

Enrolled
House Bill 2247

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CHAPTER

AN ACT

Relating to landlord-tenant law; creating new provisions; amending ORS 90.100, 90.140, 90.425, 90.510, 90.630, 90.675, 90.725 and 446.515; and appropriating money.

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

SECTION 1. Sections 2, 3 and 5 to 10 of this 2005 Act are added to and made a part of ORS 90.505 to 90.840.

SECTION 2. (1) Every landlord of a facility shall register in writing with the Housing and Community Services Department. The registration shall consist of the following information:

(a) The name and business mailing address of the landlord and of any person authorized to manage the premises.

(b) The name of the facility.

(c) The physical address of the facility or, if different from the physical address, the mailing address.

(d) A telephone number of the facility.

(e) The total number of spaces in the facility.

(2) A landlord shall notify the department in writing of any change in the required registration information no later than 60 days after the change.

(3) The department shall confirm receipt of a registration or a change in registration information.

(4) Notwithstanding subsections (1) to (3) of this section, the department may provide for registration, registration changes and confirmation of registration to be accomplished by electronic means instead of in writing.

SECTION 3. (1) At least one person for each facility who has authority to manage the premises shall, every two years, complete six hours of continuing education relating to the management of facilities. The following apply for a person whose continuing education is required:

(a) If there is any manager or owner who lives in the facility, the person completing the continuing education must be a manager or owner who lives in the facility.

(b) If no manager or owner lives in the facility, the person completing the continuing education must be a manager who lives outside the facility or, if there is no manager, an owner of the facility.

(c) An owner may satisfy the continuing education requirement for more than one facility, if those facilities do not have a manager or owner who lives in the facility or a manager who lives outside the facility.

(2) If a person becomes the facility manager or owner who is responsible for completing continuing education, and the person does not have a current certificate of completion issued under subsection (3) of this section, the person shall complete the continuing education requirement by taking the next regularly scheduled continuing education class or by taking a continuing education class held within 75 days.

(3) The Housing and Community Services Department shall ensure that continuing education classes:

(a) Are offered at least once every six months;

(b) Are taught by persons approved by the department and affiliated with a statewide nonprofit trade association that represents manufactured housing interests;

(c) Have at least one-half of the class instruction on the provisions of ORS chapter 90 and ORS 105.105 to 105.168 and related law, including but not limited to fair housing law; and

(d) Provide a certificate of completion to all attendees and a record of that completion to the department.

(4) The department, a trade association or instructor is not responsible for the conduct of a landlord, manager, owner or other person attending a continuing education class under this section. This section does not create a cause of action against the department, a trade association or instructor related to the continuing education class.

(5) The landlord of a facility is responsible for ensuring compliance with the continuing education requirements in this section.

SECTION 4. (1) The Housing and Community Services Department may assess a civil penalty against a landlord if the department finds that the landlord has not made a good faith effort to comply with section 2 or 3 of this 2005 Act. The civil penalty may not exceed \$500.

(2) A civil penalty assessed under this section shall be deposited to the Mobile Home Parks Account and continuously appropriated to the department for use in carrying out the policies described in ORS 446.515.

SECTION 5. As used in sections 5 to 10 of this 2005 Act:

(1) "Submeter" means a device owned or under the control of a landlord and used to measure a utility or service actually provided to a tenant at the tenant's space.

(2) "Utility or service" has the meaning given that term in ORS 90.315.

SECTION 6. (1) Subject to the policies of the utility or service provider, a landlord may provide for utilities or services to tenants by one or more of the following billing methods:

(a) A relationship between the tenant and the utility or service provider in which:

(A) The provider provides the utility or service directly to the tenant's space, including any utility or service line, and bills the tenant directly; and

(B) The landlord does not act as a provider.

(b) A relationship between the landlord, tenant and utility or service provider in which:

(A) The provider provides the utility or service to the landlord;

(B) The landlord provides the utility or service directly to the tenant's space or to a common area available to the tenant as part of the tenancy; and

(C) The landlord includes the cost of the utility or service in the tenant's rent or bills the tenant for a utility or service charge separately from the rent in an amount determined by apportioning the provider's charge to the landlord as measured by a master meter.

(c) A relationship between the landlord, tenant and utility or service provider in which:

(A) The provider provides the utility or service to the landlord;

(B) The landlord provides the utility or service directly to the tenant's space; and

(C) The landlord uses a submeter to measure the utility or service actually provided to the space and bills the tenant for a utility or service charge for the amount provided.

(2) To assess a tenant for a utility or service charge for any billing period, the landlord shall give the tenant a written notice stating the amount of the utility or service charge that

the tenant is to pay the landlord, and the due date for making the payment. The due date may not be less than 14 days from the date of service of the notice.

(3) A utility or service charge is not rent or a fee. Nonpayment of a utility or service charge is not grounds for termination of a rental agreement for nonpayment of rent under ORS 90.400, but is grounds for termination of a rental agreement for cause under ORS 90.630.

(4) The landlord is responsible for maintaining the utility or service system, including any submeter, consistent with ORS 90.730. After any installation or maintenance of the system on a tenant's space, the landlord shall restore the space to a condition that is the same as or better than the condition of the space before the installation or maintenance.

(5) A landlord may not assess a utility or service charge for water unless the water is provided to the landlord by a:

- (a) Public utility as defined in ORS 757.005;
- (b) Municipal utility operating under ORS chapter 225;
- (c) People's utility district organized under ORS chapter 261;
- (d) Cooperative organized under ORS chapter 62;
- (e) Domestic water supply district organized under ORS chapter 264; or
- (f) Water improvement district organized under ORS chapter 552.

(6) A landlord who provides utilities or services only to tenants of the landlord in compliance with this section and sections 7 and 8 of this 2005 Act is not a public utility for purposes of ORS chapter 757.

SECTION 7. (1) If a written rental agreement so provides, a landlord using the billing method described in section 6 (1)(b) of this 2005 Act may require a tenant to pay to the landlord a utility or service charge that has been billed by a utility or service provider to the landlord for a utility or service provided directly to the tenant's space or to a common area available to the tenant as part of the tenancy.

(2) A utility or service charge that is assessed to tenants for the tenants' spaces under this section must be allocated among the tenants by a method that reasonably apportions the cost among the affected tenants and that is described in the rental agreement. Methods that reasonably apportion the cost among the tenants include, but are not limited to, methods that divide the cost based on the number of occupied spaces in the facility or on the square footage in each dwelling, home or space.

(3) A utility or service charge to be assessed to a tenant for a common area must be described in the written rental agreement separately and distinctly from the utility or service charge for the tenant's space.

(4) A landlord may not increase the utility or service charge to the tenant by adding any costs of the landlord, such as a handling or administrative charge, other than those costs billed to the landlord by the provider for utilities or services.

SECTION 8. (1) If a written rental agreement so provides, a landlord using the billing method described in section 6 (1)(c) of this 2005 Act may require a tenant to pay to the landlord a utility or service charge that has been billed by a utility or service provider to the landlord for utility or service provided directly to the tenant's space as measured by a submeter.

(2) A utility or service charge to be assessed to a tenant under this section may consist of:

(a) The cost of the utility or service provided to the tenant's space and under the tenant's control, as measured by the submeter, at a rate no greater than the average rate billed to the landlord by the utility or service provider, not including any base or service charge;

(b) The cost of any sewer service for stormwater or wastewater as a percentage of the tenant's water charge as measured by a submeter, if the utility or service provider charges the landlord for sewer service as a percentage of water provided; and

(c) A pro rata portion of any base or service charge billed to the landlord by the utility or service provider, including but not limited to any tax passed through by the provider.

(3) A utility or service charge to be assessed to a tenant under this section may not include:

(a) Any additional charge, including any costs of the landlord, for the installation, maintenance or operation of the utility or service system or any profit for the landlord; or

(b) Any costs to provide a utility or service to common areas of the facility.

SECTION 9. (1) A landlord may unilaterally amend a rental agreement to convert a tenant's existing utility or service billing method from a method described in section 6 (1)(b) of this 2005 Act to a submeter billing method described in section 6 (1)(c) of this 2005 Act. The landlord must give the tenant not less than 180 days' written notice before converting to a submeter billing method.

(2) A landlord must give notice as provided in ORS 90.725 before entering a tenant's space to install or maintain a utility or service line or a submeter that measures the amount of a provided utility or service.

(3) If the cost of the tenant's utility or service was included in the rent before the conversion to submeters, the landlord shall reduce the tenant's rent upon the landlord's first billing of the tenant using the submeter method. The rent reduction may not be less than an amount reasonably comparable to the amount of the rent previously allocated to the utility or service cost averaged over at least the preceding six months. Before the landlord first bills the tenant using the submeter method, the landlord shall provide the tenant with written documentation from the utility or service provider showing the landlord's cost for the utility or service provided to the facility during at least the six preceding months.

(4) During the six months following a conversion to submeters, the landlord may not raise the rent to recover the costs of installing, maintaining or operating the utility or service system or of new lines or submeters. Except as part of the rent, a landlord may not charge the tenant for the cost of installation or for any capital expenses related to the conversion to submeters or for the cost of maintenance or operation of the utility or service system. As used in this subsection, "operation" includes, but is not limited to, reading the submeter.

(5) A rental agreement amended under this section shall include language that fairly describes the provisions of this section.

(6) If a landlord installs a submeter on an existing utility or service line to a space or common area that is already served by that line, unless the installation causes a system upgrade, a local government may not assess a system development charge as defined in ORS 223.299 as a result of the installation.

SECTION 10. In addition to any other right of entry granted under ORS 90.725, a landlord or the landlord's agent may enter a tenant's space without consent of the tenant and without notice to the tenant for the purpose of reading a submeter. An entry made under authority of this section is subject to the following restrictions:

(1) The landlord or landlord's agent may not remain on the space for a purpose other than reading the submeter.

(2) The landlord or a landlord's agent may not enter the space more than once per month.

(3) The landlord or landlord's agent may enter the space only at reasonable times between 8 a.m. and 6 p.m.

SECTION 11. As used in this section and section 12 of this 2005 Act:

(1) "Manufactured dwelling park," "mobile home park" and "recreational vehicle" have the meaning given those terms in ORS 446.003.

(2) "Recreational vehicle park":

(a) Means a place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose:

(A) The renting of space and related facilities for a charge or fee; or

(B) The provision of space for free in connection with securing the patronage of a person.

(b) Does not mean:

(A) An area designated only for picnicking or overnight camping; or

(B) A manufactured dwelling park or mobile home park.

