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**Testimony in Support of HB 4001 and HB 4143
Before the House Human Services and Housing Committee
February 1st, 2016
Submitted by: Sybil Hebb**

Chair Keny-Guyer, Vice-Chairs Piluso and Stark, and Members of the Committee,

On behalf of the Oregon Law Center (OLC), thank you for the opportunity to submit testimony this afternoon in support of House Bills 4001 and 4143, which would provide important protections for tenants living in rental properties.

OLC's mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. The vast majority of our clients have incomes at or below the federal poverty level, and struggle to provide the basic necessities for themselves and their families. One of the most important issues in the lives of our clients is the challenge to find and maintain safe, stable, affordable housing. Housing is a basic human need. Housing is about much more than a roof over one's head; it is about opportunity, stability, and health. Without stable housing, it is difficult or impossible for families to hold down a job, keep children in school, access neighborhood amenities, and stay healthy.

We appreciate this legislature's consideration of ways to provide and encourage the construction and preservation of more affordable housing stock, and the dedication of important state dollars for emergency shelter assistance. These are critical, big picture steps that we support. However, these solutions do not address the crisis immediately threatening the approximately 40% of Oregon households who are renters. We must pass reasonable and modest provisions found in HB 4143 and HB 4001 to protect the stability of renters.

The evidence is clear that we are facing a statewide housing stability crisis for renters in Oregon. For multiple years in a row, Oregon has led the nation in numbers of people moving into the state. This comes on the heels of several years of reduced construction starts as a result of the recession and the foreclosure crisis. As a result, we now have some of the lowest rental vacancy rates in the nation. This is a crisis across the state. Portland recently had a vacancy rate of under 3%, but it's as bad or worse in many rural areas. The Southern Oregon Rental Owners Association November 2015 newsletter reports vacancy rates below 3 percent in Southern Oregon. The vacancy rate is still hovering around 1% in Bend, and a December 2015 Oregonian article reports vacancy rates of under 1% on the Coast. We have reached a tipping point in this state, and the market is upside down.

In this upside-down market, good landlords have been and remain an important part of our communities. However, the market conditions are so fierce as to make Tenants vulnerable to abuse by bad actors. And notice times that used to make sense in a normal market no longer provide tenants

enough time to adjust or find new housing before the expiration of the notice. Homelessness is a real risk for tenants in these situations. While the risks and burdens of this crisis rest most heavily on the shoulders of low-income families, it is not only they who are at risk. We also hear stories of middle income, working Oregonians living in their cars, seeking services from shelters, or desperately afraid of eviction. The risk of homelessness for all of these families has untold negative consequences for the health, education, safety, and stability of our communities.

I'd like to speak specifically to three key concepts in these bills. But first, let me clarify some confusion at the outset:

- This bill extends no-cause notices to 90 days. It does not eliminate no-cause notices.
- This bill will require 90 days' notice of rent increases, and a protected period after initial move-in. It will not limit rent amounts or rent increase amounts.
- This bill will impact tenants with month-to-month tenancies. It does not affect tenants who have leases.

No-Cause Notice Period Extension

Under current law, a Landlord may give a month-to-month tenant a termination notice without cause - for no reason or for any reason, so long as the reason is not discriminatory or retaliatory. Current law requires a 60-day notice for tenants of more than a year, and a 30-day notice for shorter term Tenants. A Tenant has few defenses to a no-cause notice; the tenant must move, or risk eviction and a negative court record. In today's market, it is often impossible to find a new home within the allotted notice time. Eviction has lasting impact on families and is a cause of poverty, homelessness, and school and job instability. Renting families should not have to worry about suddenly losing their home and stability due to an eviction without cause.

The proposal to add 30 days to the no-cause notice period for Tenants who've been in the home for more than a year, merely extends the amount of time to allow Tenants to find a new place without risk of homelessness. It's the decent thing to do. An additional 30 days' notice will not solve all problems of the market, but at least will help to prevent sudden homelessness and the impact of such on our families, children, seniors, schools, and communities.

