



Portland Housing Bureau

Tenant Anti-Harassment Protections: Existing Protections and Jurisdictional Comparison

Rental Services Commission

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Purpose

- To provide context for any potential RSC action related to anti-harassment policy recommendations
- To compare the proposed Tenant Protection Ordinance with existing state Landlord-Tenant law
- To provide an overview of anti-harassment protections in other jurisdictions

	Proposed Anti-Harassment Policy	Existing State Landlord-Tenant Law (including Fair Housing Protections)
Repairs to dwelling unit or common area	Prohibits unreasonable delay or refusal to make repairs	Prohibits noncompliance with the obligation to maintain the dwelling unit and common spaces in a habitable condition (ORS 90.322, 90.360)
Right of access	Prohibits unreasonable entries (both number and nature)	<ul style="list-style-type: none"> Prohibits a landlord abusing the right of access or using it to harass a tenant (ORS 90.322) Allows tenants to deny access if the entry is at an unreasonable time or with unreasonable frequency (ORS 90.322)
Immigration status of tenant, other residents, or future residents	Prohibits inquiries into immigration status and disclosure or threatened disclosure of immigration status to relevant authorities	<ul style="list-style-type: none"> Not explicitly addressed Fair housing law prohibits making any distinction, discrimination, or restriction against a tenant in the terms, conditions or privileges relating to renting or occupancy based on one's national origin (ORS 659A.421; 42 USC 3604) Fair housing law makes it unlawful to attempt to discourage the rental of real property based on one's national origin (ORS 659A.421; 42 USC 3604)
Abuse of tenant and/or tenant's property	<ul style="list-style-type: none"> Prohibits verbal or physical abuse of a tenant Prohibits intentional or reckless damage to the property of a tenant, or causing a tenant to reasonably fear that property will be harmed 	Not addressed
Taking action to prompt a move out when not lawfully permitted	<ul style="list-style-type: none"> Prohibits misleading a tenant into believing that they are required to leave when they are not legally required to do so Includes issuing insufficient or untrue notices of violation and notices of termination 	<ul style="list-style-type: none"> Prohibits termination of a tenancy with an improper Notice of Termination for a Qualified Landlord Reason ("QLR") under ORS 90.427(5) and (6) (ORS 90.427(9)) Prohibits the termination of a tenancy after the expiration of a fixed term lease with an improper notice of three or more violations of the rental agreement within the preceding 12-months under ORS 90.427(7) (ORS 90.427(9))

	Proposed Anti-Harassment Policy	Existing State Landlord-Tenant Law
False Statements	Prohibits slander, libel, or sharing false information about a tenant with: <ul style="list-style-type: none"> • Other tenants; • Employees; • Prospective landlords; and • Community at large 	<ul style="list-style-type: none"> • Not explicitly addressed • General obligation to perform all acts, duties, and exercise the rights or remedies under ORS 90 in good faith (ORS 90.130)
Refusal to accept payments by or on behalf of tenant	Prohibits refusing payments by tenant when: <ul style="list-style-type: none"> • Made lawfully and using method agreed upon by both parties; • Made lawfully and using a method that does not place an undue burden landlord; or • Payment is made on behalf of a tenant by another party 	<ul style="list-style-type: none"> • Not explicitly addressed • Rent is payable without demand or notice at the time and place agreed upon by the parties (ORS 90.220) • General obligation to perform all acts, duties, and exercise the rights or remedies under ORS 90 in good faith (ORS 90.130) • Landlords can not discriminate based on source of income, which includes payments from local, state or federal housing assistance (ORS 659A.421)
New rules or regulations	Prohibits making new rules or regulations without written explanation of how new rules or regulations comply with state landlord-tenant law	<ul style="list-style-type: none"> • Requires written notification of rules (ORS 90.262) • Limits the enforceability of rules to those that: <ul style="list-style-type: none"> ○ Promote the convenience, safety or welfare of the tenants, prevent abusive use of landlord's property, or make a fair distribution of services and facilities; ○ Are reasonably related to their purpose; ○ Are applied to all tenants fairly; ○ Are clear and explicit; ○ Are not for the purpose of evading legal obligations of the landlord; and ○ Are provided in writing to the tenant