SECTION 12. (1) A state agency or local government may not prohibit the placement or occupancy of a recreational vehicle, or impose any limit on the length of occupancy of a recreational vehicle, solely on the grounds that the occupancy is in a recreational vehicle, if the recreational vehicle is:

(a) Located in a manufactured dwelling park, mobile home park or recreational vehicle park;

(b) Occupied as a residential dwelling; and

(c) Lawfully connected to water and electrical supply systems and a sewage disposal system.

(2) Subsection (1) of this section does not limit the authority of a state agency or local government to impose other special conditions on the placement or occupancy of a recreational vehicle.

SECTION 13. Section 14 of this 2005 Act is added to and made a part of ORS 90.100 to 90.459.

SECTION 14. (1) If a tenancy is for the occupancy of a recreational vehicle in a manufactured dwelling park, mobile home park or recreational vehicle park, all as defined in section 11 of this 2005 Act, the landlord shall provide a written rental agreement for a month-to-month, week-to-week or fixed-term tenancy. The rental agreement must state:

(a) If applicable, that the tenancy may be terminated by the landlord under ORS 90.427 without cause upon 30 days' written notice for a month-to-month tenancy or upon 10 days' written notice for a week-to-week tenancy.

(b) That any accessory building or structure paid for or provided by the tenant belongs to the tenant and is subject to a demand by the landlord that the tenant remove the building or structure upon termination of the tenancy.

(c) That the tenancy is subject to the requirements of section 12 (1) of this 2005 Act for exemption from placement and occupancy restrictions.

(2) If a tenant described in subsection (1) of this section moves following termination of the tenancy by the landlord under ORS 90.427, and the landlord failed to provide the required written rental agreement before the beginning of the tenancy, the tenant may recover the tenant's actual damages or twice the periodic rent, whichever is greater.

(3) If the occupancy fails at any time to comply with the requirements of section 12 (1) of this 2005 Act for exemption from placement and occupancy restrictions, and a state agency or local government requires the tenant to move as a result of the noncompliance, the tenant may recover the tenant's actual damages or twice the periodic rent, whichever is greater. This subsection does not apply if the noncompliance was caused by the tenant.

(4) This section does not apply to a vacation occupancy.

SECTION 15. ORS 90.100 is amended to read:

90.100. Subject to additional definitions contained in this chapter that apply to specific sections or parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Accessory building or structure" means any portable, demountable or permanent structure, including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks, steps, ramps, piers and pilings, that is:

(a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

(b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a tenant of a manufactured dwelling or floating home.

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

(3) “Applicant screening charge” means any payment of money required by a landlord of an applicant prior to entering into a rental agreement with that applicant for a residential dwelling unit, the purpose of which is to pay the cost of processing an application for a rental agreement for a residential dwelling unit.

(4) “Building and housing codes” 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.

(5) “Conduct” means the commission of an act or the failure to act.

(6) “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.

(7) “Domestic violence” has the meaning given that term in ORS 135.230.

(8) “Drug and alcohol free housing” means a dwelling unit described in ORS 90.243.

(9) “Dwelling unit” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. “Dwelling unit” regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home as defined in ORS 830.700, but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself.

(10) “Essential service” means:

(a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.840:

(A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior doors, latches for windows and any cooking appliance or refrigerator supplied or required to be supplied by the landlord; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320, the lack or violation of which creates a serious threat to the tenant’s health, safety or property or makes the dwelling unit unfit for occupancy.

(b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.840:

(A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any drainage system; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730, the lack or violation of which creates a serious threat to the tenant’s health, safety or property or makes the rented space unfit for occupancy.

(11) “Facility” means:

(a) A place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a fee; or

(b) 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.

(12) “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.

(13) “Fee” means a nonrefundable payment of money.

(14) “First class mail” does not include certified or registered mail, or any other form of mail that may delay or hinder actual delivery of mail to the recipient.

(15) “Fixed term tenancy” means a tenancy that has a fixed term of existence, continuing to a specific ending date and terminating on that date without requiring further notice to effect the termination.

(16) “Floating home” has the meaning given that term in ORS 830.700. As used in this chapter, “floating home” includes an accessory building or structure.

(17) “Good faith” means honesty in fact in the conduct of the transaction concerned.

- (18) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.
- (19) "Informal dispute resolution" means, but is not limited to, consultation between the landlord or landlord's agent and one or more tenants, or mediation utilizing the services of a third party.
- (20) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor or sublessor to manage the premises or to enter into a rental agreement.
- (21) "Landlord's agent" means a person who has oral or written authority, either express or implied, to act for or on behalf of a landlord.
- (22) "Last month's rent deposit" means a type of security deposit, however designated, the primary function of which is to secure the payment of rent for the last month of the tenancy.
- (23) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003 (26). "Manufactured dwelling" includes an accessory building or structure. "Manufactured dwelling" does not include a recreational vehicle.
- (24) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.
- (25) "Month-to-month tenancy" means a tenancy that automatically renews and continues for successive monthly periods on the same terms and conditions originally agreed to, or as revised by the parties, until terminated by one or both of the parties.
- (26) "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.
- (27) "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.
- (28) "Person" includes an individual or organization.
- (29) "Premises" means:
- (a) A dwelling unit and the structure of which it is a part and facilities and appurtenances therein [*and*];
 - (b) Grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant; **and**
 - (c) **A facility for manufactured dwellings or floating homes.**
- (30) "Prepaid rent" means any payment of money to the landlord for a rent obligation not yet due. In addition, "prepaid rent" means rent paid for a period extending beyond a termination date.
- (31) "Recreational vehicle" has the meaning given that term in ORS 446.003.
- (32) "Rent" means any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others. "Rent" does not include security deposits, fees or utility or service charges as described in ORS 90.315 (4) and [90.510 (8)] **section 6 of this 2005 Act.**
- (33) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental agreement shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.
- (34) "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.
- (35) "Screening or admission criteria" means a written statement of any factors a landlord considers in deciding whether to accept or reject an applicant and any qualifications required for acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the applicant.

(36) "Security deposit" means any refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement, but does not mean a fee.

(37) "Sexual assault" has the meaning given that term in ORS 147.450.

(38) "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does not include a tenant who holds over as described in ORS 90.427 (4).

(39) "Stalking" means the behavior described in ORS 163.732.

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

(41) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a dwelling unit.

(42) "Tenant" means a person, including a roomer, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority. "Tenant" also includes a minor, as defined and provided for in ORS 109.697. As used in ORS 90.505 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.

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

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

(a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

(b) The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy; and

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

(45) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

(a) The occupant rents the unit for vacation purposes only, not as a principal residence;

(b) The occupant has a principal residence other than at the unit; and

(c) The period of authorized occupancy does not exceed 45 days.

(46) "Victim" means a person who is the subject of domestic violence, sexual assault or stalking. "Victim" includes a parent or guardian of a minor who is the subject of domestic violence, sexual assault or stalking.

(47) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

(a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven days;

(b) There is a written rental agreement that defines the landlord's and the tenant's rights and responsibilities under this chapter; and

(c) There are no fees or security deposits, although the landlord may require the payment of an applicant screening charge, as provided in ORS 90.295.

SECTION 16. ORS 90.140 is amended to read:

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

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

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

(c) Security deposits, pursuant to ORS 90.300;

(d) Fees, pursuant to ORS 90.302;

(e) Rent, as defined in ORS 90.100;

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

(g) Utility or service charges, pursuant to ORS 90.315 (4) or [90.510 (8)] **section 7 or 8 of this 2005 Act;**

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

(i) Damages, for noncompliance with a rental agreement or ORS 90.325, pursuant to ORS 90.400 (11) or as provided elsewhere in this chapter.

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

SECTION 17. ORS 90.425 is amended to read:

90.425. (1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for a manufactured dwelling or floating home by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Goods" includes those goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling or floating home, whether the recreational vehicle, dwelling or home is located inside or outside of a facility.

(d) "Lienholder" means any lienholder of an abandoned recreational vehicle, manufactured dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

(e) "Of record" means:

(A) For a manufactured dwelling or recreational vehicle, that a security interest has been properly recorded with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and 803.097 for a dwelling or vehicle registered and titled by the department pursuant to ORS 820.500.

(B) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or floating home, if different from the tenant and either of record or actually known to the landlord.

(g) "Personal property" means goods, vehicles and recreational vehicles and includes manufactured dwellings and floating homes not located in a facility. "Personal property" does not include manufactured dwellings and floating homes located in a facility and therefore subject to being stored, sold or disposed of as provided under ORS 90.675.

(2) A landlord may not store, sell or dispose of abandoned personal property except as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders or owners in any personal property abandoned or left upon the premises by the tenant or any lienholder or owner in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal 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 receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

(3) Prior to selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that shall be:

(a) Personally delivered to the tenant; or

(b) Sent by first class mail addressed and mailed to the tenant at:

(A) The premises;

(B) Any post-office box held by the tenant and actually known to the landlord; and

(C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) In addition to the notice required by subsection (3) of this section, in the case of an abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give a copy of the notice described in subsection (3) of this section to:

(A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;

(B) Any owner of the recreational vehicle, manufactured dwelling or floating home;

(C) The tax collector of the county where the manufactured dwelling or floating home is located; and

(D) The assessor of the county where the manufactured dwelling or floating home is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service shall be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

(A) Actually known to the landlord;

(B) Of record; and

(C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section shall state that:

(a) The personal property left upon the premises is considered abandoned;

(b) The tenant or any lienholder or owner must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;

(c) The personal property is stored at a place of safekeeping, except that if the property includes a manufactured dwelling or floating home, the dwelling or home shall be stored on the rented space;

(d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;

(e) The landlord shall make the personal property available for removal by the tenant or any lienholder or owner, except as provided by subsection (18) of this section, by appointment at reasonable times;

(f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of removal and storage charges, as provided by subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any lienholder or owner;

(g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;

(h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date, or after that contact, fails to remove the personal property within 30 days for recreational vehicles, manufactured dwellings and floating homes or 15 days for all other personal property, the landlord may sell or dispose of the personal property. If the landlord reasonably believes that the personal property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord

intends to dispose of the property if it is not claimed, the notice shall state that belief and intent; and

(i) If the personal property includes a recreational vehicle, manufactured dwelling or floating home and if applicable, there is a lienholder or owner that has a right to claim the recreational vehicle, dwelling or home, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder or owner must contact a landlord to arrange for the disposition of abandoned personal property shall be:

(a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than 45 days after personal delivery or mailing of the notice; or

(b) For all other abandoned personal property, not less than five days after personal delivery or eight days after mailing of the notice.

