

# D R A F T

## SUMMARY

Extends suspension of termination of residential tenancies for nonpayment of rent for tenants who have applied for emergency rental assistance and provided documentation of application to their landlord on or before June 30, 2022, throughout period that application is pending. Amends notice provided with eviction summons delivered by clerk. Adds additional requirements for certain rental assistance providers.

Extends until October 1, 2022, sunset of safe harbor for tenants who have applied for emergency rental assistance and sunset of changes extending cure period in termination notices for nonpayment of residential rent.

Extends eligibility for funding from Housing and Community Services Department for certain landlords experiencing delay in termination for nonpayment.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to residential tenancies; creating new provisions; amending section  
3 22, chapter 3, Oregon Laws 2020 (third special session), and sections 2,  
4 5, 7, 8, 9 and 10, chapter 420, