

House Bill 2001

Sponsored by Representative KOTEK (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Repeals statewide prohibition on city and county ordinances regulating rents.
Permits city or county to adopt rent stabilization program with certain restrictions.
Imposes moratorium on rent increases greater than five percent for residential tenancies, with exceptions. Sunsets moratorium on July 1, 2018.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to rent stabilization for residential tenancies; creating new provisions; amending ORS
3 197.309; repealing ORS 91.225; and declaring an emergency.

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

5 **SECTION 1. ORS 91.225 is repealed.**

6 **SECTION 2. Section 3 of this 2017 Act is added to and made a part of ORS chapter 91.**

7 **SECTION 3. The governing body of a city or county may adopt an ordinance or resolution**
8 **that implements a rent stabilization program for the rental of dwelling units within the ju-**
9 **risdiction of the city or county, provided the program:**

10 (1) **Provides a landlord with a fair rate of return over the operating costs for the dwelling**
11 **unit, as determined by the city or county;**

12 (2) **Provides a process for a landlord to petition for permission to increase rent in excess**
13 **of the increase allowed under the program when necessary for the landlord to achieve a fair**
14 **rate of return as described in subsection (1) of this section; and**

15 (3) **Provides an exemption for owner-occupied residential structures that consist of not**
16 **more than two dwelling units.**

17 **SECTION 4. (1) A moratorium is imposed on increases greater than five percent in the**
18 **rent charged for the rental of any dwelling unit.**

19 (2) **The moratorium established under this section applies to all residential tenancies in**
20 **this state, except if:**

21 (a) **A rent increase greater than five percent is permitted under the provisions of a city**
22 **or county rent stabilization program adopted pursuant to section 3 of this 2017 Act; or**

23 (b) **A rent increase greater than five percent is necessary:**

24 (A) **For a landlord to complete a substantial renovation project that has been fully per-**
25 **mitted and approved and at least 25 percent of the project costs have been paid or committed**
26 **on or before the effective date of this 2017 Act.**

27 (B) **To fund necessary repairs to address issues of health and safety or of habitability,**
28 **as described in ORS 90.320, in a dwelling unit.**

29 (3) **If the landlord increases rent to fund repairs or renovations as described in sub-**
30 **section (2)(b) of this section, the tenant may choose to terminate the tenancy and receive**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **payment of relocation expenses from the landlord in an amount equal to three months' rent**
2 **charged for the dwelling unit prior to the repairs or renovations.**

3 **(4) A landlord that increases rent in violation of this section shall be liable to the tenant**
4 **in an amount equal to five months' rent or actual damages, whichever is greater, and rea-**
5 **sonable attorney fees incurred by the tenant as a result of the rent increase.**

6 **(5) The provisions of this section do not apply to landlords that provide reduced rent to**
7 **qualifying tenants as part of a federal, state or local program or subsidy.**

8 **(6) As used in this section, "dwelling unit" and "rent" have the meanings given those**
9 **terms in ORS 90.100.**

10 **SECTION 5. Section 4 of this 2017 Act applies to rent increases occurring on or after the**
11 **effective date of this 2017 Act and before July 1, 2018.**

12 **SECTION 6. Section 4 of this 2017 Act is repealed on January 2, 2019.**

13 **SECTION 7. ORS 197.309, as amended by section 1, chapter 59, Oregon Laws 2016, is amended**
14 **to read:**

15 197.309. (1) As used in this section:

16 (a) "Affordable housing" means housing that is affordable to households with incomes equal to
17 or higher than 80 percent of the median family income for the county in which the housing is built.

18 (b) "Multifamily structure" means a structure that contains three or more housing units sharing
19 at least one wall, floor or ceiling surface in common with another unit within the same structure.

20 (2) Except as provided in subsection (3) of this section, a metropolitan service district may not
21 adopt a land use regulation or functional plan provision, or impose as a condition for approving a
22 permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or
23 rental price for a housing unit or residential building lot or parcel, or that requires a housing unit
24 or residential building lot or parcel to be designated for sale or rent to a particular class or group
25 of purchasers or renters.

26 (3) The provisions of subsection (2) of this section do not limit the authority of a metropolitan
27 service district to:

28 (a) Adopt or enforce a use regulation, provision or requirement creating or implementing an
29 incentive, contract commitment, density bonus or other voluntary regulation, provision or require-
30 ment designed to increase the supply of moderate or lower cost housing units; or

31 (b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

32 (4) *[Notwithstanding ORS 91.225,]* A city or county may adopt a land use regulation or functional
33 plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a re-
34 quirement, that has the effect of establishing the sales or rental price for a new multifamily struc-
35 ture, or that requires a new multifamily structure to be designated for sale or rent as affordable
36 housing.

