

HOUSE AMENDMENTS TO HOUSE BILL 4125

By COMMITTEE ON ENERGY AND ENVIRONMENT

February 11

1 On page 1 of the printed bill, line 3, after “ORS” insert “90.320,”.

2 On page 2, line 9, after “education” delete the rest of the line and insert “; or”.

3 Delete lines 19 and 20 and insert “water that has contaminant problems or with repair or re-
4 placement of wells because of ground water that has contaminant problems.”.

5 Delete lines 29 through 32 and insert:

6 “(3) The authority shall provide property owners that receive a grant or loan under this section
7 with information necessary to install a treatment system or to repair or replace a well, including
8 information on the efficacy of different treatment systems or well designs and information on busi-
9 nesses that sell treatment systems or that repair or replace wells. In providing information under
10 this section, the authority may post information on a website maintained by the authority and pro-
11 vide notice of the website to property owners that receive a grant or loan under this section.”.

12 On page 3, after line 19, insert:

13 **“SECTION 6. In addition to and not in lieu of any other appropriation, there is appro-
14 priated to the Oregon Health Authority, for the biennium beginning July 1, 2015, out of the
15 General Fund, the amount of \$15,000, for deposit in the Safe Ground Water Fund established
16 in section 5 of this 2016 Act.**

17

“LANDLORD TESTING OF DRINKING WATER

18

19
20 **“SECTION 7. Section 8 of this 2016 Act is added to and made a part of ORS 90.100 to
21 90.465.**

22 **“SECTION 8. (1) For each dwelling rented by a landlord for which a source of drinking
23 water is a well, the landlord shall collect and test samples of drinking water in accordance
24 with this section, for the purpose of having those samples tested in accordance with rules
25 adopted by the Oregon Health Authority.**

26 **“(2)(a) A landlord subject to this section must ensure that each well for which drinking
27 water collected under this section is tested as follows:**

28 **“(A) The drinking water must be tested for arsenic at least once during the life of the
29 well, no later than 30 days after installing the well.**

30 **“(B) Except as provided in paragraphs (b) and (c) of this subsection, the drinking water
31 must be tested for total coliform bacteria and nitrates at least once each year. If the results
32 of a test conducted under this subparagraph confirm that drinking water collected under this
33 section contains:**

34 **“(i) Any amount of total coliform bacteria, the landlord must, as soon as practicable,
35 treat the drinking water and retest the drinking water to confirm that all coliform bacteria**

1 has been removed; or

2 “(ii) An amount of nitrates that exceeds the amount of nitrates that drinking water may
3 safely contain as established by the United States Environmental Protection Agency, the
4 landlord must, as soon as practicable, treat the drinking water and retest the drinking water
5 to confirm that nitrates are at an acceptable level.

6 “(b) If the results of tests conducted under paragraph (a)(B) of this subsection for three
7 consecutive years confirm that drinking water collected under this section does not contain
8 any total coliform bacteria or nitrates, the landlord is not required to collect and test
9 drinking water from that well for the next five years.

10 “(c) If the results of the first test conducted under paragraph (a)(B) of this subsection
11 following a five-year period of a landlord not being required to conduct a test to confirm that
12 drinking water collected under this section does not contain any total coliform bacteria or
13 nitrates, the landlord is not required to collect and test drinking water from that well for
14 the next five years.

15 “(d) A landlord subject to this section must report the results of tests conducted under
16 this subsection to the Oregon Health Authority in a form and manner prescribed by the au-
17 thority.

18 “(3)(a) In accordance with rules adopted by the authority:

19 “(A) Except as provided in paragraph (b) of this subsection, a landlord subject to this
20 section shall collect samples of drinking water from a dwelling’s primary dispenser of
21 drinking water.

22 “(B) A landlord subject to this section may collect supplementary samples of drinking
23 water from a dwelling’s other dispensers of drinking water or from a dwelling’s well head.

24 “(b) A landlord subject to this section may delegate the landlord’s duty to collect samples
25 of drinking water to a tenant if the landlord and the tenant agree to the delegation in writing
26 and the agreement is made in good faith and for adequate consideration.

27 “(4) At the beginning of a tenancy for a dwelling for which a landlord must collect and
28 test drinking water under this section, the landlord must provide to the tenant:

29 “(a) Notice that the dwelling has a well as a source of drinking water;

30 “(b) Notice that the dwelling’s drinking water has been tested for arsenic, total coliform
31 bacteria and nitrates;

32 “(c) The results of the most recent test for arsenic;

33 “(d) The results of the most recent test for total coliform bacteria and nitrates;

34 “(e) The date on which the most recent test for total coliform bacteria and nitrates was
35 conducted; and

36 “(f) The date on which the next test for total coliform bacteria and nitrates will be con-
37 ducted.

38 “(5) Each time a landlord conducts a test under subsection (2)(a)(B), (b) or (c) of this
39 section, no later than 30 days after conducting the test, the landlord must provide the tenant
40 of the dwelling for which the landlord conducted the test with the following information:

41 “(a) If the results of the test confirm that the drinking water does not contain any total
42 coliform bacteria or nitrates, with:

43 “(A) Notice of having conducted the test;

44 “(B) A summary of the test results;

