



## **INTERIM RULE**

**Title:** Mandatory Relocation Assistance Exemption Eligibility and Approval Process

### **Authority**

In accordance with Portland City Code (“PCC”) 30.01.085, PHB is responsible for reviewing any required forms and documentation that are submitted by a Landlord claiming an exemption from the obligation to pay Relocation Assistance. Under Section 30.01.085.K, the Director of PHB, or a designee, is authorized to adopt, amend and repeal administrative rules to carry out and administer the provisions of PCC 30.01.085. Ordinance No. 188849 adopted by Portland City Council on March 7, 2017, authorizes PHB to, notwithstanding Portland Policy Document HOU-5.01, immediately develop and enact interim administrative rules to carry out and administer PCC 30.01.085.

### **PCC Provision:**

#### **30.01.085.I**

The provisions of this Section 30.01.085 that pertain to Relocation Assistance do not apply to the following so long as the Landlord has submitted a required exemption application form to PHB for which PHB shall have issued an exemption acknowledgement letter, a copy of which the Landlord shall have provided to the Tenant:

1. Rental Agreements for week-to-week tenancies;
2. Tenants that occupy the same Dwelling Unit as the Landlord;
3. Tenants that occupy one Dwelling Unit in a Duplex where the Landlord’s principal residence is the second Dwelling Unit in the same Duplex;
4. Tenants that occupy an Accessory Dwelling Unit that is subject to the Act in the City of Portland so long as the owner of the Accessory Dwelling Unit lives on the site;
5. a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years;
6. a Landlord that temporarily rents out the Landlord’s principal residence during the Landlord’s absence due to active duty military service;
7. a Dwelling Unit where the Landlord is terminating the Rental Agreement in order for an Immediate Family member to occupy the Dwelling Unit;
8. a Dwelling Unit regulated or certified as affordable housing by a federal, state or local government is exempt from paying Relocation Assistance for a Rent increase of 10 percent or more within a rolling 12-month period:
  - a. so long as such increase does not increase a Tenant’s portion of the Rent payment by 10 percent or more within a rolling 12-month period; or

b. in Lease Agreements where the Rent or eligibility is periodically calculated based on the Tenant's income or other program eligibility requirements and a Rent increase is necessary due to program eligibility requirements or a change in the Tenant's income.

This exemption by Subsection 30.01.085 I.8. does not apply to private market-rate Dwelling Units with a Tenant who is the recipient of a federal, state, or local government voucher;

This exemption by Subsection 30.01.085 I.8. applies to Rent increases and does not apply to Termination Notices;

9. a Dwelling Unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
10. a Dwelling Unit rendered immediately uninhabitable not due to the action or inaction of a Landlord or Tenant;
11. a Dwelling Unit rented for less than 6 months with appropriate verification of the submission of a demolition permit prior to the Tenant renting the Dwelling Unit;
12. a Dwelling Unit where the Landlord has provided a Fixed Term Tenancy and notified the Tenant prior to occupancy, of the Landlord's intent to sell or permanently convert the Dwelling Unit to a use other than as a Dwelling Unit subject to the Act.

A Landlord that authorizes a property manager that is subject to, and manages property in accordance with ORS 696, to manage a Dwelling Unit, does not waive a Dwelling Unit exemption as a result of the collective number of Dwelling Units managed by such a property manager. For purposes of the exemptions provided in this Subsection, "Dwelling Unit" is defined by PCC 33.910, and not by ORS 90.100. For purposes of the exemptions provided in this Subsection, "Accessory Dwelling Unit" is defined by PCC 33.205. For purposes of the exemptions provided in this Subsection, "Duplex" is defined by PCC 33.910. For purposes of the exemptions provided in this Subsection, "Immediate Family" is defined by PHB in administrative rules.

### **30.01.085.K**

In carrying out the provisions of this Section 30.01.085, the Director of PHB, or a designee, is authorized to adopt, amend and repeal administrative rules to carry out and administer the provisions of this Section 30.01.085.

### **Adoption**

As provided in PCC 30.01.085 and Ordinance 188849, the Director of the Portland Housing Bureau hereby adopts the administrative rules attached hereto.

**Adopted:**           Signed copy on file at the Housing Bureau            
**Shannon Callahan, Director**

**March 13, 2019**

## **Administrative Rule**

### Mandatory Relocation Assistance Exemption Eligibility and Approval Process

#### **I. Purpose and Scope**

Under PCC 30.01.085 Landlords in the City of Portland are required to pay their Tenant Relocation Assistance if their Tenant is displaced due to non-renewal of lease on substantially the same terms, a Rent increase 10% or more over a rolling 12-month period, a Qualifying Landlord Reason for termination, or no cause eviction. Section 30.01.085.G outlines twelve scenarios under which a Landlord could claim an exemption from the obligation to pay Relocation Assistance. These administrative rules specify the process by which a Landlord may claim an exemption.