(7) After notifying the tenant as required by subsection (3) of this section, the landlord:

(a) Shall store any abandoned manufactured dwelling or floating home on the rented space and shall exercise reasonable care for the dwelling or home;

(b) Shall store all other abandoned personal property of the tenant, including goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable care for the personal property, except that the landlord may:

(A) Promptly dispose of rotting food; and

(B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal control agency will not remove the abandoned pets or livestock, the landlord shall exercise reasonable care for the animals given all the circumstances, including the type and condition of the animals, and may give the animals to an agency that is willing and able to care for the animals, such as a humane society or similar organization;

(c) Except for manufactured dwellings and floating homes, may store the abandoned personal property at the dwelling unit, move and store it elsewhere on the premises or move and store it at a commercial storage company or other place of safekeeping; and

(d) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal, including any cost of removal to a place of storage. In the case of an abandoned manufactured dwelling or floating home, the storage charge shall be no greater than the monthly space rent last payable by the tenant.

(8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant, lienholder or owner intends to remove the personal property from the premises or from the place of safekeeping, the landlord must make that personal property available for removal by the tenant, lienholder or owner by appointment at reasonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling or floating home, 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.415.

(9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the personal property within the time required by subsection (8) of this section or by any date agreed to with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is conclusively presumed to be abandoned. The tenant and any lienholder or owner that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution

of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.

(10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:

(a) Sell the personal property at a public or private sale, provided that prior to the sale of a recreational vehicle, manufactured dwelling or floating home:

(A) The landlord may seek to transfer the certificate of title and registration to the personal property by complying with the requirements of the appropriate state agency; and

(B) The landlord shall:

(i) Place a notice in a newspaper of general circulation in the county in which the recreational vehicle, manufactured dwelling or floating home is located. The notice shall state:

(I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;

(II) The tenant's and owner's name, if of record or actually known to the landlord;

(III) The address and any space number where the recreational vehicle, manufactured dwelling or floating home is located, and if actually known to the landlord, the plate, registration or other identification number as noted on the certificate of title;

(IV) Whether the sale is by private bidding or public auction;

(V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and

(VI) The name and telephone number of the person to contact to inspect the recreational vehicle, manufactured dwelling or floating home;

(ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal delivery or first class mail, except that for any lienholder, mail service shall be by first class mail with certificate of mailing;

(iii) Obtain an affidavit of publication from the newspaper to show that the notice required under sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and

(iv) Obtain written proof from the county that all property taxes on the manufactured dwelling or floating home have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;

(b) Destroy or otherwise dispose of the personal property if the landlord determines that:

(A) For a manufactured dwelling or floating home, the current market value of the property is \$8,000 or less as determined by the county assessor; or

(B) For all other personal property, the reasonable current fair market value is \$500 or less or 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) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or otherwise dispose of the remaining personal property.

(11)(a) A public or private sale authorized by this section shall:

(A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable; or

(B) For all other personal property, be conducted under the provisions of ORS 79.0610.

(b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.

(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of a manufactured dwelling or floating home, the landlord is not liable for the condition of the dwelling or home to:

(a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or

(b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.

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

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

(B) Unpaid rent.

(b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes owed on the dwelling or home.

(c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the recreational vehicle, dwelling or home.

(d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if applicable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with an itemized accounting.

(e) If the tenant or owner 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.

(14) The county tax collector shall cancel all unpaid property taxes owed on a manufactured dwelling or floating home, as provided under ORS 311.790, only under circumstances described in paragraph (a), (b), (c) or (d) of this subsection:

(a) The landlord disposes of the manufactured dwelling or floating home after a determination described in subsection (10)(b) of this section.

(b) There is no buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section.

(c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is \$8,000 or less; and

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this section.

(d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to subsection (13) of this section; and

(D) The landlord disposes of the manufactured dwelling or floating home.

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

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

(17) If a landlord does not comply with this section:

(a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;

(b) A lienholder or owner aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and

(c) A county tax collector aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the tax collector, if the noncompliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.

(18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home shall also apply to any lienholder except that the lienholder may not sell or remove the vehicle, dwelling or home unless:

(a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or floating home;

(b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (24) of this section; or

(c) The notice and response periods provided by subsections (6) and (8) of this section have expired.

(19)(a) In the case of an abandoned manufactured dwelling or floating home but not including a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.

(b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.

(c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder must enter into the proposed storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(d) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a utility or service charge, as described in [ORS 90.510 (8)] **section 6 of this 2005 Act**, if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges described in the rental agreement between the landlord and the tenant; and

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement between the landlord and the tenant.

(e) During the term of an agreement described under this subsection, the lienholder shall have the right to remove or sell the property, subject to the provisions of its lien. Selling the property includes a sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the rented space if the lienholder has paid all storage charges and other charges as provided in the agreement.

(g) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property consists of an abandoned manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling or home, this section applies, except as follows:

(a) Any personal representative named in a will or appointed by a court to act for the deceased tenant or any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death has the same rights and responsibilities regarding the abandoned dwelling or home as a tenant.

(b) The notice required by subsection (3) of this section shall be:

(A) Sent by first class mail to the deceased tenant at the premises; and

(B) Personally delivered or sent by first class mail to any personal representative or designated person if actually known to the landlord.

(c) The notice described in subsection (5) of this section shall refer to any personal representative or designated person, instead of the deceased tenant, and shall incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the dwelling or home may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person shall have the right to remove or sell the dwelling or home, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser, heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord regarding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If a governmental agency determines that the condition of a manufactured dwelling, floating home or recreational vehicle abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner, personal representative or designated person must contact a landlord to arrange for the disposition of the property shall be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, owner, personal representative or designated person must remove the property shall be not less than seven days after the tenant, lienholder, owner, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section shall be as provided in subsection (5) of this section, except that:

(A) The dates and deadlines in the notice for contacting the landlord and removing the property shall be consistent with this subsection;

(B) The notice shall state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and

(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder, owner, personal representative or designated person does not remove the property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, owner, personal representative or designated person pursuant to subsection (19) of this section.

(22) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home that is owned by someone other than the tenant, the provisions of this section regarding the rights

and responsibilities of a tenant to the abandoned vehicle, dwelling or home shall also apply to that owner, with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the vehicle, dwelling or home.

(23) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 and 98.835 for removal of abandoned motor vehicles from private property may be used by a landlord as an alternative to the procedures required in this section.

(24)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with the provisions of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) of this section; and

(C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and any lienholder.

(b) A landlord may not, as part of a rental agreement, require a tenant, a personal representative, a designated person or any lienholder or owner to waive any right provided by this section.

(25) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

SECTION 18. ORS 90.425, as amended by section 57, chapter 655, Oregon Laws 2003, is amended to read:

90.425. (1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for a manufactured dwelling or floating home by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Goods" includes those goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling or floating home, whether the recreational vehicle, dwelling or home is located inside or outside of a facility.

(d) "Lienholder" means any lienholder of an abandoned recreational vehicle, manufactured dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

(e) "Of record" means:

(A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and 803.097.

(B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded for the manufactured dwelling or recreational vehicle in the records of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation prior to July 1, 2004.

(C) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or floating home, if different from the tenant and either of record or actually known to the landlord.

(g) "Personal property" means goods, vehicles and recreational vehicles and includes manufactured dwellings and floating homes not located in a facility. "Personal property" does not include manufactured dwellings and floating homes located in a facility and therefore subject to being stored, sold or disposed of as provided under ORS 90.675.

(2) A landlord may not store, sell or dispose of abandoned personal property except as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders or owners in any personal property abandoned or left upon the premises by the tenant or any lienholder or owner in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal 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 receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

(3) Prior to selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that must be:

(a) Personally delivered to the tenant; or

(b) Sent by first class mail addressed and mailed to the tenant at:

(A) The premises;

(B) Any post-office box held by the tenant and actually known to the landlord; and

(C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) In addition to the notice required by subsection (3) of this section, in the case of an abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give a copy of the notice described in subsection (3) of this section to:

(A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;

(B) Any owner of the recreational vehicle, manufactured dwelling or floating home;

(C) The tax collector of the county where the manufactured dwelling or floating home is located; and

(D) The assessor of the county where the manufactured dwelling or floating home is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service must be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

(A) Actually known to the landlord;

(B) Of record; and

(C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section must state that:

(a) The personal property left upon the premises is considered abandoned;

(b) The tenant or any lienholder or owner must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;

(c) The personal property is stored at a place of safekeeping, except that if the property includes a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;

(d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;

(e) The landlord shall make the personal property available for removal by the tenant or any lienholder or owner, except as provided by subsection (18) of this section, by appointment at reasonable times;

(f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of removal and storage charges, as provided by subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any lienholder or owner;

(g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;

(h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date, or after that contact, fails to remove the personal property within 30 days for recreational vehicles, manufactured dwellings and floating homes or 15 days for all other personal property, the landlord may sell or dispose of the personal property. If the landlord reasonably believes that the personal property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord intends to dispose of the property if the property is not claimed, the notice shall state that belief and intent; and

(i) If the personal property includes a recreational vehicle, manufactured dwelling or floating home and if applicable, there is a lienholder or owner that has a right to claim the recreational vehicle, dwelling or home, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder or owner must contact a landlord to arrange for the disposition of abandoned personal property is:

(a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than 45 days after personal delivery or mailing of the notice; or

(b) For all other abandoned personal property, not less than five days after personal delivery or eight days after mailing of the notice.

(7) After notifying the tenant as required by subsection (3) of this section, the landlord:

(a) Shall store any abandoned manufactured dwelling or floating home on the rented space and shall exercise reasonable care for the dwelling or home;

(b) Shall store all other abandoned personal property of the tenant, including goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable care for the personal property, except that the landlord may:

(A) Promptly dispose of rotting food; and

(B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal control agency will not remove the abandoned pets or livestock, the landlord shall exercise reasonable care for the animals given all the circumstances, including the type and condition of the animals, and may give the animals to an agency that is willing and able to care for the animals, such as a humane society or similar organization;

(c) Except for manufactured dwellings and floating homes, may store the abandoned personal property at the dwelling unit, move and store it elsewhere on the premises or move and store it at a commercial storage company or other place of safekeeping; and

(d) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal, including any cost of removal to a place of storage. In the case of an abandoned manufactured dwelling or floating home, the storage charge may be no greater than the monthly space rent last payable by the tenant.