45 “(C) A statement that the tenant may request a copy of the test results; and

1 “(D) The date on which the landlord will next test the drinking water.
2 “(b) If the results of the test confirm that the drinking water contains total coliform
3 bacteria or nitrates, with:
4 “(A) Notice of having conducted the test;
5 “(B) A copy of the test results;
6 “(C) If applicable, the date on which the landlord treated or will treat the drinking water;
7 “(D) The date on which the landlord will next test the drinking water; and
8 “(E) The handout adopted by the authority under subsection (6) of this section.
9 “(6) The authority shall adopt by rule:
10 “(a) A form that a landlord subject to this section shall use to provide information de-
11 scribed in subsection (5)(a) of this section; and
12 “(b) A handout providing information on testing drinking water for contaminants and the
13 impact that drinking water that contains contaminants can have on a person’s health.
14 “(7) This section does not apply to a dwelling that is:
15 “(a) Subject to ORS 90.505 to 90.850; or
16 “(b) Part of a premises subject to regulation under ORS 448.119 to 448.285, 454.235 and
17 454.255, as described in ORS 448.119.
18 “(8) If a landlord fails to conduct a test or disclose test results as required by this sec-
19 tion, the tenant renting the dwelling from the landlord may recover the actual damages of
20 the tenant or \$300, whichever is greater.
21 “(9) For purposes of ORS 90.320 (1)(c)(D), violation of this section makes a dwelling
22 uninhabitable on the basis that the water supply is not maintained in a manner that provides
23 safe drinking water.
24 “SECTION 9. Notwithstanding section 8 (2) of this 2016 Act, if the results of the first test
25 of drinking water for total coliform bacteria and nitrates following the operative date speci-
26 fied in section 13 of this 2016 Act confirm that drinking water collected under section 8 of
27 this 2016 Act does not contain any total coliform bacteria or nitrates, the landlord of the
28 dwelling for which the test is conducted is not required to collect and test the drinking water
29 for that dwelling for the next five years.
30 “SECTION 10. (1) For each dwelling rented by a landlord for which a source of drinking
31 water is a well, the landlord shall collect and test samples of drinking water in accordance
32 with section 8 of this 2016 Act no later than 60 days after the operative date specified in
33 section 13 of this 2016 Act.
34 “(2) For each dwelling rented by a landlord for which a source of drinking water is a well,
35 the landlord shall provide the tenant of the dwelling for which the landlord conducted the
36 test with the information described in section 8 (5) of this 2016 Act no later than 90 days
37 after the operative date specified in section 13 of this 2016 Act.”.
38 In line 23, delete “6” and insert “11”.
39 After line 35, insert:
40 “SECTION 12. ORS 90.320 is amended to read:
41 “90.320. (1) A landlord shall at all times during the tenancy maintain the dwelling unit in a
42 habitable condition. For purposes of this section, a dwelling unit shall be considered uninhabitable if
43 it substantially lacks:
44 “(a) Effective waterproofing and weather protection of roof and exterior walls, including win-
45 dows and doors;

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

3 “(c) A water supply approved under applicable law that is:

4 “(A) Under the control of the tenant or landlord and is capable of producing hot and cold run-
5 ning water;

6 “(B) Furnished to appropriate fixtures;

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

8 “(D) Maintained so as to provide safe drinking water, **including meeting the requirements**
9 **of section 8 of this 2016 Act if the dwelling rented by the landlord has a well as a source of**
10 **drinking water**, and to be in good working order to the extent that the system can be controlled
11 by the landlord;

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

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

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

21 “(g) Except as otherwise provided by local ordinance or by written agreement between the
22 landlord and the tenant, an adequate number of appropriate receptacles for garbage and rubbish in
23 clean condition and good repair at the time of the commencement of the rental agreement, and the
24 landlord shall provide and maintain appropriate serviceable receptacles thereafter and arrange for
25 their removal;

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

27 “(i) Ventilating, air conditioning and other facilities and appliances, including elevators, main-
28 tained in good repair if supplied or required to be supplied by the landlord;

29 “(j) Safety from fire hazards, including a working smoke alarm or smoke detector, with working
30 batteries if solely battery-operated, provided only at the beginning of any new tenancy when the
31 tenant first takes possession of the premises, as provided in ORS 479.270, but not to include the
32 tenant’s testing of the smoke alarm or smoke detector as provided in ORS 90.325 (1);

33 “(k) A carbon monoxide alarm, and the dwelling unit:

34 “(A) Contains a carbon monoxide source; or

35 “(B) Is located within a structure that contains a carbon monoxide source and the dwelling unit
36 is connected to the room in which the carbon monoxide source is located by a door, ductwork or a
37 ventilation shaft; or

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

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

44 “(a) The agreement of the parties is entered into in good faith and not for the purpose of evad-
45 ing the obligations of the landlord;

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

3 “(c) The terms and conditions of the agreement are clearly and fairly disclosed and adequate
4 consideration for the agreement is specifically stated.

5 “(3) Any provisions of this section that reasonably apply only to a structure that is used as a
6 home, residence or sleeping place shall not apply to a manufactured dwelling, recreational vehicle
7 or floating home where the tenant owns the manufactured dwelling, recreational vehicle or floating
8 home, rents the space and, in the case of a dwelling or home, the space is not in a facility. Manu-
9 factured dwelling or floating home tenancies in which the tenant owns the dwelling or home and
10 rents space in a facility shall be governed by ORS 90.730, not by this section.

11
12 **“OPERATIVE DATE**

13
14 **“SECTION 13. (1) Sections 7 to 10 of this 2016 Act and the amendments to ORS 90.320**
15 **by section 12 of this 2016 Act become operative on March 1, 2017.**

16 **“(2) The Oregon Health Authority may take any action before the operative date specified**
17 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**
18 **after the operative date specified in subsection (1) of this section, all the duties, powers and**
19 **functions conferred on the authority by sections 7 to 10 of this 2016 Act and the amendments**
20 **to ORS 90.320 by section 12 of this 2016 Act.”.**

21 In line 39, delete “7” and insert “14”.
22
