**Phil Querin Analysis - Senate Bill 970-A Summarized:**

**Evaluation of Applicant, Unreasonable Condition of Tenancy/Occupancy, Subleasing Agreements, Cause of Action**

***NOTE: SB 970-A amends ORS 90.303, 90.525, 90.555 and 90.710. The major changes are highlighted in yellow below.***

# [ORS 90.303](https://www.oregonlaws.org/ors/90.303) (Evaluation of Applicant):

1. When evaluating an applicant, a landlord may not consider an eviction action:

**(a)** That was dismissed or resulted in a judgment of restitution prior to the date of the application.

**(b)** That resulted in a judgment of restitution against the applicant entered five or more years before the date of the application.

**(2)** When evaluating the applicant, a landlord may not consider a previous arrest if it did not result in a conviction. This subsection does not apply if the arrest has not been dismissed as of the date of the application.

**(3)** When evaluating the applicant, the landlord may not consider criminal conviction and charging history unless the conviction or pending charge is for conduct that is:

 **(a)** A drug-related crime, but not including convictions based solely on the use or possession of marijuana;

 **(b)** A person crime;

 **(c)**  A sex offense;

 **(d)** A crime involving financial fraud, identity theft or forgery; or

 **(e)** Any other crime if the conduct is of a nature that would adversely affect: (A) Property of the landlord or a tenant; or (B) The tenants’ health, safety or right to peaceful enjoyment of the premises (including the landlord or landlord’s agent).

# (4) When evaluating an applicant, a landlord may not consider the possession of a medical marijuana card or status as a medical marijuana patient.

[**ORS 90.525**](https://www.oregonlaws.org/ors/90.525) **(Unreasonable Conditions of Tenancy/Occupancy):**

1. A landlord may not impose conditions of rental or occupancy which unreasonably restrict the applicant in choosing a fuel supplier, furnishings, goods, services or accessories.

# A landlord may not prohibit a tenant from engaging a real estate agent or a licensed manufactured structure dealer of the tenant’s choice to facilitate a sale or sublease.

1. The landlord may not require the prospective tenant to purchase a manufactured dwelling or floating home from a particular dealer or group of dealers.
2. A landlord may not give preference to an applicant who purchased a manufactured dwelling or floating home from a particular dealer.

**(5)** A manufactured dwelling or floating home dealer may not, as a condition of sale, require a purchaser to rent a space in a particular facility or group of facilities, *except* that a dealer who is a landlord of a facility may require a purchaser to rent a space in their facility.

**(6)** At the time of evaluating a tenant or purchaser of a home, the landlord must provide the them with an *informational handout* regarding rights of tenants and landlords when a tenant is selling a manufactured dwelling or floating home, in a form prescribed by the Housing and Community Services Department.

[**ORS 90.555**](https://www.oregonlaws.org/ors/90.555) **(Subleasing Agreements):**

**(1)** Definitions:

**(a)** “Actively markets for sale” means that the facility tenant: **(A)** Places a for-sale sign on the dwelling or home; **(B)** Retains a broker, real estate agent, or manufactured structure dealer to assist in the sale; *and* **(C)** Advertises the dwelling or home for sale in a newspaper or online.

**(b)** “Facility landlord” means the landlord of the facility.

**(c)** “Facility tenant” means the owner of the manufactured dwelling or floating home,

who is the tenant of the facility landlord under the rental agreement.

**(d)** “Rental agreement” means the rental agreement between the facility landlord and

facility tenant.

**(e)** “Renter” means a person other than the facility tenant who is lawfully occupying the

manufactured dwelling or floating home under a subleasing agreement.

**(f)** “Subleasing agreement” means the written agreement between the facility landlord,

facility tenant, and renter concerning the occupancy of the renter and the rights of the

parties.

1. A tenant may not rent their manufactured dwelling or floating home to another person for a period exceeding three days unless the landlord, tenant and renter enter into a written subleasing agreement:

**(a)** Specifying the rights and obligations of the landlord, tenant and renter during the renter’s occupancy.

1. The sublease shall require the renter to timely pay landlord the space rent, any separately assessed fees payable under the rental agreement and any separately billed utility or service charges.

**(c)** The sublease shall also grant the renter the same rights as the facility tenant to cure violations of the rental agreement, to require the landlord to comply with ORS 90.730 (Landlord duty to maintain rented space, vacant spaces and common areas in habitable condition) and to be protected from retaliatory conduct under ORS [90.765](https://www.oregonlaws.org/ors/90.765) (Prohibitions or Retaliatory Conduct).

**(d)** NOTE: This subsection does *not* authorize tenants to enter into subleases in violation of the rental agreement.

**(3)** A tenant who enters into a sublease remains the “tenant” of the community and retains all rights and duties under the rental agreement and ORS Chapter 90.

