

Good Afternoon:

I have been a landlord tenant attorney in Oregon since 1983. Landlord tenant law is supposed to be something a lay person can navigate. The judicial department advises that it is very complicated and that landlords should hire an attorney. Most landlords are not represented by attorneys. I can have trouble navigating the rules. How is an inexperienced lay person supposed to do it?

The proposed legislation is adding more complexity to the labyrinth. There are three time periods for which the rules are different: 1) pre-covid-19 emergency; 2) covid-19 emergency; 3) post-covid-19 emergency. I am not sure how unrepresented landlords are going to navigate that without getting punished with 3 months' rent and attorney fees for being wrong no matter how minor the mistake. Several times. Particularly with retroactive rules.

Some provisions are retroactive and changing the terms of the emergency. A landlord could have given a 90 day notice before the emergency. Then filed suit on that notice. Retroactively that is now illegal and tenants get three months' rent in damages. If the landlord was within the law at the time of filing why is the tenant entitled to damages?

If a landlord legally started an FED that would now be illegal to continue, does the case have to be dismissed and the landlord start over? Or does the case just stops temporarily to be restarted later? How is the unrepresented landlord supposed to figure that out?

There is now is a proposal to extend the 1 year statute of limitations. This is important. There could be rent or other amounts due from prior to the emergency period. The collection of such sums should be extended out so the landlord does not have to file to collect the money in court now in order to preserve their rights.

I think it is unrealistic to believe that the tenant that takes 6 months of nonpayment can in 6 months repay that amount and keep current on the obligation. That is paying two months at a time when many were struggling to pay only one month. They can pay one month, the current month and avoid an FED for 6 months while paying nothing on the 6 month free period. Which means after a year, how does that play out if the statute of limitations is not tolled? Can the landlord still collect or is it barred by the limitations period?

Once unemployment compensation is being paid the tenant should have ability to pay at least some rent. Some will, some won't. They just have no incentive to do so while housing is free with no immediate consequences. There are instances where the tenant claims to have money but simply are not paying rent because they have free housing. I have a landlord who informed me that the tenant is not paying rent but went out and purchased a car. The money may be gone before the Covid-19 emergency ends.

Rent assistance will help but the tenant has to apply and qualify. Not all nonpayment cases are Covid-19 related. There are situations that are in the pre-Covid-19 period. If assistance is given for rent, it needs to be given directly to the landlord. If not, at least some of the time it will not be paid to the landlord by the tenant.

Unfortunately the Covid-19 pandemic will force some to file bankruptcy. There have already been inquiries noted on the Oregon State Bar Debtor/Creditor list serve. It is suggested that people will live on credit for a year or more and then file. Some of those people will be tenants who have gotten 6 months free housing courtesy of government.

It looks to me that those proposing the legislation want 6 months free housing for tenants while trying to avoid a constitutional taking. Is that going to encourage more landlords?

I think that the law is very heavily weighted toward tenants. I think you are trying to solve poverty by giving tenants' rights which is not the way to solve the poverty problem. The relationship between landlords and tenants are not the root cause of poverty. But now landlords are evil and responsible for everything. It is scapegoating for the failures of the great society. The thought is since government has not solved the problem let's find someone to blame. How about landlords?

Small independent landlords have only one escape from the legal nightmare. They stop being landlords. You need more landlords not less. But what the legislature has done in the last few years is driving landlords away.

Inexperienced landlords naively decide to be landlords. They try and they get burned for it due to the complexity and paying thousands of dollars to deal with each bad tenant. No one who lacks experience should get involved but they do because they don't know what they are in for. Many will leave when they can and they will not come back. It is a contributing factor for why there is not enough housing. No one wants the job.

I don't know why anybody would want to be a landlord.

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