

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4143

By COMMITTEE ON RULES

February 19

1 On page 1 of the printed A-engrossed bill, line 2, after “provisions;” delete the rest of the line
2 and line 3 and insert “amending ORS 90.220, 90.302 and 90.460; and declaring an emergency.”.

3 On page 2, delete lines 40 through 45 and delete pages 3 through 5.

4 On page 6, delete lines 1 through 40 and insert:

5 “**SECTION 4.** ORS 90.302 is amended to read:

6 “90.302. (1) A landlord may not charge a fee at the beginning of the tenancy for an anticipated
7 landlord expense and may not require the payment of any fee except as provided in this section. A
8 fee must be described in a written rental agreement.

9 “(2) A landlord may charge a tenant a fee for each occurrence of the following:

10 “(a) A late rent payment, pursuant to ORS 90.260.

11 “(b) A dishonored check, pursuant to ORS 30.701 (5). The amount of the fee may not exceed the
12 amount described in ORS 30.701 (5) plus any amount that a bank has charged the landlord for pro-
13 cessing the dishonored check.

14 “(c) Removal or tampering with a properly functioning smoke alarm, smoke detector or carbon
15 monoxide alarm, as provided in ORS 90.325 (2). The landlord may charge a fee of up to \$250 unless
16 the State Fire Marshal assesses the tenant a civil penalty for the conduct under ORS 479.990 or
17 under ORS 105.836 to 105.842 and 476.725.

18 “(d) The violation of a written pet agreement or of a rule relating to pets in a facility, pursuant
19 to ORS 90.530.

20 “(e) The abandonment or relinquishment of a dwelling unit during a fixed term tenancy without
21 cause. The fee may not exceed one and one-half times the monthly rent. A landlord may not assess
22 a fee under this paragraph if the abandonment or relinquishment is pursuant to ORS 90.453 (2),
23 90.472 or 90.475. If the landlord assesses a fee under this paragraph:

24 “(A) The landlord may not recover unpaid rent for any period of the fixed term tenancy beyond
25 the date that the landlord knew or reasonably should have known of the abandonment or
26 relinquishment;

27 “(B) The landlord may not recover damages related to the cost of renting the dwelling unit to
28 a new tenant; and

29 “(C) ORS 90.410 (3) does not apply to the abandonment or relinquishment.

30 “(3)(a) A landlord may charge a tenant a fee under this subsection for a second noncompliance
31 or for a subsequent noncompliance with written rules or policies that describe the prohibited con-
32 duct and the fee for a second noncompliance, and for any third or subsequent noncompliance, that
33 occurs within one year after a written warning notice described in subparagraph (A) of this para-
34 graph. Except as provided in paragraph [(b)(H)] **(b)(G) or (H)** of this subsection, the fee may not
35 exceed \$50 for the second noncompliance within one year after the warning notice for the same or

1 a similar noncompliance or \$50 plus five percent of the rent payment for the current rental period
2 for a third or subsequent noncompliance within one year after the warning notice for the same or
3 a similar noncompliance. The landlord:

4 “(A) Shall give a tenant a written warning notice that describes:

5 “(i) A specific noncompliance before charging a fee for a second or subsequent noncompliance
6 for the same or similar conduct; and

7 “(ii) The amount of the fee for a second noncompliance, and for any subsequent noncompliance,
8 that occurs within one year after the warning notice.

9 “(B) Shall give a tenant a written notice describing the noncompliance when assessing a fee for
10 a second or subsequent noncompliance that occurs within one year after the warning notice.

11 “(C) Shall give a warning notice for a noncompliance or assess a fee for a second or subsequent
12 noncompliance within 30 days after the act constituting noncompliance.

13 “(D) May terminate a tenancy for a noncompliance consistent with this chapter instead of as-
14 sessing a fee under this subsection, but may not assess a fee and terminate a tenancy for the same
15 noncompliance.

16 “(E) May not deduct a fee assessed pursuant to this subsection from a rent payment for the
17 current or a subsequent rental period.