**(4**) Thelandlord may terminate a sublease:

**(a)** Without cause by giving the renter written notice not less than 30 days prior to the termination;

**(b)** If a condition described in [ORS 90.380 (5)(b)](https://www.oregonlaws.org/ors/90.380) (Violation of Housing or Building Codes) exists for the space, by giving the renter the same notice to which the tenant would be entitled under the same statute; or

**(c)** Subject to the right to cure: **(A)** For nonpayment of rent under [ORS 90.394](https://www.oregonlaws.org/ors/90.394) (failure to pay rent) or [ORS 90.630](https://www.oregonlaws.org/ors/90.630) (For Cause Termination by Landlord); or **(B)** For any conduct by the renter that would be a violation of the rental agreement under [ORS 90.396](https://www.oregonlaws.org/ors/90.396) (24-hour Notice) or [ORS 90.398](https://www.oregonlaws.org/ors/90.398) (Drug/Alcohol Violations) if committed by the tenant.

1. Upon landlord’s termination of a sublease the renter and the tenant are excused from continued performance under the sublease agreement.
2. **(a)** If landlord gives notice to the tenant of a violation of the rental agreement, a law/ordinance, park closure, conversion or sale, the landlord must promptly copy the renter. The giving of notice to the renter does not constitute notice to the tenant *unless* the tenant has expressly appointed the renter as the tenant’s agent for purposes of receiving notices.

 **(b)** If the landlord gives notice to the renter that the landlord is terminating the sublease, the landlord shall promptly copy the tenant.

 **(c)** If the tenant gives notice to the landlord of a rental agreement violation, termination of tenancy or sale of the manufactured dwelling or floating home, the tenant shall promptly copy the renter.

 **(d)** If the renter gives notice to the landlord of a violation of [ORS 90.730](https://www.oregonlaws.org/ors/90.730) (Habitability of Space, Vacant Spaces, and Common Areas), the renter shall promptly copy the tenant.

1. Before entering into a sublease, a landlord may screen a renter under [ORS 90.303](https://www.oregonlaws.org/ors/90.303) (Evaluation of Applicants), but may *not* apply credit and conduct screening criteria to the renter that is more restrictive than that applied to tenant applicants for other spaces.

# (9) If landlord rents manufactured dwellings or floating homes that are listed for sale by the

landlord, the landlord may not prohibit the tenants from entering into subleases while the tenant actively markets their home for sale.

**ORS 90.710 (Causes of Action):**

**(1)** **(a)** Except as provided in paragraph (b) below, any person aggrieved by a violation of [ORS 90.525](https://www.oregonlaws.org/ors/90.525) (Unreasonable Conditions of Occupancy), [90.630](https://www.oregonlaws.org/ors/90.630) (Termination by Landlord), [ORS 90.680](https://www.oregonlaws.org/ors/90.680) (Sale of Home), or [90.765](https://www.oregonlaws.org/ors/90.765) (Retaliatory Conduct) has a cause of action against the violator for any damages sustained as a result of the violation, or $500, whichever is greater.

 **(b)** If a person violates [ORS 90.680](https://www.oregonlaws.org/ors/90.680) (Sale of Home) three or more times within a 24-month period, a person has a cause of action against the violator for any damages sustained as a result of the third or subsequent violation, or $1,000, whichever is greater.

1. Except as provided in paragraphs (b) and (c) of this subsection, a tenant has a cause of action against the landlord for a violation of [ORS 90.510 (4)](https://www.oregonlaws.org/ors/90.510) (Statement of Policy) for any damages sustained as a result of the violation, or $100, whichever is greater.

 **(d)**  The tenant has no cause of action if, within 10 days after the tenant requests a written agreement from the landlord, the landlord offers to enter into a written agreement that does not substantially alter the terms of the oral agreement made when the tenant rented the space and that complies with ORS Chapter 90 (Oregon Residential Landlord Tenant Act (“ORLTA”)).

 **(e)** If, within 10 days after being served with a complaint alleging a violation of ORS 90.510, the landlord offers to enter into a written rental agreement with each of the tenants of the landlord that does not substantially alter the terms of the oral agreement made when each tenant and that complies with ORLTA, then the landlord is not subject to any further liability for previous violations of [ORS 90.510](https://www.oregonlaws.org/ors/90.510) (Statement of Policy).

 **(f)** Notwithstanding [ORS 41.580 (1)](https://www.oregonlaws.org/ors/41.580) (Statute of Frauds), if a landlord and a tenant mutually agree on the terms of an oral agreement for renting, but the tenant refuses to sign a written memorandum of that agreement after it has been reduced to writing by the landlord and offered to the tenant for the tenant’s signature, the oral agreement is enforceable notwithstanding the tenant’s refusal to sign.

 **(g)** A purchaser has a cause of action, for damages sustained or $100, whichever is greater, against a seller who sells the tenant’s manufactured dwelling or floating home to the purchaser *before the landlord has accepted the purchaser as a tenant* if: (A) The landlord rejects the purchaser as a tenant; *and* (B) The seller knew the purchaser intended to leave the manufactured dwelling or floating home on the space.

5-14-19