(8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant, lienholder or owner intends to remove the per-

sonal property from the premises or from the place of safekeeping, the landlord must make that personal property available for removal by the tenant, lienholder or owner by appointment at reasonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling or floating home, 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.415.

(9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the personal property within the time required by subsection (8) of this section or by any date agreed to with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is conclusively presumed to be abandoned. The tenant and any lienholder or owner that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.

(10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:

(a) Sell the personal property at a public or private sale, provided that prior to the sale of a recreational vehicle, manufactured dwelling or floating home:

(A) The landlord may seek to transfer ownership of record of the personal property by complying with the requirements of the appropriate state agency; and

(B) The landlord shall:

(i) Place a notice in a newspaper of general circulation in the county in which the recreational vehicle, manufactured dwelling or floating home is located. The notice shall state:

(I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;

(II) The tenant's and owner's name, if of record or actually known to the landlord;

(III) The address and any space number where the recreational vehicle, manufactured dwelling or floating home is located, and any plate, registration or other identification number for a recreational vehicle or floating home noted on the certificate of title, if actually known to the landlord;

(IV) Whether the sale is by private bidding or public auction;

(V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and

(VI) The name and telephone number of the person to contact to inspect the recreational vehicle, manufactured dwelling or floating home;

(ii) At a reasonable time prior to the sale, give a copy of the notice required by subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal delivery or first class mail, except that for any lienholder, mail service must be by first class mail with certificate of mailing;

(iii) Obtain an affidavit of publication from the newspaper to show that the notice required under subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and

(iv) Obtain written proof from the county that all property taxes and assessments on the manufactured dwelling or floating home have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;

(b) Destroy or otherwise dispose of the personal property if the landlord determines that:

(A) For a manufactured dwelling or floating home, the current market value of the property is \$8,000 or less as determined by the county assessor; or

(B) For all other personal property, the reasonable current fair market value is \$500 or less or 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) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or otherwise dispose of the remaining personal property.

(11)(a) A public or private sale authorized by this section must:

(A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable; or

(B) For all other personal property, be conducted under the provisions of ORS 79.0610.

(b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.

(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of a manufactured dwelling or floating home, the landlord is not liable for the condition of the dwelling or home to:

(a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or

(b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.

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

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

(B) Unpaid rent.

(b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes and assessments owed on the dwelling or home.

(c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the recreational vehicle, dwelling or home.

(d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if applicable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with an itemized accounting.

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

(14) The county tax collector shall cancel all unpaid property taxes and assessments owed on a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the following circumstances:

(a) The landlord disposes of the manufactured dwelling or floating home after a determination described in subsection (10)(b) of this section.

(b) There is no buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section.

(c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is \$8,000 or less; and

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this section.

(d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to subsection (13) of this section; and

(D) The landlord disposes of the manufactured dwelling or floating home.

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

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

(17) If a landlord does not comply with this section:

(a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;

(b) A lienholder or owner aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and

(c) A county tax collector aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the tax collector, if the noncompliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.

(18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or remove the vehicle, dwelling or home unless:

(a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or floating home;

(b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (24) of this section; or

(c) The notice and response periods provided by subsections (6) and (8) of this section have expired.

(19)(a) In the case of an abandoned manufactured dwelling or floating home but not including a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.

(b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.

(c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder must enter into the proposed storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord

may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(d) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a utility or service charge, as described in [ORS 90.510 (8)] **section 6 of this 2005 Act**, if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges described in the rental agreement between the landlord and the tenant; and

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement between the landlord and the tenant.

(e) During the term of an agreement described under this subsection, the lienholder has the right to remove or sell the property, subject to the provisions of the lien. Selling the property includes a sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the rented space if the lienholder has paid all storage charges and other charges as provided in the agreement.

(g) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property consists of an abandoned manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling or home, this section applies, except as follows:

(a) Any personal representative named in a will or appointed by a court to act for the deceased tenant or any person designated in writing by the tenant to be contacted by the landlord in the

event of the tenant's death has the same rights and responsibilities regarding the abandoned dwelling or home as a tenant.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises; and

(B) Personally delivered or sent by first class mail to any personal representative or designated person if actually known to the landlord.

(c) The notice described in subsection (5) of this section must refer to any personal representative or designated person, instead of the deceased tenant, and must incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the dwelling or home may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person has the right to remove or sell the dwelling or home, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser, heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord regarding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If a governmental agency determines that the condition of a manufactured dwelling, floating home or recreational vehicle abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner, personal representative or designated person must contact a landlord to arrange for the disposition

of the property must be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, owner, personal representative or designated person must remove the property must be not less than seven days after the tenant, lienholder, owner, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section must be as provided in subsection (5) of this section, except that:

(A) The dates and deadlines in the notice for contacting the landlord and removing the property must be consistent with this subsection;

(B) The notice must state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and

(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder, owner, personal representative or designated person does not remove the property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, owner, personal representative or designated person pursuant to subsection (19) of this section.

(22) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home that is owned by someone other than the tenant, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner, with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the vehicle, dwelling or home.

(23) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 and 98.835 for removal of abandoned motor vehicles from private property may be used by a landlord as an alternative to the procedures required in this section.

(24)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with the provisions of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) of this section; and

(C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and any lienholder.

(b) A landlord may not, as part of a rental agreement, require a tenant, a personal representative, a designated person or any lienholder or owner to waive any right provided by this section.

(25) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

SECTION 19. ORS 90.510 is amended to read:

90.510. (1) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written statement of policy to prospective and existing tenants. The purpose of the statement of policy is to provide disclosure of the landlord's policies to prospective tenants and to existing tenants who have not previously received a statement of policy. The statement of policy is not a part of the rental agreement. The statement of policy shall provide all of the following information in summary form:

(a) The location and approximate size of the space to be rented.

(b) The federal fair-housing age classification and present zoning that affect the use of the rented space.

(c) The facility policy regarding rent adjustment and a rent history for the space to be rented. The rent history must, at a minimum, show the rent amounts on January 1 of each of the five preceding calendar years or during the length of the landlord's ownership, leasing or subleasing of the facility, whichever period is shorter.

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

(e) All 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 informal dispute resolution.

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

(j) If a tenants' association exists for the facility, a one-page summary about the tenants' association that shall be provided to the landlord by the tenants' association.

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

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

(b) Existing tenants who have not previously received a copy of the statement of policy and who are on month-to-month rental agreements shall receive a copy of the statement of policy at the time a 90-day notice of a rent increase is issued; and

(c) All other existing tenants who have not previously received a copy of the statement of policy shall receive a copy of the statement of policy upon the expiration of their 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 rental agreement, except as provided by ORS 90.710 (2)(d), that shall be signed by the landlord and tenant and that cannot be unilaterally amended by one of the parties to the contract except by:

(a) Mutual agreement of the parties;

(b) Actions pursuant to ORS 90.530 or 90.600 **or section 9 of this 2005 Act**; or

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

(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 security deposits, fees and installation charges imposed by the landlord;

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

(g) Provisions for dealing with improvements to the rental space at the termination of the tenancy;

(h) Any conditions the landlord applies in approving a purchaser of a manufactured dwelling or floating home as a tenant in the event the tenant elects to sell the home. Those conditions shall be in conformance with state and federal law and may include, but are not limited to, conditions as to pets, number of occupants and screening or admission criteria;

(i) That the tenant may not sell the tenant's manufactured dwelling or floating home to a person who intends to leave the manufactured dwelling or floating home on the rental space until the landlord has accepted the person as a tenant;

(j) The term of the tenancy;

(k) The process by which the rental agreement or rules and regulations may be changed, which shall identify that the rules and regulations may be changed with 60 days' notice unless tenants of at least 51 percent of the eligible spaces file an objection within 30 days; and

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

(6) Every landlord who rents a space for a manufactured dwelling or floating home shall provide rules and regulations concerning the tenant's use and occupancy of the premises. A violation of the rules and regulations may be cause for termination of a rental agreement. However, this subsection does not create a presumption that all rules and regulations are identical for all tenants at all times. A rule or regulation shall be enforceable against the tenant only if:

(a) The rule or regulation:

(A) Promotes the convenience, safety or welfare of the tenants;

(B) Preserves the landlord's property from abusive use; or

(C) Makes a fair distribution of services and facilities held out for the general use of the tenants.

(b) The rule or regulation:

(A) Is reasonably related to the purpose for which it is adopted and is reasonably applied;

(B) Is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what the tenant shall or shall not do to comply; and

(C) Is not for the purpose of evading the obligations of the landlord.

(7)(a) A landlord who rents a space for a manufactured dwelling or floating home may adopt a rule or regulation regarding occupancy guidelines. If adopted, an occupancy guideline in a facility shall be based on reasonable factors and shall not be more restrictive than limiting occupancy to two people per bedroom.

(b) As used in this subsection:

(A) "Reasonable factors" may include but are not limited to:

(i) The size of the dwelling.

(ii) The size of the rented space.

(iii) Any discriminatory impact for reasons identified in ORS 659A.421.

(iv) Limitations placed on utility services governed by a permit for water or sewage disposal.

(B) "Bedroom" means a room that is intended to be used primarily for sleeping purposes and does not include bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas.

[(8)(a) If a written rental agreement so provides, a landlord may require a tenant to pay to the landlord a utility or service charge that has been billed by a utility or service provider to the landlord for utility or service provided directly to the tenant's dwelling unit or to a common area available to the tenant as part of the tenancy. A utility or service charge that shall be assessed to a tenant for a common area must be described in the written rental agreement separately and distinctly from such a charge for the tenant's dwelling unit. A landlord may not increase the utility or service charge to the tenant by adding any costs of the landlord, such as a handling or administrative charge, other than those costs billed to the landlord by the provider for utilities or services as provided by this subsection.]

[(b) A utility or service charge is not rent or a fee. Nonpayment of a utility or service charge shall not constitute grounds for termination of a rental agreement for nonpayment of rent pursuant to ORS 90.400 (2), but shall constitute grounds for termination of a rental agreement for cause pursuant to ORS 90.630.]

[(c) As used in this section, "utility or service" has the meaning given that term in ORS 90.315 (1).]

[(9)] (8) Intentional and deliberate failure of the landlord to comply with subsections (1) to (3) of this section is cause for suit or action to remedy the violation or to recover actual damages. The prevailing party is entitled to reasonable attorney fees and court costs.

[(10)] (9) A receipt signed by the potential tenant or tenants for documents required to be delivered by the landlord pursuant to subsections (1) to (3) of this section is a defense for the landlord in an action against the landlord for nondelivery of the documents.