#### **II. Definitions**

- a. Immediate Family – parent, foster parent, step parent, parent in law, sibling, foster sibling, step sibling, sibling in law, grandparent, grandparent in law, child, step child, foster child, grandchild, aunt, uncle, niece, or nephew. An Immediate Family member cannot be an Owner of the Dwelling Unit, their spouse, or their domestic partner. The Immediate Family member must have reached the age of majority (18) or be a legally recognized emancipated minor.
- b. Natural Person – a human being as distinguished from a person (as a corporation) created by operation of law.
- c. Principal Residence – the primary location a person inhabits. It is the Dwelling Unit that is physically occupied and personally used (slept overnight in) more than any other Dwelling Unit during the period of time specified in each exemption. Moving furniture or personal belongings into a residence does not indicate principal residence.

#### **III. Exemption Eligibility and Approval Process**

A Landlord is only exempt from mandatory relocation assistance requirements as outlined in Portland City Code if the Landlord meets the following requirements, and follows the process outlined below:

1. meets the criteria for an exemption listed in Mandatory Relocation Assistance Exemption Eligibility and Approval Process administrative rules;
2. file the required form(s) with the Portland Housing Bureau (“PHB”)
3. receive an acknowledgment letter from PHB (the “Acknowledgement Letter”)
4. Provides a copy of the exemption Acknowledgement Letter to the Tenant prior to one of the following actions (“Triggering Relocation Assistance”):
  - a. Issuing an Increase Notice;
  - b. Issuing a Termination Notice;
  - c. Issuing a Qualifying Landlord Reason for termination;
  - d. Declining to renew or replace an expiring Rental Agreement; or
  - e. Declining to renew or replace an expiring Rental Agreement on substantially the same terms except for the amount of Rent or Associated Housing Costs.

The following are the requirements for each of the exemptions in Section 30.01.085.G. The Acknowledgement Letter for the listed exemptions expires after a Landlord uses the exemption to do the following unless otherwise specified:

- Issuing an Increase Notice;
- Issuing a Termination Notice;
- Issuing a Qualifying Landlord Reason for termination;

- Declining to renew or replace an expiring Rental Agreement; or
- Declining to renew or replace an expiring Rental Agreement on substantially the same terms except for the amount of Rent or Associated Housing Costs.

Exemption	Required Form	Additional Stipulations
1. Rental Agreement for week-to-week tenancies	<i>A Landlord is not required to submit a REA form for this exemption.</i>	
2. Tenants that occupy the same Dwelling Unit as the Landlord	<i>A Landlord is not required to submit a REA form for this exemption.</i>	<ul style="list-style-type: none"> <li>• This exemption stands as long as the Landlord uses the exempted Dwelling Unit as their Principal Residence for the 6 months prior to Triggering Relocation Assistance.</li> </ul>
3. Tenants that occupy one Dwelling Unit in a Duplex where the Landlord's principal residence is the second Dwelling Unit in the same Duplex	Relocation Assistance Exemption (REA) Form	<ul style="list-style-type: none"> <li>• This exemption stands as long as the Landlord's Principal Residence is the second Dwelling Unit in the same Duplex as the exempted Dwelling Unit for the 6 months prior to Triggering Relocation Assistance.</li> <li>• For Rental Agreements beginning after March 8, 2018 the Landlord must provide a copy of the <b>Acknowledgement Letter</b> to the Tenant prior to the Tenant entering into a Rental Agreement.</li> </ul>
4. Tenants that occupy an Accessory Dwelling Unit that is subject to the Act in the City of Portland so long as the owner of the Accessory Dwelling Unit lives on the site	Relocation Assistance Exemption (REA) Form	<ul style="list-style-type: none"> <li>• This exemption stands as long as the Landlord's Principal Residence is on the same site as the exempted Dwelling Unit for the 6 months prior to Triggering Relocation Assistance.</li> <li>• For Rental Agreements beginning after March 8, 2018 the Landlord must provide a copy of the <b>Acknowledgement Letter</b> to the Tenant prior to the Tenant entering into a Rental Agreement.</li> </ul>
5. A Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years	Relocation Assistance Exemption (REA) Form	<ul style="list-style-type: none"> <li>• A Landlord may not file for this exemption more than once every 36 months.</li> <li>• The Landlord must be a Natural Person to claim this exemption.</li> <li>• A Landlord must move into the Dwelling Unit within 60 days of the Tenant moving out. The Dwelling Unit must become the Landlord's Principal</li> </ul>