Under this proposal, Landlords will still be able to manage their properties effectively. The bill will not alter in any way the Landlord's ability to evict bad tenants for cause. There is a long list, in ORS 90.392, of ways for Landlords to evict Tenants for cause if they think that 90 days is too long to wait before a termination. All of these for-cause termination notices have expedited notice periods - common notice terms for cause are 24 hours, 72 hours, and 10 days. The use of for-cause notices is a better public policy than no-cause notices:

- For-cause notices are fair. They allow a Tenant to know and understand any allegations, and have a chance to defend them. Without that chance, Landlords have absolute power to remove a Tenant from their home at short notice, with no opportunity to present their side of the story and creating a very real risk of homelessness. Where else in Oregon's laws do we allow people to be so significantly harmed without knowing the charges against them?
- For-cause notices are no more expensive for landlords than no-cause notices unless they are followed by a contested court case. It is rare that termination notices are contested in court - the vast majority of notices go by default. The defense of notices in court ought to be the cost of doing business, and of ensuring fairness in a process that has an impact on one of the most critical aspects of anyone's life: their home. Without fairness, the cost that our communities bear is that 40% of Oregon households can have the rug pulled out from under them for no reason and with little notice.

- It is better for Tenants to know and understand any allegations against them. There is no downside to a Tenant in getting a for-cause notice instead of a no-cause notice. Termination notices of any kind do not go on the Tenant's record. And any termination notice that goes to court, if the Tenant loses, goes on the Tenant's record and can be used against the Tenant.

Protection Against Sudden Rent Increases

Current law requires a Landlord to provide only a 30 day notice of any rent increase, in a month-to-month tenancy. There is no limit on the amount of any increase, and no limit on how soon an increase can be imposed after move-in. Our offices across the state hear stories of increases right after move-in, of significant increases, and of multiple increases in a short period of time. Rent burdens across Oregon are already high, and getting higher. Those on fixed or lower incomes are virtually unable to make up a rent increase with only 30 days' notice. Families are forced to go without medication or other necessities as they sacrifice to try to avoid sudden eviction for non-payment of rent. Often this is a losing battle, with resulting bad credit and a subsequently harder time finding new housing stability.

Increasing the amount of notice from 30 days to 90 days is common sense - this does not alter in any way the Landlord's ability to set the rent amount, but allows the Tenant time to plan, adjust, or move without having to risk bad credit or eviction. Manufactured Home Park Landlords have been required to give 90 days' notice of a rent increase for approximately 30 years. It is time for apartment tenants to have the same protection.

Prohibiting rent increases within the first year after a move-in is another common sense protection. We often hear stories of Tenants saving up moving costs, negotiating a rent amount, and moving into a home, only to get a rent increase a few months later. The most recent story we have heard is of student, who got a rent increase right after moving in and classes has started. The vacancy rate is so low during the surrounding community during the school year, that students in this situation have difficulty finding other options. The law ought to prevent such a bait and switch.

Improved Protection From Retaliation

Retaliation by Landlords against Tenants who request repairs is one of the biggest sources of complaints our offices receive across the state. In this market, we have seen increasing concerns. Retaliation is prohibited under current law, and no good Landlord would ever retaliate against a Tenant for making a reasonable repair request. But in this market, Tenants are at great risk of abuse without hope of protection. There is no state or agency enforcement of our Landlord-Tenant laws. There is no required licensing of landlords, no mandatory education required of landlords, no government oversight. The Tenant's ability to assert vital and protected rights (to organize with other tenants, to request repairs, to report health and safety violations of code) is the only way for us to ensure that Oregon's renters are protected. This depends entirely upon a Tenant's ability to bring forward a complaint, go to court, and prevail. These cases are difficult to win, even for Tenants represented by attorneys. You will hear testimony today about vulnerable tenants who were retaliated against with a no-cause notice for asking for repairs. Tenants in today's market, especially but not only low-income tenants, simply can't afford to take the risk of standing up to protect themselves.

We need strong retaliation statutory protection to ensure that T's have a hope of bringing their claims forward. Restoration of the statutory presumption would send a strong message to Tenants and to Landlords that retaliation will not be tolerated. The proposed rebuttable presumption would be consistent with the model language developed by the Uniform Law Commission in the Uniform Residential Landlord Tenant Act (URLTA). There are 40 states plus DC with statutes prohibiting retaliation for code complaints; four more have adopted it by common law/court opinions. And 17 states plus DC have adopted some form of the presumption: AZ, CA, CT, DE, IO, KY, MA, MI, MN, MT, NH, NJ, NM, RI, TX, VT, and WA.

Closing

A recent Harvard study found that the sudden loss of a home due to eviction or rent increases is not only a risk associated with poverty, but is a **cause** of poverty.

(http://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf?m=1433277873)

The key concepts discussed above are fair and reasonable, and are critically important to protect the stability of 40% of Oregon households at risk. While passage of these proposals will not solve all of Oregon's affordable housing needs, they are a critically important step in mitigating the impact of no-cause notices, sudden rent increases, and retaliation.

For these reasons, we respectfully urge your support. Thank you for the opportunity to testify.