

Submitted by:  
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## **CDC Agency Action Halting Residential Evictions to Prevent the Further Spread of COVID-19**

### **Summary of [Agency Action](#):**

- **Effective period:** September 4<sup>th</sup>, 2020 through December 31<sup>st</sup>, 2020 unless modified.
- **Eviction Protection:**
  - LL shall not evict any covered Tenant from any residential property.
  - Eviction means any action to remove or cause the removal of a covered Tenant.
  - All residential property leased for residential purposes is covered, except temporary guests or seasonal tenants based on state L/T act coverage.
- **Covered Person:**
  - All tenants who present a signed declaration (under penalty of perjury) to their landlords are covered. Each adult tenant must sign a separate declaration.
- **Declaration:** Tenant must declare (using standard form provided in the Action) that:
  - Income is less than \$99,000, *or* they did not have to pay income tax in 2019, *or* they received a stimulus check;
  - They are unable to pay full rent due to “substantial” income loss, loss of work hours, lay-off, or extraordinary out-of-pocket medical expenses;
  - They are making “best efforts” to make timely payments that are as close to the full payment as possible, taking into account other non-discretionary expenses;
  - They would become homeless or need to double-up if evicted.
- **Obligation to Pay Rent and Fees:**
  - Does not relieve tenants of their obligation to pay rent owing;
  - Does not preclude the charging of late fees, penalties, or interest.
- **Landlords may still evict for the following:**
  - Criminal activity on the premises;
  - Threatening health/safety of other residents;
  - Damaging or posing an immediate and significant risk of damage to property;
  - Violating any applicable building code, health ordinance, or similar health/safety regulation;
  - Violating any other contractual obligation, other than rent/fee payment.
- **Applicability and Preemption:**
  - Applies wherever there is not a more protective state moratorium in effect, i.e. it acts as a floor;
  - Does not preempt more protective provisions of local laws or regulations.
- **Penalties for violation:**
  - Person:
    - Fine of up to 100K or one year in jail if violation does not result in death;
    - Fine of up to \$250K and one year in jail if violation results in death;
  - Organization:
    - \$200K per event if no death;
    - \$500K per event if violation results in death.
- **Enforcement:**
  - USDOJ may initiate court proceedings;
  - USHHS authorized to cooperate in enforcement.
- **Interpretation/Implementation:** To mitigate COVID-19 spread within congregate settings, through unsheltered homelessness; from one state to another; supporting local response efforts

### **Holes in Coverage of the CDC Action that Require Oregon Executive and/or Legislative Action**

- *CDC Action expires in December, well before COVID impact will be over, and may be subject to injunction due to litigation regarding APA or other challenges*
- **Coverage:**
  - Not clear whether CDC Action protects against no-cause evictions, lease non-renewals, or LL-based cause evictions.
    - *HB 4213 addresses these instances*
  - CDC Action doesn't cover threats of eviction
    - *HB 4213 addresses these instances*
  - Not clear whether CDC Action covers eviction notices and FED filings, or just eviction enforcement
    - *HB 4213 addresses these instances*
- **Payments and Credit:**
  - CDC Action doesn't prohibit assessment of late fees and penalties
    - *HB 4213 addresses these instances*
  - CDC Action doesn't address application of payments
    - *HB 4213 requires payments to be applied towards current rent owing, then to arrears*
  - CDC Action doesn't prevent reporting arrears to credit bureau
    - *HB 4213 prevents this*
  - CDC Action doesn't address partial payment waiver issues
    - *HB 4213 addresses this issue for landlords*
- **Burden on Tenants:**
  - CDC Action requires tenant to submit declaration to landlord in order to qualify for protection
    - Declaration is intimidating and burdensome and may chill tenants from participating – especially undocumented or NonEnglish speaking tenants
    - Form of declaration is provided by the Agency Action, but is in English only
  - Vague standard – for example, what is “best effort” of tenant to pay? And who gets to make this determination?
  - Notice - CDC Action provides no notice requirement for LL to tell tenants about the need to send the declaration.
  - *HB 4213 avoids these questions and is more in keeping with public health principles by providing protection to all tenants from eviction based on non-payment and no-fault during the pandemic.*
- **Enforcement:**
  - CDC Action provides for federal criminal penalties for violation, but it's unclear how a tenant can assert their rights. Is a violation of this Action a defense to a civil eviction?
  - *HB 4213 provides civil penalties and incorporates the protections into the L/T act, helping both sides understand the mechanisms for enforcement and implementation.*

### **Additional issues not addressed by CDC Action or by HB 4213:**

- **Extended protection time:**
  - COVID-related housing insecurity, debt, and public health threat will not be abated before the end of the 20/21 school year. Protections should be in place for at least this length of time, in order to assure stability for families and communities.
- **Landlord-based assistance:**
  - Landlords should be able to apply for assistance at a property-level
  - Funding is necessary for this program
- **Lease-break fees for tenants who need to move b/c they can't pay their rent:**
  - Tenants seeking more affordable options, or who need to move to care for family members, are often assessed significant fees
- **Guidelines for payment plans:**
  - What are the guidelines for tenants who fail to follow through with payment plans due to COVID-disruption?

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- **Screening:**
  - Tenants should be protected against use of COVID-related non-payments in LL references (not just credit reporting)
- **Relief from Debt as Eviction Basis:**
  - Tenants should not be subject to eviction for COVID related non-payment of arrears, even after March 31
  - This debt should be treated as consumer debt, with the attendant provisions and protections.