[(11)] (10) A suit or action arising under subsection [(9)] (8) of this section must be commenced within one year after the discovery or identification of the alleged violation.

[(12)] (11) Every landlord who publishes a directory of tenants and tenant services must include a one-page summary regarding any tenants' association. The tenants' association shall provide the summary to the landlord.

SECTION 19a. If House Bill 2261 becomes law and House Bill 2524 does not become law, section 19 of this 2005 Act (amending ORS 90.510) is repealed and ORS 90.510, as amended by section 63, chapter 22, Oregon Laws 2005 (Enrolled House Bill 2261), is amended to read:

90.510. (1) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written statement of policy to prospective and existing tenants. The purpose of the statement of policy is to provide disclosure of the landlord's policies to prospective tenants and to existing tenants who have not previously received a statement of policy. The statement of policy is not a part of the rental agreement. The statement of policy shall provide all of the following information in summary form:

(a) The location and approximate size of the space to be rented.
(b) The federal fair-housing age classification and present zoning that affect the use of the rented space.

(c) The facility policy regarding rent adjustment and a rent history for the space to be rented. The rent history must, at a minimum, show the rent amounts on January 1 of each of the five preceding calendar years or during the length of the landlord's ownership, leasing or subleasing of the facility, whichever period is shorter.

(d) The personal property, services and facilities that are provided by the landlord.

(e) The installation charges that are imposed by the landlord and the installation fees that are imposed by government agencies.

(f) The facility policy regarding rental agreement termination including, but not limited to, closure of the facility.

(g) The facility policy regarding facility sale.

(h) The facility policy regarding informal dispute resolution.

(i) The utilities and services that are available, the name of the person furnishing them and the name of the person responsible for payment.

(j) If a tenants' association exists for the facility, a one-page summary about the tenants' association. The tenants' association shall provide the summary to the landlord.

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

(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 must be a copy of the agreement entered by the landlord and tenant.

(3) The landlord shall give:

(a) Prospective tenants a copy of the statement of policy before the prospective tenants sign rental agreements;

(b) Existing tenants who have not previously received a copy of the statement of policy and who are on month-to-month rental agreements a copy of the statement of policy at the time a 90-day notice of a rent increase is issued; and

(c) All other existing tenants who have not previously received a copy of the statement of policy a copy of the statement of policy upon the expiration of their rental agreements and before the tenants sign new agreements.

(4) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written rental agreement, except as provided by ORS 90.710 (2)(d). The agreement must be signed by the landlord and tenant and may not be unilaterally amended by one of the parties to the contract except by:

- (a) Mutual agreement of the parties;
- (b) Actions pursuant to ORS 90.530 or 90.600 **or section 9 of this 2005 Act**; or
- (c) Those provisions required by changes in statute or ordinance.
- (5) The agreement required by subsection (4) of this section must specify:
 - (a) The location and approximate size of the rented space;
 - (b) The federal fair-housing age classification;
 - (c) The rent per month;
 - (d) All personal property, services and facilities to be provided by the landlord;
 - (e) All security deposits, fees and installation charges imposed by the landlord;
 - (f) Improvements that the tenant may or must make to the rental space, including plant materials and landscaping;
 - (g) Provisions for dealing with improvements to the rental space at the termination of the tenancy;
 - (h) Any conditions the landlord applies in approving a purchaser of a manufactured dwelling or floating home as a tenant in the event the tenant elects to sell the home. Those conditions must be in conformance with state and federal law and may include, but are not limited to, conditions as to pets, number of occupants and screening or admission criteria;
 - (i) That the tenant may not sell the tenant's manufactured dwelling or floating home to a person who intends to leave the manufactured dwelling or floating home on the rental space until the landlord has accepted the person as a tenant;
 - (j) The term of the tenancy;
 - (k) The process by which the rental agreement or rules and regulations may be changed, which shall identify that the rules and regulations may be changed with 60 days' notice unless tenants of at least 51 percent of the eligible spaces file an objection within 30 days; and
 - (L) The process by which the landlord or tenant shall give notices.

(6) Every landlord who rents a space for a manufactured dwelling or floating home shall provide rules and regulations concerning the tenant's use and occupancy of the premises. A violation of the rules and regulations may be cause for termination of a rental agreement. However, this subsection does not create a presumption that all rules and regulations are identical for all tenants at all times. A rule or regulation shall be enforceable against the tenant only if:

- (a) The rule or regulation:
 - (A) Promotes the convenience, safety or welfare of the tenants;
 - (B) Preserves the landlord's property from abusive use; or
 - (C) Makes a fair distribution of services and facilities held out for the general use of the tenants.
- (b) The rule or regulation:
 - (A) Is reasonably related to the purpose for which it is adopted and is reasonably applied;
 - (B) Is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what the tenant shall do or may not do to comply; and
 - (C) Is not for the purpose of evading the obligations of the landlord.

(7)(a) A landlord who rents a space for a manufactured dwelling or floating home may adopt a rule or regulation regarding occupancy guidelines. If adopted, an occupancy guideline in a facility must be based on reasonable factors and not be more restrictive than limiting occupancy to two people per bedroom.

- (b) As used in this subsection:

(A) Reasonable factors may include but are not limited to:

(i) The size of the dwelling.

(ii) The size of the rented space.

(iii) Any discriminatory impact for reasons identified in ORS 659A.421.

(iv) Limitations placed on utility services governed by a permit for water or sewage disposal.

(B) "Bedroom" means a room that is intended to be used primarily for sleeping purposes and does not include bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas.

[(8)(a) If a written rental agreement so provides, a landlord may require a tenant to pay to the landlord a utility or service charge that has been billed by a utility or service provider to the landlord for utility or service provided directly to the tenant's dwelling unit or to a common area available to the tenant as part of the tenancy. A utility or service charge that is assessed to a tenant for a common area must be described in the written rental agreement separately and distinctly from such a charge for the tenant's dwelling unit. A landlord may not increase the utility or service charge to the tenant by adding any costs of the landlord, such as a handling or administrative charge, other than those costs billed to the landlord by the provider for utilities or services as provided by this subsection.]

[(b) A utility or service charge is not rent or a fee. Nonpayment of a utility or service charge is not grounds for termination of a rental agreement for nonpayment of rent pursuant to ORS 90.400 (2), but is grounds for termination of a rental agreement for cause pursuant to ORS 90.630.]

[(c) As used in this subsection, "utility or service" has the meaning given that term in ORS 90.315 (1).]

[(9)] (8) Intentional and deliberate failure of the landlord to comply with subsections (1) to (3) of this section is cause for suit or action to remedy the violation or to recover actual damages. The prevailing party is entitled to reasonable attorney fees and court costs.

[(10)] (9) A receipt signed by the potential tenant or tenants for documents required to be delivered by the landlord pursuant to subsections (1) to (3) of this section is a defense for the landlord in an action against the landlord for nondelivery of the documents.

*[(11)] (10) A suit or action arising under subsection *[(9)] (8)* of this section must be commenced within one year after the discovery or identification of the alleged violation.*

[(12)] (11) Every landlord who publishes a directory of tenants and tenant services must include a one-page summary regarding any tenants' association. The tenants' association shall provide the summary to the landlord.

SECTION 19b. If both House Bill 2261 and House Bill 2524 become law, section 19 of this 2005 Act (amending ORS 90.510) is repealed and ORS 90.510, as amended by section 63, chapter 22, Oregon Laws 2005 (Enrolled House Bill 2261), and section 23, chapter 391, Oregon Laws 2005 (Enrolled House Bill 2524), is amended to read:

90.510. (1) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written statement of policy to prospective and existing tenants. The purpose of the statement of policy is to provide disclosure of the landlord's policies to prospective tenants and to existing tenants who have not previously received a statement of policy. The statement of policy is not a part of the rental agreement. The statement of policy shall provide all of the following information in summary form:

(a) The location and approximate size of the space to be rented.

(b) The federal fair-housing age classification and present zoning that affect the use of the rented space.

(c) The facility policy regarding rent adjustment and a rent history for the space to be rented. The rent history must, at a minimum, show the rent amounts on January 1 of each of the five preceding calendar years or during the length of the landlord's ownership, leasing or subleasing of the facility, whichever period is shorter.

(d) The personal property, services and facilities that are provided by the landlord.

(e) The installation charges that are imposed by the landlord and the installation fees that are imposed by government agencies.

(f) The facility policy regarding rental agreement termination including, but not limited to, closure of the facility.

(g) The facility policy regarding facility sale.

(h) The facility policy regarding informal dispute resolution.

(i) The utilities and services that are available, the name of the person furnishing them and the name of the person responsible for payment.

(j) If a tenants' association exists for the facility, a one-page summary about the tenants' association. The tenants' association shall provide the summary to the landlord.

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

(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 must be a copy of the agreement entered by the landlord and tenant.

(3) The landlord shall give:

(a) Prospective tenants a copy of the statement of policy before the prospective tenants sign rental agreements;

(b) Existing tenants who have not previously received a copy of the statement of policy and who are on month-to-month rental agreements a copy of the statement of policy at the time a 90-day notice of a rent increase is issued; and

(c) All other existing tenants who have not previously received a copy of the statement of policy a copy of the statement of policy upon the expiration of their rental agreements and before the tenants sign new agreements.

(4) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written rental agreement, except as provided by ORS 90.710 (2)(d). The agreement must be signed by the landlord and tenant and may not be unilaterally amended by one of the parties to the contract except by:

(a) Mutual agreement of the parties;

(b) Actions pursuant to ORS 90.530 or 90.600 **or section 9 of this 2005 Act**; or

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

(5) The agreement required by subsection (4) of this section must specify:

(a) The location and approximate size of the rented space;

(b) The federal fair-housing age classification;

(c) The rent per month;

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

(e) All security deposits, fees and installation charges imposed by the landlord;

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

(g) Provisions for dealing with improvements to the rental space at the termination of the tenancy;

(h) Any conditions the landlord applies in approving a purchaser of a manufactured dwelling or floating home as a tenant in the event the tenant elects to sell the home. Those conditions must be in conformance with state and federal law and may include, but are not limited to, conditions as to pets, number of occupants and screening or admission criteria;

(i) That the tenant may not sell the tenant's manufactured dwelling or floating home to a person who intends to leave the manufactured dwelling or floating home on the rental space until the landlord has accepted the person as a tenant;

(j) The term of the tenancy;

(k) The process by which the rental agreement or rules and regulations may be changed, which shall identify that the rules and regulations may be changed with 60 days' notice unless tenants of at least 51 percent of the eligible spaces file an objection within 30 days; and

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

(6) Every landlord who rents a space for a manufactured dwelling or floating home shall provide rules and regulations concerning the tenant's use and occupancy of the premises. A violation of the rules and regulations may be cause for termination of a rental agreement. However, this subsection does not create a presumption that all rules and regulations are identical for all tenants at all times. A rule or regulation shall be enforceable against the tenant only if:

(a) The rule or regulation:

(A) Promotes the convenience, safety or welfare of the tenants;

(B) Preserves the landlord's property from abusive use; or

(C) Makes a fair distribution of services and facilities held out for the general use of the tenants.

