2) Any party acquiring an interest in a facility, and any and all title insurance companies and attorneys preparing, furnishing or examining any evidence of title, have the absolute right to rely on the truth and accuracy of all statements appearing in such affidavit and are under no obligation to inquire further as to any matter or fact relating to the facility owner's compliance with the provisions of ORS 90.820.

(3) It is the purpose and intention of this section to preserve the marketability of title to facilities, and, accordingly, the provisions of this section shall be liberally construed in order that all persons may rely on the record title to facilities. [1989 c.919 §11; 1991 c.844 §27]

90.840 Park purchase funds, loans. (1) The director of the Housing and Community Services Department may lend funds available to the Housing and Community Services Department to provide funds necessary to carry out the provisions of ORS 456.581 (2). Such funds advanced shall be repaid to the Housing and Community Services Department as determined by the director.

(2) Notwithstanding any budget limitation, the director may spend funds available from the Mobile Home Parks Purchase Account to employ personnel to carry out the provisions of ORS 456.581 (1). [1989 c.919 §12]

(Miscellaneous)

90.900 Termination of periodic tenancies; landlord remedies for tenant holdover. (1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least 10 days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by giving to the other, at any time during the tenancy, not less than 30 days' notice in writing prior to the date designated in the notice for the termination of the tenancy. The tenancy shall terminate on the date designated and without regard to the expiration of the period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

(3) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover not more than two months' periodic rent or twice the actual damages sustained by the landlord, whichever is greater. If the landlord consents to the tenant's continued occupancy, ORS 90.240 (4) applies. [Formerly 91.855]

90.905 Termination of tenancy for dwelling unit not located in facility. When a dwelling unit not located within a facility consists of space for a manufactured dwelling or moorage space for a floating home, and does not include the manufactured dwelling or floating home itself, the landlord may terminate a month-to-month tenancy without a cause specified in ORS 90.400 by delivering a written notice of termination to the tenant not less than 180 days before the termination date stated in that notice. [1991 c.844 §31]

Note: 90.905 was added to and made a part of 90.900 to 90.940 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

90.910 Service of notices. (1) Notices under this chapter may be served by personal delivery or by first class mail. For purposes of this section, "first class mail" does not include certified or registered mail, or any other form of mail which may delay or hinder actual delivery of mail to the tenant.

(2) Except as provided in subsection (3) of this section, if a notice under ORS 90.400, 90.405, 90.630, 90.900 or 90.905 is served by mail, the minimum period for compliance or termination of tenancy, as appropriate, shall be extended by three days, and the notice shall recite the fact and extent of the extension.

(3)(a) If a written rental agreement so provides, a notice of nonpayment of rent under ORS 90.400 (2), a 24-hour notice of termination under ORS 90.400 (3)(a), (b) or (d) or a notice of inspection under ORS 90.335 (3) may be deemed served on the day on which it is both mailed by first class mail to the tenant at the premises and attached in a secure manner to the main entrance to that portion of the premises of which the tenant has possession.

(b) Payment by a tenant who has received a nonpayment of rent notice under ORS 90.400 (2) is timely if mailed to the landlord within the period of the notice unless:

(A) The nonpayment of rent notice is personally served on the tenant;

(B) A written rental agreement and the nonpayment of rent notice expressly state that payment is to be made at a specified location which is either on the premises or, unless the tenant has become unable to make rent payments in person since the last rent payment, at a place where the tenant has made all previous rent payments in person; and

(C) The place so specified is available to the tenant for payment throughout the period of the notice. [Formerly 91.857; 1991 c.844 §32]

90.920 Landlord and tenant remedies for refusal or abuse of access. (1) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or may terminate the rental agreement. In addition, the landlord may recover actual damages.

(2) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demand for entry

otherwise lawful but which has the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or may terminate the rental agreement. In addition, the tenant may recover actual damages not less than an amount equal to one month's rent. [Formerly 91.860]

90.930 Refusal to rent to physically impaired person because of assistance animal prohibited; extra fee prohibited; liability for damages. A landlord, as defined in ORS 90.100 (5), is subject to ORS 346.690. [Formerly 91.862]

Note: 91.862 [renumbered 90.930 in 1989] was enacted into law by the Legislative Assembly but was not added to or made a part of any series in ORS chapter 90 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

90.940 Right of city to recover from owner for costs of relocating tenant due to condemnation. (1) A city with a population that exceeds 300,000 shall have a right of action against the owner of any premises to recover the reasonable costs of relocation incurred by the city because the condition of the premises causes condemnation and relocation of the tenants at public expense. In order to recover the costs, the city must allege and prove that, due to action or inaction of the owner, the premises are or have been in multiple and material violation of applicable health or safety codes for a period of more than 30 days and that such violation endangers the health or safety of the tenants or the public, or both.

(2) It shall be an affirmative defense to recovery of relocation costs incurred for any tenant that the condition was caused by the action or negligence of that tenant.

(3) The official responsible for city code enforcement shall notify the owner in writing when the official finds the premises to be in a condition that may cause tenant relocation. The notice shall also inform the owner of the potential liability for relocation costs.

(4) A landlord may not evict a tenant because of the receipt of the notice required by subsection (3) of this section except for the reasons set forth in ORS 90.385 (3). The owner is not liable for tenant relocation costs if the eviction is for the reasons set forth in ORS 90.385 (3)(a).

(5) The action provided in subsection (1) of this section is in addition to any other action that may be brought against an owner under any other provision of law. [Formerly 91.866]