

ORHA LEGISLATIVE UPDATE – AS OF 12/18/2014

The Oregon Legislative Landlord-Tenant Coalition continues to meet in anticipation of the 2015 Oregon Legislative session, which begins in February. Our last coalition meeting took place on December 16th. Our negotiations continue, so nothing has been set in stone at this time. In fact, if necessary, we'll continue to meet until mid-January. As of our December 16th meeting, we are discussing the following issues:

- *Unauthorized Pet Fees.* ORHA is negotiating an increase in these fees so that the penalty for an unauthorized pet (including guests' pets) is truly a deterrent. Tenant advocates have suggested a first warning to tenants with unauthorized pets, followed by a \$50 fee for the next violation, and \$50 fee in addition to 5% of the rent for subsequent violations (which is the current fee structure). ORHA does not believe that fee structure is enough of a deterrent and has proposed a first warning and a \$250 fee for each subsequent violation.
- *Allocation of Tenant Payments.* We continue our discussions about the order in which tenants' payments are applied to amounts due to landlords (such as whether or not rent payments may first be applied to past-due damage obligations). Landlord advocates are concerned the tenant advocates' proposal may adversely trigger waiver clauses in ORS 90.412 ("Waiver of Termination of Tenancy"), so the Coalition is working on language that would protect landlords' interests in this regard.
- *Homeowners Association (HOA) Fees Passed-Through to Tenants Upon Move-In/Move-Out.* The Coalition is currently working on language that would allow Landlords to pass-through HOA move-in/move-out fees to tenants, as long as those fees were disclosed to applicants prior to their submitting a rental application and (potentially) incurring an application fee. In the Portland metro area, these fees can be \$700 or more.
- *Naming Landlords as 'Interested Parties' on Tenants' Renters' Insurance Policies.* This is another issue ORHA introduced. The Coalition is currently in negotiations over whether landlords may be named as 'Interested Parties' on tenants' policies. At issue is whether a penalty should be

introduced to hold landlords accountable who knowingly require renters' insurance when it is not permitted by law (for instance, renters' insurance cannot be required for tenants under a certain income threshold). Tenant advocates have suggested large penalties (as much as double one month's rent), while ORHA has proposed an initial warning to the landlord (such as a letter from legal aid) and a \$250 fine for subsequent violations. This fine would be consistent with the fee amount that tenant advocates are considering for tenants' unauthorized pet fees and would keep fee structures equitable.

- *Municipal Fees and Utilities Pass-Through to Tenants.* Current discussion centers on ensuring that such costs are billed to tenants in a timely fashion. Tenant advocates initially suggested such fees must be billed by landlords to their tenants within 14 days of incurring such costs. ORHA has proposed a more realistic 30-day billing cycle turn-around time.
- *Landlords' Rights and Obligations in the Event of a Catastrophic Event (Such as a House Fire).* The Coalition has been unable to develop language that benefits landlords to our satisfaction, and this topic has been withdrawn from consideration for this Coalition session. Look for it to be reintroduced in a future Coalition session.
- *Landlords Who Knowingly Rent Unsafe/Unapproved Dwelling Units.* Tenant advocates have introduced bill language which would penalize landlords who knowingly rent unsafe or unapproved dwelling units. This was introduced by a Portland-metro tenant advocate, who represents that this is a common problem in the Portland area. ORHA believes this is somewhat duplicative of existing habitability statutes and, as currently written, is overly broad (would it include mold and mildew, for instance?). It is so broad, in fact, that ORHA is concerned that tenants could simply use this to get out of a lease unfairly. The circumstances upon which a landlord could be penalized are also very vague. ORHA has asked tenant advocates to revise their language to state more precisely what behavior they are targeting and what those penalties would be. If tenant advocates return to Coalition with different proposed language, ORHA will review their proposal again.

- *Damage caused to Dwelling Unit by Uninvited Guests.* Tenant advocates suggest changes to ORS 90.325 (“Tenant Duties”) which would clarify that tenants are not responsible for damage caused by uninvited guests. Our discussion surrounds who, exactly, is uninvited and what happens when an individual is initially invited by a tenant, then the invitation is withdrawn before the damage occurs. This is a complicated issue, and ORHA is currently considering the tenant advocates’ proposal in detail.
- Two additional ORHA items were mentioned in last month’s update – 30/60 Day Notice to Vacate, and Aid Animals. Current Coalition discussion is focused primarily on the topics mentioned above, and we anticipate that these two items may be continued to future Coalition meetings.

Look for future legislative updates as we wind up our Coalition meetings in mid-January and head into the beginning of the legislative session in early February. In the meantime, I always welcome all ORHA members’ feedback during this process. Please contact your local organization with your comments and suggestions, and your local ORHA legislative representative will forward those comments to me. Keep an eye on future newsletters for more information and a final summary of the coalition’s Landlord-Tenant Omnibus bill.

~ Jim Straub, ORHA Legislative Director