(b) The rule or regulation:

(A) Is reasonably related to the purpose for which it is adopted and is reasonably applied;

(B) Is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what the tenant shall do or may not do to comply; and

(C) Is not for the purpose of evading the obligations of the landlord.

(7)(a) A landlord who rents a space for a manufactured dwelling or floating home may adopt a rule or regulation regarding occupancy guidelines. If adopted, an occupancy guideline in a facility must be based on reasonable factors and not be more restrictive than limiting occupancy to two people per bedroom.

(b) As used in this subsection:

(A) Reasonable factors may include but are not limited to:

(i) The size of the dwelling.

(ii) The size of the rented space.

(iii) Any discriminatory impact for reasons identified in ORS 659A.421.

(iv) Limitations placed on utility services governed by a permit for water or sewage disposal.

(B) "Bedroom" means a room that is intended to be used primarily for sleeping purposes and does not include bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas.

[(8)(a) If a written rental agreement so provides, a landlord may require a tenant to pay to the landlord a utility or service charge that has been billed by a utility or service provider to the landlord for utility or service provided directly to the tenant's dwelling unit or to a common area available to the tenant as part of the tenancy. A utility or service charge that is assessed to a tenant for a common area must be described in the written rental agreement separately and distinctly from such a charge for the tenant's dwelling unit. A landlord may not increase the utility or service charge to the tenant by adding any costs of the landlord, such as a handling or administrative charge, other than those costs billed to the landlord by the provider for utilities or services as provided by this subsection.]

[(b) A utility or service charge is not rent or a fee. Nonpayment of a utility or service charge is not grounds for termination of a rental agreement for nonpayment of rent under section 8, chapter 391, Oregon Laws 2005 (Enrolled House Bill 2524), but is grounds for termination of a rental agreement for cause pursuant to ORS 90.630.]

[(c) As used in this subsection, "utility or service" has the meaning given that term in ORS 90.315 (1).]

[(9)] (8) Intentional and deliberate failure of the landlord to comply with subsections (1) to (3) of this section is cause for suit or action to remedy the violation or to recover actual damages. The prevailing party is entitled to reasonable attorney fees and court costs.

[(10)] (9) A receipt signed by the potential tenant or tenants for documents required to be delivered by the landlord pursuant to subsections (1) to (3) of this section is a defense for the landlord in an action against the landlord for nondelivery of the documents.

[(11)] (10) A suit or action arising under subsection **[(9)] (8)** of this section must be commenced within one year after the discovery or identification of the alleged violation.

[(12)] (11) Every landlord who publishes a directory of tenants and tenant services must include a one-page summary regarding any tenants' association. The tenants' association shall provide the summary to the landlord.

SECTION 20. ORS 90.630 is amended to read:

90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a rental agreement that is a month-to-month or fixed term tenancy 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 related to the tenant's conduct as a tenant, including but not limited to a material noncompliance with ORS 90.740;

(b) Violates a rule or rental agreement provision related to the tenant's conduct as a tenant and imposed as a condition of occupancy, including but not limited to a material noncompliance with a rental agreement regarding a program of recovery in drug and alcohol free housing; or

(c) Fails to pay a:

(A) Late charge pursuant to ORS 90.260;

(B) Fee pursuant to ORS 90.302; or

(C) Utility or service charge pursuant to [ORS 90.510 (8)] **section 7 or 8 of this 2005 Act.**

(2) A violation making a tenant subject to termination under subsection (1) of this section includes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or rule, but does not include the physical condition of the dwelling or home. Termination of a rental agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS 90.632.

(3) 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 **and state that the tenant may avoid termination by correcting the violation as provided in subsection (4) of this section.**

(4) 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 after the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice specifying the violation and the date of termination of the tenancy.

(5) The landlord of a facility may terminate a rental agreement that is a month-to-month or fixed term tenancy 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.

(6) The landlord may:

(a) Provide greater financial incentive to encourage the tenant to accept an earlier termination date than that provided in subsection (5) of this section; or

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

(7) The Housing and Community Services Department shall adopt rules to implement the provisions of subsection (5) of this section.

(8)(a) A landlord may 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.

(9) This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent pursuant to ORS 90.400 (2) or for other cause pursuant to ORS 90.380 (5)(b), 90.400 (3) or (9) or 90.632 by complying with ORS 105.105 to 105.168.

(10) A tenancy shall terminate on the date designated in the notice and without regard to the expiration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

(11) Nothing in subsection (5) 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.

(12)(a) Notwithstanding any other provision of this section or ORS 90.400, the landlord may terminate the rental agreement for space for a manufactured dwelling or floating home because of repeated late payment of rent by giving the tenant not less than 30 days' notice in writing before the date designated in that notice for termination and may take possession in the manner provided in ORS 105.105 to 105.168 if:

(A) The tenant has not paid the monthly rent prior to the eighth day of the rental period as described in ORS 90.400 (2)(b)(A) or the fifth day of the rental period as described in ORS 90.400 (2)(b)(B) in at least three of the preceding 12 months and the landlord has given the tenant a notice for nonpayment of rent pursuant to ORS 90.400 (2)(b) during each of those three instances of nonpayment;

(B) The landlord warns the tenant of the risk of a 30-day notice for termination with no right to correct the cause, upon the occurrence of a third notice for nonpayment of rent within a 12-month period. The warning must be contained in at least two notices for nonpayment of rent that precede the third notice within a 12-month period or in separate written notices that are given concurrent with, or a reasonable time after, each of the two notices for nonpayment of rent; and

(C) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for termination of the tenancy and is given to the tenant concurrent with or after the third or a subsequent notice for nonpayment of rent.

(b) Notwithstanding subsection (2) of this section, a tenant who receives a 30-day notice of termination pursuant to this subsection shall have no right to correct the cause for the notice.

(c) The landlord may give a copy of the notice required by paragraph (a) of this subsection to any lienholder of the manufactured dwelling or floating home by first class mail with certificate of mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice in good faith to a lienholder. A lienholder's rights and obligations regarding an abandoned manufactured dwelling or floating home shall be as provided under ORS 90.675.

SECTION 21. ORS 90.675 is amended to read:

90.675. (1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for personal property by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Lienholder" means any lienholder of abandoned personal property, if the lien is of record or the lienholder is actually known to the landlord.

(d) "Of record" means:

(A) For a manufactured dwelling, that a security interest has been properly recorded with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and 803.097 for a dwelling registered and titled by the department pursuant to ORS 820.500.

(B) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(e) "Personal property" means only a manufactured dwelling or floating home located in a facility and subject to ORS 90.505 to 90.840. "Personal property" does not include goods left inside a manufactured dwelling or floating home or left upon a rented space and subject to disposition under ORS 90.425.

(2) A landlord may not store, sell or dispose of abandoned personal property except as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders in any personal property abandoned or left upon the premises by the tenant or any lienholder in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal 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 receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

(3) Prior to selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that shall be:

(a) Personally delivered to the tenant; or

(b) Sent by first class mail addressed and mailed to the tenant at:

(A) The premises;

(B) Any post-office box held by the tenant and actually known to the landlord; and

(C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) A landlord shall also give a copy of the notice described in subsection (3) of this section to:

(A) Any lienholder of the personal property;

(B) The tax collector of the county where the personal property is located; and

(C) The assessor of the county where the personal property is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service shall be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

(A) Actually known to the landlord;

(B) Of record; and

(C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section shall state that:

(a) The personal property left upon the premises is considered abandoned;

(b) The tenant or any lienholder must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;

(c) The personal property is stored on the rented space;

(d) The tenant or any lienholder, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;

(e) The landlord shall make the personal property available for removal by the tenant or any lienholder, except as provided by subsection (18) of this section, by appointment at reasonable times;

(f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of storage charges, as provided by subsection (7)(b) of this section, prior to releasing the personal property to the tenant or any lienholder;

(g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;

(h) If the tenant or any lienholder fails to contact the landlord by the specified date or fails to remove the personal property within 30 days after that contact, the landlord may sell or dispose of the personal property. If the landlord reasonably believes the county assessor will determine that the current market value of the personal property is \$8,000 or less, and the landlord intends to dispose of the property if it is not claimed, the notice shall state that belief and intent; and

(i) If applicable, there is a lienholder that has a right to claim the personal property, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant or lienholder must contact a landlord to arrange for the disposition of abandoned personal property shall be not less than 45 days after personal delivery or mailing of the notice.

(7) After notifying the tenant as required by subsection (3) of this section, the landlord:

(a) Shall store the abandoned personal property of the tenant on the rented space and shall exercise reasonable care for the personal property; and

(b) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal. The storage charge shall be no greater than the monthly space rent last payable by the tenant.

(8) If a tenant or lienholder, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant or lienholder intends to remove the personal property from the premises, the landlord must make that personal property available for removal by the tenant or lienholder by appointment at reasonable times during the 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of storage charges, as provided in subsection (7)(b) of this section, prior to allowing the tenant or lienholder to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.415.

(9) Except as provided in subsections (18) to (20) of this section, if the tenant or lienholder does not respond within the time provided by the landlord's notice, or the tenant or lienholder does not remove the personal property within 30 days after responding to the landlord or by any date agreed to with the landlord, whichever is later, the personal property is conclusively presumed to be abandoned. The tenant and any lienholder that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.