		<p>Residence for 12-months after moving in or be sold.</p> <ul style="list-style-type: none"> <li>• This exemption <b>only</b> applies if the Landlord is issuing a No Cause Eviction.</li> <li>• This exemption <b>only</b> applies to a Landlord with an ownership interest in 4 or less units.</li> <li>• For Rental Agreements beginning after March 8, 2018 the Landlord must provide a copy of the <b>Acknowledgement Letter</b> to the Tenant prior to the Tenant entering into a Rental Agreement.</li> </ul>
6. A Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence due to active duty military service	Relocation Assistance Exemption (REA) Form	<ul style="list-style-type: none"> <li>• A Landlord must move into the Dwelling Unit within 60 days of the Tenant moving out. The Dwelling Unit must become the Landlord's Principal Residence.</li> <li>• This exemption <b>only</b> applies if the Landlord is issuing a No Cause Eviction.</li> </ul>
7. A Dwelling Unit where the Landlord is terminating the Rental Agreement in order for an Immediate Family member to occupy the Dwelling Unit;	Relocation Assistance Exemption (REA) Form	<ul style="list-style-type: none"> <li>• A Landlord may not file for this exemption more than once every 36 months per Dwelling Unit.</li> <li>• The Immediate Family member cannot be an owner, or have been an owner in the past 12 months, of the Dwelling Unit.</li> <li>• The Landlord cannot live in the unit during the 24 months after the exemption is used.</li> <li>• The Landlord must be a Natural Person to claim this exemption.</li> <li>• The designated Immediate Family member must move into the Dwelling Unit within 60 days of the Tenant moving out. The Dwelling Unit must become the Immediate Family member's Principal Residence. The Immediate Family member must have the intent to reside in the Dwelling Unit for the 24-months after moving in.</li> <li>• This exemption <b>only</b> applies if the Landlord is issuing a No Cause Eviction.</li> <li>• This exemption <b>only</b> applies to a Landlord with an ownership interest in 4 or less units.</li> </ul>
8. A Dwelling Unit regulated or certified as affordable housing by a federal, state or local government is exempt from paying Relocation Assistance for a Rent increase of 10 percent or more within a rolling 12-month period:	<i>A Landlord is not required to submit a REA form for this exemption</i>	

<p><b>a.</b> so long as such increase does not increase a Tenant’s portion of the Rent payment by 10 percent or more within a rolling 12-month period; or</p> <p><b>b.</b> in Lease Agreements where the Rent or eligibility is periodically calculated based on the Tenant’s income or other program eligibility requirements and a Rent increase is necessary due to program eligibility requirements or a change in the Tenant’s income.</p> <p>This exemption by Subsection 30.01.085 I.8. does not apply to private market-rate Dwelling Units with a Tenant who is the recipient of a federal, state, or local government voucher; This exemption by Subsection 30.01.085 I.8. applies to Rent increases and does not apply to Termination Notices;</p>		
<p>9. A Dwelling Unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970</p>	<p><i>A Landlord is not required to submit a REA form for this exemption.</i></p>	
<p>10. A Dwelling Unit rendered immediately uninhabitable not due to the action or inaction of a Landlord or Tenant</p>	<p><i>A Landlord is not required to submit a REA form for this exemption.</i></p>	<ul style="list-style-type: none"> <li>• Dwelling Units rendered immediately uninhabitable due to events including, but not limited to: natural (such as flood or fire) and man-made disasters (such as natural gas explosions) are considered under this exemption.</li> </ul>
<p>11. A Dwelling Unit rented for less than 6 months with appropriate verification of the submission of a demolition permit prior to the Tenant renting the Dwelling Unit.</p>	<p>Relocation Assistance Exemption (REA) Form</p>	
<p>12. A Dwelling Unit where the Landlord has provided a Fixed Term Tenancy and notified the Tenant prior to occupancy, of the Landlord’s intent to sell or permanently convert the Dwelling Unit to a use other than as a Dwelling Unit subject to the Act</p>	<p>Relocation Assistance Exemption (REA) Form</p>	<ul style="list-style-type: none"> <li>• A Landlord must notify their Tenant prior to occupancy in writing.</li> <li>• A Landlord must sell or permanently convert the Dwelling Unit to a use other than as a Dwelling Unit subject to the Act within 60 days of the Tenant moving out.</li> <li>• This exemption <b>only</b> applies if the Landlord is issuing a No Cause Eviction.</li> <li>• Use of this exemption permanently prevents the Dwelling Unit from being eligible for any other exemption.</li> <li>• This exemption will expire 24-months after an <b>Acknowledgement Letter</b> is issued.</li> </ul>

**IV. Responsibility**

PHB is responsible for managing and implementing this rule.

**V. History**

Date adopted: **March 8, 2018**

Date effective: **March 8, 2018**

Date amended: **April 12, 2018**

Date amended: **March 13, 2019**