37 (5) A regulation, provision or requirement adopted or imposed under subsection (4) of this sec-
38 tion:

39 (a) May not require more than 20 percent of housing units within a multifamily structure to be
40 sold or rented as affordable housing;

41 (b) May apply only to multifamily structures containing at least 20 housing units;

42 (c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city
43 or county, in exchange for providing the requisite number of housing units within the multifamily
44 structure to be sold or rented at below-market rates; and

45 (d) Must require the city or county to offer a developer of multifamily structures, other than a

1 developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one
2 of the following incentives:

3 (A) Whole or partial fee waivers or reductions.

4 (B) Whole or partial waivers of system development charges or impact fees set by the city or
5 county.

6 (C) Finance-based incentives.

7 (D) Full or partial exemption from ad valorem property taxes on the terms described in this
8 subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem
9 property taxes that uses a definition of “low income” to mean income at or below 60 percent of the
10 area median income and for which the multifamily structure is otherwise eligible, the city or county
11 shall allow the multifamily structure of the developer to qualify using a definition of “low income”
12 to mean income at or below 80 percent of the area median income.

13 (6) A regulation, provision or requirement adopted or imposed under subsection (4) of this sec-
14 tion may offer developers one or more of the following incentives:

15 (a) Density adjustments.

16 (b) Expedited service for local permitting processes.

17 (c) Modification of height, floor area or other site-specific requirements.

18 (d) Other incentives as determined by the city or county.

19 (7) Subsection (4) of this section does not restrict the authority of a city or county to offer de-
20 velopers voluntary incentives, including incentives to:

21 (a) Increase the number of affordable housing units in a development.

22 (b) Decrease the sale or rental price of affordable housing units in a development.

23 (c) Build affordable housing units that are affordable to households with incomes equal to or
24 lower than 80 percent of the median family income for the county in which the housing is built.

25 (8)(a) A city or county that adopts or imposes a regulation, provision or requirement described
26 in subsection (4) of this section may not apply the regulation, provision or requirement to any
27 multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160,
28 has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required,
29 a building permit application has been submitted to the city or county prior to the effective date
30 of the regulation, provision or requirement.

31 (b) If a multifamily structure described in paragraph (a) of this subsection has not been com-
32 pleted within the period required by the permit issued by the city or county, the developer of the
33 multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or
34 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building
35 permit application under the regulation, provision or requirement adopted by the city or county
36 under subsection (4) of this section.

37 (9)(a) A city or county that adopts or imposes a regulation, provision or requirement under
38 subsection (4) of this section shall adopt and apply only clear and objective standards, conditions
39 and procedures regulating the development of affordable housing units within its jurisdiction. The
40 standards, conditions and procedures may not have the effect, either individually or cumulatively,
41 of discouraging development of affordable housing units through unreasonable cost or delay.

42 (b) Paragraph (a) of this subsection does not apply to:

43 (A) An application or permit for residential development in an area identified in a formally
44 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
45 500,000 or more.

1 (B) An application or permit for residential development in historic areas designated for pro-
2 tection under a land use planning goal protecting historic areas.

3 (c) In addition to an approval process for affordable housing based on clear and objective stan-
4 dards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county
5 may adopt and apply an alternative approval process for applications and permits for residential
6 development based on approval criteria regulating, in whole or in part, appearance or aesthetics
7 that are not clear and objective if:

8 (A) The developer retains the option of proceeding under the approval process that meets the
9 requirements of paragraph (a) of this subsection;

10 (B) The approval criteria for the alternative approval process comply with applicable statewide
11 land use planning goals and rules; and

12 (C) The approval criteria for the alternative approval process authorize a density at or above
13 the density level authorized in the zone under the approval process provided in paragraph (a) of this
14 subsection.

15 (10) If a regulation, provision or requirement adopted or imposed by a city or county under
16 subsection (4) of this section requires that a percentage of housing units in a new multifamily
17 structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6)
18 of this section shall be related in a manner determined by the city or county to the required per-
19 centage of affordable housing units.

20 **SECTION 8. This 2017 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
22 **on its passage.**

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