(10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:

(a) Sell the personal property at a public or private sale, provided that prior to the sale:

(A) The landlord may seek to transfer the certificate of title and registration to the personal property by complying with the requirements of the appropriate state agency; and

(B) The landlord shall:

(i) Place a notice in a newspaper of general circulation in the county in which the personal property is located. The notice shall state:

(I) That the personal property is abandoned;

- (II) The tenant's name;
 - (III) The address and any space number where the personal property is located, and if actually known to the landlord, the plate, registration or other identification number as noted on the title;
 - (IV) Whether the sale is by private bidding or public auction;
 - (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and
 - (VI) The name and telephone number of the person to contact to inspect the personal property;
- (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-subparagraph (i) of this subparagraph to the tenant and to any lienholder, by personal delivery or first class mail, except that for any lienholder, mail service shall be by first class mail with certificate of mailing;
 - (iii) Obtain an affidavit of publication from the newspaper to show that the notice required under sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and
 - (iv) Obtain written proof from the county that all property taxes on the personal property have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section; or
- (b) Destroy or otherwise dispose of the personal property if the landlord determines from the county assessor that the current market value of the property is \$8,000 or less.
- (11)(a) A public or private sale authorized by this section shall be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable.
 - (b) If there is no buyer at a sale described under paragraph (a) of this subsection, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.
- (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of personal property, the landlord is not liable for the condition of the personal property to:
 - (a) A buyer of the personal property at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or
 - (b) A person or nonprofit organization to whom the landlord gives the personal property pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.
 - (13)(a) The landlord may deduct from the proceeds of the sale:
 - (A) The reasonable or actual 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 the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes owed on the dwelling or home.
 - (c) After deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the personal property.
 - (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if applicable, the landlord shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting.
 - (e) 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.
- (14) The county tax collector shall cancel all unpaid property taxes as provided under ORS 311.790 only under circumstances described in paragraph (a), (b), (c) or (d) of this subsection:
 - (a) The landlord disposes of the personal property after a determination described in subsection (10)(b) of this section.

(b) There is no buyer of the personal property at a sale described under subsection (11) of this section.

(c)(A) There is a buyer of the personal property at a sale described under subsection (11) of this section;

(B) The current market value of the personal property is \$8,000 or less; and

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this section.

(d)(A) The landlord buys the personal property at a sale described under subsection (11) of this section;

(B) The current market value of the personal property is more than \$8,000;

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this section; and

(D) The landlord disposes of the personal property.

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

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

(17) If a landlord does not comply with this section:

(a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;

(b) A lienholder aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the lienholder. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and

(c) A county tax collector aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the tax collector, if the noncompliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.

(18) The provisions of this section regarding the rights and responsibilities of a tenant to the abandoned personal property shall also apply to any lienholder, except that the lienholder may not sell or remove the dwelling or home unless:

(a) The lienholder has foreclosed its lien on the manufactured dwelling or floating home;

(b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (22) of this section; or

(c) The notice and response periods provided by subsections (6) and (8) of this section have expired.

(19)(a) Except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the personal property may not be sold or disposed of by the landlord for up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.

(b) The lienholder's right to a storage agreement arises upon the failure of the tenant or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.

(c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder

must enter into the proposed storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(b) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a utility or service charge, as described in [ORS 90.510 (8)] **section 6 of this 2005 Act**, if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges imposed on facility tenants;

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement that the landlord currently provides to tenants as required by ORS 90.510 (4); and

(D) The lienholder repair any defects in the physical condition of the personal property that existed prior to the lienholder entering into the storage agreement, if the defects and necessary repairs are reasonably described in the storage agreement and, for homes that were first placed on the space within the previous 24 months, the repairs are reasonably consistent with facility standards in effect at the time of placement. The lienholder shall have 90 days after entering into the storage agreement to make the repairs. Failure to make the repairs within the allotted time constitutes a violation of the storage agreement and the landlord may terminate the agreement by giving at least 14 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(e) Notwithstanding subsection (7)(b) of this section, a landlord may increase the storage charge if the increase is part of a facility-wide rent increase for all facility tenants, the increase is no greater than the increase for other tenants and the landlord gives the lienholder written notice consistent with the requirements of ORS 90.600 (1).

(f) During the term of an agreement described under this subsection, the lienholder shall have the right to remove or sell the property, subject to the provisions of its lien. Selling the property includes a sale to a purchaser who wishes to leave the property on the rented space and become a tenant, subject to the provisions of ORS 90.680. The landlord may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(g)(A) Except as provided in paragraph (d)(D) of this subsection, if the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder

corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the facility if the lienholder has paid all storage charges and other charges as provided in the agreement.

(h) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the property, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property is considered abandoned as a result of the death of a tenant who was the only tenant, this section applies, except as follows:

(a) The provisions of this section regarding the rights and responsibilities of a tenant to the abandoned personal property shall apply to any personal representative named in a will or appointed by a court to act for the deceased tenant or any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

(b) The notice required by subsection (3) of this section shall be:

(A) Sent by first class mail to the deceased tenant at the premises; and

(B) Personally delivered or sent by first class mail to any personal representative or designated person if actually known to the landlord.

(c) The notice described in subsection (5) of this section shall refer to any personal representative or designated person, instead of the deceased tenant, and shall incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the personal property may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c) to (e) and (g)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person shall have the right to remove or sell the property, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the property on the rented space and become a tenant, subject to the provisions of ORS 90.680. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the property upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the property, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If a governmental agency determines that the condition of personal property abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the facility and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, personal representative or designated person must contact a landlord to arrange for the disposition of the property shall be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, personal representative or designated person must remove the property shall be not less than seven days after the tenant, lienholder, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section shall be as provided in subsection (5) of this section, except that:

(A) The dates and deadlines in the notice for contacting the landlord and removing the property shall be consistent with this subsection;

(B) The notice shall state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and

(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder or a personal representative or designated person does not remove the property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, personal representative or designated person pursuant to subsection (19) of this section.

(22)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with the provisions of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) of this section; and

(C) Any lienholder.

(b) A landlord may not, as part of a rental agreement, as a condition to approving a sale of property on rented space under ORS 90.680 or in any other manner, require a tenant, a personal representative, a designated person or any lienholder to waive any right provided by this section.

(23) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

SECTION 22. ORS 90.675, as amended by section 58, chapter 655, Oregon Laws 2003, is amended to read:

90.675. (1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for personal property by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Lienholder" means any lienholder of abandoned personal property, if the lien is of record or the lienholder is actually known to the landlord.

(d) "Of record" means:

(A) For a manufactured dwelling, that a security interest has been properly recorded in the records of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation prior to July 1, 2004.

(B) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(e) "Personal property" means only a manufactured dwelling or floating home located in a facility and subject to ORS 90.505 to 90.840. "Personal property" does not include goods left inside a manufactured dwelling or floating home or left upon a rented space and subject to disposition under ORS 90.425.

(2) A landlord may not store, sell or dispose of abandoned personal property except as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders in any personal property abandoned or left upon the premises by the tenant or any lienholder in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal 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 receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

(3) Prior to selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that must be:

(a) Personally delivered to the tenant; or

(b) Sent by first class mail addressed and mailed to the tenant at:

(A) The premises;

(B) Any post-office box held by the tenant and actually known to the landlord; and

(C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) A landlord shall also give a copy of the notice described in subsection (3) of this section to:

(A) Any lienholder of the personal property;

(B) The tax collector of the county where the personal property is located; and

(C) The assessor of the county where the personal property is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service must be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

(A) Actually known to the landlord;

(B) Of record; and

(C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section must state that:

(a) The personal property left upon the premises is considered abandoned;

(b) The tenant or any lienholder must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;

(c) The personal property is stored on the rented space;

(d) The tenant or any lienholder, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;

(e) The landlord shall make the personal property available for removal by the tenant or any lienholder, except as provided by subsection (18) of this section, by appointment at reasonable times;

(f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of storage charges, as provided by subsection (7)(b) of this section, prior to releasing the personal property to the tenant or any lienholder;

(g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;

(h) If the tenant or any lienholder fails to contact the landlord by the specified date or fails to remove the personal property within 30 days after that contact, the landlord may sell or dispose of the personal property. If the landlord reasonably believes the county assessor will determine that the current market value of the personal property is \$8,000 or less, and the landlord intends to dispose of the property if the property is not claimed, the notice shall state that belief and intent; and

(i) If applicable, there is a lienholder that has a right to claim the personal property, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant or lienholder must contact a landlord to arrange for the disposition of abandoned personal property must be not less than 45 days after personal delivery or mailing of the notice.

(7) After notifying the tenant as required by subsection (3) of this section, the landlord:

(a) Shall store the abandoned personal property of the tenant on the rented space and shall exercise reasonable care for the personal property; and

(b) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal. The storage charge may be no greater than the monthly space rent last payable by the tenant.

(8) If a tenant or lienholder, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant or lienholder intends to remove the personal property from the premises, the landlord must make that personal property available for removal by the tenant or lienholder by appointment at reasonable times during the 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of storage charges, as provided in subsection (7)(b) of this section, prior to allowing the tenant or lienholder to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.415.

(9) Except as provided in subsections (18) to (20) of this section, if the tenant or lienholder does not respond within the time provided by the landlord's notice, or the tenant or lienholder does not remove the personal property within 30 days after responding to the landlord or by any date agreed to with the landlord, whichever is later, the personal property is conclusively presumed to be abandoned. The tenant and any lienholder that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.

(10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:

(a) Sell the personal property at a public or private sale, provided that prior to the sale:

(A) The landlord may seek to transfer ownership of record of the personal property by complying with the requirements of the appropriate state agency; and

(B) The landlord shall:

(i) Place a notice in a newspaper of general circulation in the county in which the personal property is located. The notice shall state:

(I) That the personal property is abandoned;

(II) The tenant's name;

(III) The address and any space number where the personal property is located, and any plate, registration or other identification number for a floating home noted on the title, if actually known to the landlord;

(IV) Whether the sale is by private bidding or public auction;

(V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and

(VI) The name and telephone number of the person to contact to inspect the personal property;

(ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-subparagraph (i) of this subparagraph to the tenant and to any lienholder, by personal delivery or first class mail, except that for any lienholder, mail service must be by first class mail with certificate of mailing;

(iii) Obtain an affidavit of publication from the newspaper to show that the notice required under sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and

(iv) Obtain written proof from the county that all property taxes and assessments on the personal property have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section; or

(b) Destroy or otherwise dispose of the personal property if the landlord determines from the county assessor that the current market value of the property is \$8,000 or less.

(11)(a) A public or private sale authorized by this section must be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable.

(b) If there is no buyer at a sale described under paragraph (a) of this subsection, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.

(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of personal property, the landlord is not liable for the condition of the personal property to:

(a) A buyer of the personal property at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or

(b) A person or nonprofit organization to whom the landlord gives the personal property pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.

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

(A) The reasonable or actual 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 the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes and assessments owed on the dwelling or home.

(c) After deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the personal property.