	Proposed Anti-Harrassment Policy	Existing State Landlord-Tenant Law
Selective enforcement of rules	Prohibits enforcement of rules that have not been routinely enforced, or enforced only against certain tenants	<ul style="list-style-type: none"> • ORS 90.262 limits the enforceability of use and occupancy rules to those that are applied to all tenants fairly • Fair housing law prohibits making any distinction in the terms, conditions or privileges relating to occupancy based on one's protected class status (ORS 659A.421; 42 USC 3604)
Compels action not required in rental agreement or law	Prohibits the issuance of notices or communication that a tenant is required to perform any duty that is not described in ORS 90 or the rental agreement	<ul style="list-style-type: none"> • General obligation to perform all acts, duties, and exercise the rights or remedies under ORS 90 in good faith (ORS 90.130) • Prohibits a rental agreement from requiring a tenant to waive or forego rights or remedies in ORS 90 (ORS 90.245) •
Construction projects	<ul style="list-style-type: none"> • Prohibits the failure to provide advance communication of the anticipated scope and duration of construction or maintenance projects including status updates • Prohibits the failure to provide and implement a reasonable mitigation plan for impacted dwelling units and common areas 	<ul style="list-style-type: none"> • Not addressed • Requires the landlord to maintain the common areas safe for normal and reasonably foreseeable uses, clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin (ORS 90.320)
Disparate treatment	<ul style="list-style-type: none"> • Prohibits enforcement of rules or regulations or otherwise isolate or treat disparately tenants on the basis of race, ethnicity, country of origin, citizenship status, sex, gender, age, disability, or family status 	<ul style="list-style-type: none"> • Fair housing laws prohibit making any distinction, discrimination, or restriction against a tenant in the terms, conditions, or privileges relating to the rental or occupancy of real property based on protected class status (42 USC 3604; ORS 659A.421; PCC 23.01.060)

Adopted Anti-Harassment Protections

- At least ten jurisdictions have adopted tenant anti-harassment protections
- Majority of jurisdictions are in CA

		Santa Monica	Berkeley	West Hollywood	NYC	LA	Oakland	SF	Culver City
Housing Quality	Must provide quiet enjoyment	X	X	X		X		X	X
	May not reduce or interrupt services		X	X	X	X	X	X	
Construction Projects	Must use due diligence in completing repairs in timely manner		X				X		
	Must follow industry standards and protocols to minimize noise, dust, lead paint, asbestos, or other harmful materials		X			X	X		X
	May not engage in construction/renovations that create conditions designed to encourage tenants to vacate			X	X				
Invasion of Privacy	May not abuse right of access	X	X	X	X	X	X	X	X
	May not photograph and/or record areas beyond scope of lawful inspection	X		X		X	X		X
	Prohibit inquiries into immigration status and/or threats to report to ICE		X	X	X	X	X	X	X
	May not unlawfully remove possessions from unit				X				X

		Santa Monica	Berkeley	West Hollywood	NYC	LA	Oakland	SF	Culver City
Bullying	May not abuse with offensive speech and/or threaten with physical harm	X		X	X	X	X	X	X
	May not use fraud, intimidation, or coercion to influence tenant to vacate		X				X	X	X
	Limit the manner and frequency of offers of payment to vacate				X			X	X
	May not interfere with tenant organizing activities			X		X			X
Misinformation	May not threaten to terminate and/or terminate without proper factual and legal basis and/or through misrepresentation or concealment of fact	X		X	X	X	X		X
	May not refuse lawful rent payments and/or promptly deposit rent payment	X	X	X		X	X	X	X
Rules and Treatment	Prohibits discrimination of protected class plus additional identified groups of people	X		X	X			X	X
	May not engage in any sexual harassment of tenants			X					X
	May not engage in elder financial abuse						X		

Common Provisions of Adopted Protections

- Requiring due diligence in performing repairs and following industry standards to mitigate noise and harmful materials
- Prohibiting abuse of the right to access, including photography outside the parameters of a standard inspection
- Prohibiting inquiring, reporting, or threatening to report immigration status of tenants, occupants, or guests to any person or agency
- Prohibiting verbal threats or obscene language that would reasonably provoke or intimidate a tenant
- Prohibiting physical violence or threat of physical violence against a tenant
- Requiring acceptance and acknowledgement of lawful rent payments and reasonable time limit to make deposits
- Prohibiting misrepresentation about a tenant being required to vacate the unit, legality of a termination notice, or basis of a termination notice
- Prohibiting any threat or action intended to coerce the tenant to move out of a unit they are legally entitled to inhabit

DISCUSSION