

2009 LEGISLATION ALERTS

LANDLORD / TENANT

TOWING UNLAWFULLY PARKED MOTOR VEHICLES

ORS 90.485, 98.812 – 98.856
2009 OR LAWS CH 622 (HB 2578)

HB 2578 imposes additional requirements on “towers,” landlords, and apartment operators in connection with towing unlawfully parked vehicles.

Effective date: January 1, 2010

NOTICE OF 100 YEAR FLOOD PLAIN REQUIRED ORS CH 90

2009 OR LAWS CH 306 (HB 2614)

HB 2614 requires landlords to provide their residential tenants with notices that the property is located in the 100-year flood plain as determined by FEMA. Failure to provide the notice will allow a tenant whose property is damaged by a flood to recover the lesser of actual damages or two months’ rent.

Effective date: January 1, 2010

This law applies to rental agreements that a tenant enters into on or after January 1, 2010.

CARBON MONOXIDE IN RESIDENTIAL DWELLING

ORS 90.302 – 90.325, 105.464
2009 OR LAWS CH 591 (HB 3450)

HB 3450 prohibits transferring title to one- and two- family dwelling or multifamily housing that has a carbon monoxide source (coal, kerosene, petroleum products, wood

or other carbon monoxide-producing fuels), unless the dwelling or housing is equipped with a carbon monoxide alarm. It requires alarms in certain structures according to rules set by the State Fire Marshall.

The bill prohibits the landlord from renting out a dwelling unit that has a carbon monoxide source or is located within a structure that has a carbon monoxide source, unless the dwelling unit is equipped with a carbon monoxide alarm. It imposes a duty on the landlord to repair and maintain the alarm. It prohibits removing or tampering with the alarm. It requires the tenant of a rental dwelling unit to periodically test the carbon monoxide alarm.

It also requires the seller’s property disclosure statement to include information relating to carbon monoxide alarms.

Effective date: June 25, 2009

For landlords, this law applies to rental agreements that a landlord enters into on or after July 1, 2010. For sellers of real property, property disclosures apply on or after April 1, 2011. This law applies to conveyance of fee recorded on or after April 1, 2011.

Comment: HB 3450 prohibits conveyance of a dwelling that has a carbon monoxide source and no carbon monoxide alarm. Any dwelling with an attached garage or a wood burning fireplace is subject to it.

DISCLAIMER

IN BRIEF includes claim prevention information that helps you to minimize the likelihood of being sued for legal malpractice. The material presented does not establish, report, or create the standard of care for attorneys. The articles do not represent a complete analysis of the topics presented, and readers should conduct their own appropriate research.

**REASONABLE MODIFICATIONS BY DISABLED TENANTS
ORS 659A.145
2009 OR LAWS CH 109 (SB 58)**

SB 58 deals with the situation in which a disabled tenant needs to make a reasonable modification to existing premises. Under SB 58, the landlord may condition permission for the tenant to make the modification on the tenant's agreement to restore interior of premises to pre-modification condition.

Effective date: May 21, 2009

The amendments apply only to unlawful and discriminatory practices occurring on or after May 21, 2009.

**TENANT SURRENDER AFTER FORECLOSURE
ORS 105.115, 105.130
2009 OR LAWS CH 638 (SB 241)**

SB 241 requires a purchaser seeking possession of property after a trustee's sale to provide certain notices to the person holding possession of the property by reason of interest created voluntarily by the grantor of deed of trust. It provides that the person in possession need not surrender possession until 30 days after effective date of notice or the 10th day after the trustee's sale, whichever date is later.

The bill applies fees and procedures for actions under residential landlord and tenant laws to actions to recover possession of premises in certain circumstances.

Effective date: June 30, 2009

The amendments apply to proceedings or actions that begin on or after June 30, 2009.

NOTICE: Federal Public Law 111-22, Title VII (Protecting Tenants at Foreclosure Act of 2009) effective May 20, 2009, provides for a 90-day notice to tenants of dwellings and residential property after foreclosure. If the purchasing party will not occupy the property or unit as a primary residence then existing bona fide leases must be honored. This does not override State or local laws that require a longer notice. Only applies to federally regulated loan foreclosure. Section 8 contracts are assumed by the purchaser.

**TERMINATION OF TENANCY
ORS 90.100 - 90.475, 105.124
2009 OR LAWS CH 431 (SB 771)**

SB 771 revises provisions of the Residential Landlord Tenant Act regarding the termination of residential tenancies. Among other changes, SB 771 requires a 60-day no-cause notice of termination by a landlord after the first year of a month-to-month tenancy.

Effective date: January 1, 2010

Applies to fees and charges occurring on or after January 1, 2010, for month-to-month tenancy. Applies to fees and charges occurring for a fixed-term tenancy that is entered into on or after January 1, 2010.

**RIGHTS OF TENANTS IN FORECLOSED PROPERTY
ORS 86.745, 86.755, 223.523
2009 OR LAWS CH 510 (SB 952)**

SB 952 provides that a purchaser is entitled to possession of property sold at a trustee's sale subject to interests of the person in possession of property under interest created voluntarily by the grantor or successor to the grantor. It requires a purchaser of foreclosed property to give additional notice to tenants living on the property when the purchaser intends to take possession of the property. It creates different notice procedures for different types of tenancy. It also modifies information to be included in notice. It creates other procedures related to taking possession of property.

The bill allows a tenant who receives actual notice of foreclosure to apply a security deposit or prepaid rent to pay rent obligation.

Effective date: August 23, 2009

The amendments apply to notices given and to proceedings or actions that begin on or after August 23, 2009.

Caution: Only in those cases where the federal tenant rights referenced above do not apply would the new state limits apply.

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