



## **2012 Oregon Legislative Update - The Lay of the Land**

The 2011 Oregon Legislature was a historic session in that the House of Representatives was evenly split 30-30 and the Senate 16-14 between Democrats and Republicans. Changes to laws concerning our industry took a backseat this session as jobs, the economy and budget took center stage. Additionally, the Landlord/Tenant Coalition (who first agrees to any proposed legislation affecting ORS Ch. 90) had settled on a bill with only minor changes and fixes to the law.

Still, the MMHA Legislative Team filtered through over 3,000 bills that were introduced, actively monitored 48 and then tracked 17 priority bills concerning our industry. During the last several years MMHA has built relationships with legislative leaders and has become a resource for housing policy issues.

### **Successfully Defeated**

Despite anticipating a quiet session we were very successful in defeating several bad bills for the industry.

- Two Rent Control Bills
  - One aimed at manufactured housing parks
  - Another attempted to allow local governments to enact rent control
- Legal Fees: Would have automatically awarded legal fees to prevailing tenant in civil rights cases, but not to a prevailing landlord
- Energy Audits: Would have required energy testing of rental properties with landlord responsibility to disclose energy data to prospective tenants
- Voter Registration: This is the 2<sup>nd</sup> attempt to force landlords to distribute voter registration cards alongside the many legal documents at lease signing
- TV Antenna Installation: Bill was written to include TV antennas listed under the basic habitability statutes

### **Successfully Amended**

Often bills are drafted with no intent of negatively affecting or singling out landlords and MMHA worked hard to delete language that would have lead to unintended consequences.

- Education Records: Bill was aimed to secure student records from defunct charter schools and written to hold the landlord responsible for tenant's education records at eviction. The bill no longer is applicable to residential landlords

- Sherriff extension of Writ of Eviction: Would have allowed a 30-day extension of the Writ of Eviction *without* landlord notification and was amended to mandate disclosure to landlord
- Court Fees: Ultimately the FED filing fee was raised just \$8 from \$67 to \$75 and took effect in September 2011. MMHA fought for a more reasonable increase as fees were raised for all filings. Earlier drafts had a nearly \$40 increase

## **2011 Landlord/Tenant Coalition Bill**

All sides pledged to have a quiet session and not attempt major changes to the Oregon Landlord/Tenant laws. This year's coalition bill is a combination of "housekeeping measures," small fixes and tweaks to current laws that both Landlords and Tenant Advocates agreed to. There were many positive outcomes for landlords. Key elements included:

- Disclosure of rent, fees, and deposits required on rental agreement. 2009 language prompted a complete rent, deposit and fee disclosure required at the time a screening/ application fee or rental deposit is taken. Now, that disclosure is due only at the signing of the rental agreement
- Carbon monoxide source or conduit must be present in unit to mandate alarm installation. 2009 Carbon Monoxide Alarm laws were enacted that mainly mirrored current Smoke Alarm rules. There was a small statute language edit that reiterated the Administrative Rules language that specified Carbon Monoxide alarms are only mandated where there is a source or conduit to a source
- Abandoned Property sales threshold was raised from \$500 to \$1000. Now a landlord is only mandated to hold a public sale with its various requirements if the value of abandoned property is more than \$1000
- In 2009 a foreclosure bill was passed allowing tenants renting a property in foreclosure to apply any security deposits held by the landlord as rent. Language was added to allow a landlord to recoup the security deposit amounts used as rent if the property comes out of foreclosure
- Increases to landlord penalties for breaking screening fee or rental reservation policies. Legitimate landlords that follow standard practices will not be disenfranchised by increasing these penalties by \$50
  - If a landlord breaks screening/application fee protocol the tenant may collect double the fee amount plus \$150. Example: Landlord keeps screening/application fee check and does not screen applicant
  - If the landlord fails to disclose all rent, fees, and deposits at lease signing or revokes an offer made to tenant (without proper disclosure) the tenant may also recoup any deposit paid as well as \$150. Example: Landlord offers a unit to one applicant and then enters into a rental agreement for that unit with another tenant
- Domestic Violence change: Beginning in 2007, a victim of domestic violence could give a landlord a 14-day termination notice. In January 2012 all non-perpetrator family members may also be excused from a fixed term lease without penalty with the same 14-day notice

## Other law changes

- The NSF charge for bounced checks was raised from \$25 to \$35. In 2009 landlords were already awarded the ability to bill the tenant any additional bank charges plus the NSF fee
- Extension of Mixed Use Tax Abatement: Allows a 10-year property tax abatement for development that includes affordable housing

## Oregon Real Estate Agency Changes

- The Real Estate Agency will formalize rules for the registration of business names
- Affirmative Duties were outlined for licensed Property Managers that amount to standard best practices, however these duties are now officially mandated by the Agency:
  - Deal honestly and in good faith
  - Disclose material facts known by property manager and not apparent or ascertainable to the owner
  - Act in a fiduciary manner in all matters relating to client trust accounts
  - Be loyal to the owner; don't take action not in the owner's interest
  - Disclose conflicts of interest, actual or contemplated
  - Advise owner to seek expert advice on matters that are beyond the property manager's expertise
  - Maintain confidentiality about the owner, except under subpoena or court order, even after the agency relationship ends
- Record Keeping
  - Maintain records of attendance in continuing education courses for at least three years
  - Maintain records for a period no less than six years after:
    - A client trust account is closed
    - The date a real estate transaction closed or failed, whichever is greater
    - The date a rental real estate management agreement expired, was superseded or terminated
    - For all other records, the date the record was created or received, whichever is greater
- Continuing Education
  - Effective January 1, 2013, licensed real estate property managers renewing an active license for the first time must take an Real Estate Agency approved advanced course in property management practices