

HB 4401 STAFF MEASURE SUMMARY
Joint Committee On The Third Special Session of 2020

Carrier: Rep. Fahey

Action Date: 12/21/20

Action: Do Pass.

House Vote

Yeas: 3 - Alonso Leon, Fahey, Speaker Kotek

Nays: 2 - Drazan, Stark

Senate Vote

Yeas: 3 - Burdick, Manning Jr, President Courtney

Nays: 2 - Girod, Thatcher

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Claire Adamsick, LPRO Analyst

Meeting Dates: 12/21

WHAT THE MEASURE DOES:

Directs Oregon Housing and Community Services (OHCS) to provide grants directly to landlords on behalf of financially distressed tenants for 80 percent of unpaid rent between April 1, 2020, and June 30, 2021. Requires landlords to complete an application detailing all unpaid rents from qualified tenants and an agreement to forgive 20 percent of outstanding unpaid rent. Allows OHCS to set qualifications, priorities, restrictions, and limits for distributing funds to landlords, and to prioritize landlords with fewer units or a higher percentage of unpaid rents. Directs OHCS to also distribute rent assistance to recipients of federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Emergency Solutions Grants, which includes community action agencies and culturally specific providers, who will make payments directly to landlords upon tenants' applications. Prohibits eviction without cause until June 30, 2021. Requires landlords to provide tenants with notice informing them of their right to submit a declaration of financial hardship. Requires declaration of hardship be made under penalty of perjury. For tenants declaring financial hardship: extends emergency period, end of grace period and prohibits eviction for nonpayment until June 30, 2021; requires tenants who provide declaration of hardship to pay past due rent by July 1, 2021; prohibits landlord from charging late fees for rent nonpayment between April 1, 2020, and June 30, 2021. For tenants who do not declare financial hardship: extends emergency period to December 31, 2020, and extends grace period to March 31, 2021; prohibits eviction for nonpayment until March 31, 2021, requires such tenants to pay past due rent by March 31, 2021; prohibits landlord from charging late fees for rent nonpayment between April 1, 2020, and March 31, 2021. Extends through June 30, 2021, the 72-hour timeline for issuance of notice of nonpayment and intention to terminate rental agreement to 10 days, and extends 144-hour timeline to 13 days. Requires court to dismiss eviction action before end of grace period based solely on nonpayment if tenant declares hardship or landlord fails to provide tenant with notice of rights. Provides tenant with private right of action against landlord for violations of this Act. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Anticipated evictions in early January following expiration of current moratorium
- Current lack of grace period for rent not paid between Oct. 1 and Dec. 31
- Financial impact to landlords who have not received rent under current moratorium
- Public health concerns when evicting people during pandemic
- Inability of landlord to challenge renter's declaration of financial hardship
- Accessibility of tenant declaration process
- Impact eviction would have on people working from home, learning from home
- Long-term financial impact to renter who is evicted

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- Whether existing tenant-initiated rental assistance program should be sole program
- Impact of forgiving 20 percent of unpaid rent
- Recent passage of federal aid package

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

On March 8, 2020, Oregon Governor Kate Brown declared a state of emergency due to concerns around the transmission of COVID-19. On March 22, Executive Order 20-11 prohibited law enforcement from delivering notices of eviction, and on April 1, Executive Order 20-13 placed a temporary moratorium on residential and non-residential evictions for non-payment.

During its first Joint Special Session in June, the Legislative Assembly passed House Bill 4213, which established an eviction moratorium for residential and non-residential tenants through September 30, 2020 and allowed a six-month grace period for tenants to repay outstanding rent by March 31, 2021. The grace period established in House Bill 4213 applied to rent accrued between April 1, 2020 and September 30, 2020.

On September 28, the Governor issued Executive Order 20-56, extending the temporary moratorium on residential eviction for nonpayment to December 31, 2020. This second executive order did not apply the tenant grace period for repayment to rent accrued between October 1 and December 31, 2020, meaning that landlords could lawfully terminate a tenancy beginning in January 2021 for nonpayment of rent between October 2020 and January 2021.

According to the U.S. Census Bureau's Household Pulse Survey from October 28-Nov 23, 2020, 12 percent of Oregon renters are behind on rent payments. Data provided by the National Council of State Housing Agencies estimates that between 27,700 and 56,100 Oregon households may be at risk of eviction on January 1, 2021. Statewide, the total estimated revenue shortfall from unpaid rent will reach between \$155-\$274 million. Rental nonpayment has led to financial hardship for some Oregon landlords, especially small landlords who rely on rental income to cover personal expenses as well as property maintenance, utilities and taxes.

House Bill 4401 extends the moratorium on eviction without cause through June 30, 2021. The measure also extends the moratorium on eviction for nonpayment through June 30, 2021, for tenants who declare a hardship. It establishes a landlord compensation fund to cover rental assistance and authorizes Oregon Housing and Community Services to distribute rent assistance to recipients of CARES Act Emergency Solutions Grants, which includes community action agencies and culturally specific providers, who will make payments directly to landlords upon tenants' applications.