18 “(b) A landlord may charge a tenant a fee for occurrences of noncompliance with written rules
19 or policies as provided in paragraph (a) of this subsection for the following types of noncompliance:

20 “(A) The late payment of a utility or service charge that the tenant owes the landlord as de-
21 scribed in ORS 90.315.

22 “(B) Failure to clean up pet waste from a part of the premises other than the dwelling unit.

23 “(C) Failure to clean up the waste of a service animal or a companion animal from a part of the
24 premises other than the dwelling unit.

25 “(D) Failure to clean up garbage, rubbish and other waste from a part of the premises other than
26 the dwelling unit.

27 “(E) Parking violations.

28 “(F) The improper use of vehicles within the premises.

29 “(G) Smoking in a clearly designated nonsmoking unit or area of the premises. **The fee for a**
30 **second or any subsequent noncompliance under this subparagraph may not exceed \$250. A**
31 **landlord may not assess this fee before 24 hours after the required warning notice to the**
32 **tenant.**

33 “(H) Keeping on the premises an unauthorized pet capable of causing damage to persons or
34 property, as described in ORS 90.405. The fee for a second or any subsequent noncompliance under
35 this subparagraph may not exceed \$250. A landlord may not assess this fee before 48 hours after the
36 required warning notice to the tenant.

37 “(4) A landlord may not be required to account for or return to the tenant any fee.

38 “(5) Except as provided in subsection (2)(e) of this section, a landlord may not charge a tenant
39 any form of liquidated damages, however designated.

40 “(6) Nonpayment of a fee is not grounds for termination of a rental agreement for nonpayment
41 of rent under ORS 90.394, but is grounds for termination of a rental agreement for cause under ORS
42 90.392 or 90.630 (1).

43 “(7) This section does not apply to:

44 “(a) Attorney fees awarded pursuant to ORS 90.255;

45 “(b) Applicant screening charges paid pursuant to ORS 90.295;

1 “(c) Charges for improvements or other actions that are requested by the tenant and are not
2 required of the landlord by the rental agreement or by law, including the cost to replace a key lost
3 by a tenant;

4 “(d) Processing fees charged to the landlord by a credit card company and passed through to the
5 tenant for the use of a credit card by the tenant to make a payment when:

6 “(A) The credit card company allows processing fees to be passed through to the credit card
7 holder; and

8 “(B) The landlord allows the tenant to pay in cash or by check;

9 “(e) A requirement by a landlord in a written rental agreement that a tenant obtain and main-
10 tain renter’s liability insurance pursuant to ORS 90.222; or

11 “(f) Assessments, as defined in ORS 94.550 and 100.005, for a dwelling unit that is within a
12 homeowners association organized under ORS 94.625 or an association of unit owners organized
13 under ORS 100.405, respectively, if:

14 “(A) The assessments are imposed by the association on a landlord who owns a dwelling unit
15 within the association and the landlord passes the assessments through to a tenant of the unit;

16 “(B) The assessments are imposed by the association on any person for expenses related to
17 moving into or out of a unit located within the association;

18 “(C) The landlord sets forth the assessment requirement in the written rental agreement at the
19 commencement of the tenancy; and

20 “(D) The landlord gives a copy of the assessment the landlord receives from the association to
21 the tenant before or at the time the landlord charges the tenant.

22 “(8) If a landlord charges a tenant a fee in violation of this section, the tenant may recover
23 twice the actual damages of the tenant or \$300, whichever is greater. This penalty does not apply
24 to fees described in subsection (2) of this section.”.

25 In line 41, delete “7” and insert “5”.

26 On page 7, line 18, delete “8” and insert “6”.

27 Delete lines 21 through 23 and insert:

28 “**SECTION 7. The amendments to ORS 90.302 by section 4 of this 2016 Act apply to fees**
29 **for occurrences of noncompliance with written rules or policies charged on or after the ef-**
30 **fective date of this 2016 Act.”.**

31 In line 24, delete “10” and insert “8”.

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