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

(e) If the tenant cannot after due diligence be found, the landlord shall deposit the remaining proceeds with the county treasurer of the county in which the sale occurred. If not claimed within

three years, the deposited proceeds revert to the general fund of the county and are available for general purposes.

(14) The county tax collector shall cancel all unpaid property taxes and assessments as provided under ORS 311.790 only under one of the following circumstances:

(a) The landlord disposes of the personal property after a determination described in subsection (10)(b) of this section.

(b) There is no buyer of the personal property at a sale described under subsection (11) of this section.

(c)(A) There is a buyer of the personal property at a sale described under subsection (11) of this section;

(B) The current market value of the personal property is \$8,000 or less; and

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this section.

(d)(A) The landlord buys the personal property at a sale described under subsection (11) of this section;

(B) The current market value of the personal property is more than \$8,000;

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this section; and

(D) The landlord disposes of the personal property.

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

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

(17) If a landlord does not comply with this section:

(a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;

(b) A lienholder aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the lienholder. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and

(c) A county tax collector aggrieved by the noncompliance may recover from the landlord the actual damages sustained by the tax collector, if the noncompliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.

(18) The provisions of this section regarding the rights and responsibilities of a tenant to the abandoned personal property also apply to any lienholder, except that the lienholder may not sell or remove the dwelling or home unless:

(a) The lienholder has foreclosed the lien on the manufactured dwelling or floating home;

(b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (22) of this section; or

(c) The notice and response periods provided by subsections (6) and (8) of this section have expired.

(19)(a) Except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the personal property may not be sold or disposed of by the landlord for

up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.

(b) The lienholder's right to a storage agreement arises upon the failure of the tenant or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.

(c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder must enter into the proposed storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(b) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a utility or service charge, as described in [ORS 90.510 (8)] **section 6 of this 2005 Act**, if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges imposed on facility tenants;

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement that the landlord currently provides to tenants as required by ORS 90.510 (4); and

(D) The lienholder repair any defects in the physical condition of the personal property that existed prior to the lienholder entering into the storage agreement, if the defects and necessary repairs are reasonably described in the storage agreement and, for homes that were first placed on the space within the previous 24 months, the repairs are reasonably consistent with facility standards in effect at the time of placement. The lienholder shall have 90 days after entering into the storage agreement to make the repairs. Failure to make the repairs within the allotted time constitutes a violation of the storage agreement and the landlord may terminate the agreement by giving at least 14 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(e) Notwithstanding subsection (7)(b) of this section, a landlord may increase the storage charge if the increase is part of a facility-wide rent increase for all facility tenants, the increase is no greater than the increase for other tenants and the landlord gives the lienholder written notice consistent with the requirements of ORS 90.600 (1).

(f) During the term of an agreement described under this subsection, the lienholder has the right to remove or sell the property, subject to the provisions of the lien. Selling the property includes a sale to a purchaser who wishes to leave the property on the rented space and become a tenant, subject to the provisions of ORS 90.680. The landlord may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(g)(A) Except as provided in paragraph (d)(D) of this subsection, if the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termi-

nation. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the facility if the lienholder has paid all storage charges and other charges as provided in the agreement.

(h) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the property, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property is considered abandoned as a result of the death of a tenant who was the only tenant, this section applies, except as follows:

(a) The provisions of this section regarding the rights and responsibilities of a tenant to the abandoned personal property shall apply to any personal representative named in a will or appointed by a court to act for the deceased tenant or any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises; and

(B) Personally delivered or sent by first class mail to any personal representative or designated person if actually known to the landlord.

(c) The notice described in subsection (5) of this section must refer to any personal representative or designated person, instead of the deceased tenant, and must incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the personal property may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c) to (e) and (g)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person has the right to remove or sell the property, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the property on the rented space and become a tenant, subject to the provisions of ORS 90.680. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the property upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the rep-

representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the property, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If a governmental agency determines that the condition of personal property abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the facility and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, personal representative or designated person must contact a landlord to arrange for the disposition of the property must be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, personal representative or designated person must remove the property must be not less than seven days after the tenant, lienholder, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section must be as provided in subsection (5) of this section, except that:

(A) The dates and deadlines in the notice for contacting the landlord and removing the property must be consistent with this subsection;

(B) The notice must state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and

(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder or a personal representative or designated person does not remove the property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, personal representative or designated person pursuant to subsection (19) of this section.

(22)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with the provisions of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) of this section; and

(C) Any lienholder.

(b) A landlord may not, as part of a rental agreement, as a condition to approving a sale of property on rented space under ORS 90.680 or in any other manner, require a tenant, a personal representative, a designated person or any lienholder to waive any right provided by this section.

(23) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

SECTION 23. ORS 90.725 is amended to read:

90.725. (1) A landlord or a landlord's agent may enter onto a rented space, not including the tenant's manufactured dwelling or floating home or an accessory building or structure, in order to inspect the space, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, perform agreed yard maintenance, equipment servicing or grounds

keeping or exhibit the space to prospective or actual purchasers of the facility, mortgagees, tenants, workers or contractors. The right of access of the landlord or landlord's agent is limited as follows:

(a) A landlord or landlord's agent may enter upon the rented space without consent of the tenant and without notice to the tenant for the purpose of serving notices required or permitted under this chapter, the rental agreement or any provision of applicable law.

(b) In case of an emergency, a landlord or landlord's agent may enter the rented space without consent of the tenant, without notice to the tenant and at any time. "Emergency" includes but is not limited to a repair problem that, unless remedied immediately, is likely to cause serious damage to the premises. If a landlord or landlord's agent makes an emergency entry in the tenant's absence, the landlord shall give the tenant actual notice within 24 hours after the entry, and the notice shall include the fact of the entry, the date and time of the entry, the nature of the emergency and the names of the persons who entered.

(c) If the tenant requests repairs or maintenance in writing, the landlord or landlord's agent, without further notice, may enter upon demand, in the tenant's absence or without consent of the tenant, for the purpose of making the requested repairs until the repairs are completed. The tenant's written request may specify allowable times. Otherwise, the entry must be at a reasonable time. The authorization to enter provided by the tenant's written request expires after seven days, unless the repairs are in progress and the landlord or landlord's agent is making a reasonable effort to complete the repairs in a timely manner. If the person entering to do the repairs is not the landlord, upon request of the tenant, the person must show the tenant written evidence from the landlord authorizing that person to act for the landlord in making the repairs.

(d)(A) If a written agreement requires the landlord to perform yard maintenance, equipment servicing or grounds keeping for the space:

(i) A landlord and tenant may agree that the landlord or landlord's agent may enter for that purpose upon the space, without notice to the tenant, at reasonable times and with reasonable frequency. The terms of the right of entry must be described in the rental agreement or in a separate written agreement.

(ii) A tenant may deny consent for a landlord or landlord's agent to enter upon the space pursuant to this paragraph if the entry is at an unreasonable time or with unreasonable frequency. The tenant must assert the denial by giving actual notice of the denial to the landlord or landlord's agent prior to, or at the time of, the attempted entry.

(B) As used in this paragraph:

(i) "Yard maintenance, equipment servicing or grounds keeping" includes, but is not limited to, servicing individual septic tank systems or water pumps, weeding, mowing grass and pruning trees and shrubs.

(ii) "Unreasonable time" refers to a time of day, day of the week or particular time that conflicts with the tenant's reasonable and specific plans to use the space.

(e) In all other cases, unless there is an agreement between the landlord and the tenant to the contrary regarding a specific entry, the landlord shall give the tenant at least 24 hours' actual notice of the intent of the landlord to enter and the landlord or landlord's agent may enter only at reasonable times. The landlord or landlord's agent may not enter if the tenant, after receiving the landlord's notice, denies consent to enter. The tenant must assert this denial of consent by giving actual notice of the denial to the landlord or the landlord's agent prior to, or at the time of, the attempt by the landlord or landlord's agent to enter.

(2) A landlord shall not abuse the right of access or use it to harass the tenant. A tenant shall not unreasonably withhold consent from the landlord to enter.

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

(a) Pursuant to court order;

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

(c) As permitted under section 10 of this 2005 Act; or

[c] **(d)** When the tenant has abandoned or relinquished the premises.

(4) If a landlord is required by a governmental agency to enter a rented space, but the landlord fails to gain entry after a good faith effort in compliance with this section, the landlord shall not be found in violation of any state statute or local ordinance due to the failure.

(5) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or may terminate the rental agreement pursuant to ORS 90.630 (1) and take possession in the manner provided in ORS 105.105 to 105.168. In addition, the landlord may recover actual damages.

(6) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but that have 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 pursuant to ORS 90.620 (1). In addition, the tenant may recover actual damages not less than an amount equal to one month's rent.

SECTION 24. ORS 446.515 is amended to read:

446.515. (1) It is the policy of the State of Oregon:

(a) To encourage mobile home and manufactured dwelling park residents and mobile home and manufactured dwelling park owners and managers to settle disputes among themselves without recourse, if possible, to either the court system or intervention by a state agency. [*It is the policy of the State of Oregon*]

(b) To assist mobile home and manufactured dwelling park residents and mobile home and manufactured dwelling park owners and managers to develop alternative dispute resolution techniques including, but not limited to, providing technical advice in the area of mediation.

(c) **To educate mobile home and manufactured dwelling park residents, owners and managers about issues and laws that affect mobile home and manufactured dwelling park tenancies for the purpose of assisting those persons in resolving disputes.**

(2) The Legislative Assembly recognizes that a significant percentage of its citizens are mobile home and manufactured dwelling park residents, owners or managers and that a proposal which reduces the necessity of court resolution of certain disputes between these residents, owners and managers may help these citizens avoid the expense of going to court.

(3) All citizens of this state benefit when the courts are reserved for the resolution of the types of disputes for which no alternative dispute resolution exists.

SECTION 25. (1) The Housing and Community Services Department may not assess a civil penalty under section 4 of this 2005 Act for a violation of section 2 of this 2005 Act that occurs before 30 days after the effective date of this 2005 Act.

(2) The Housing and Community Services Department may not impose a civil penalty under section 4 of this 2005 Act for a violation of section 3 of this 2005 Act that occurs before the completion date of the first continuing education class offered under section 3 of this 2005 Act.

(3) Section 14 of this 2005 Act applies to tenancies that commence on or after the effective date of this 2005 Act.

SECTION 26. Sections 2 to 4 of this 2005 Act are repealed January 2, 2012.

Passed by House June 23, 2005

Repassed by House July 10, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate July 6, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State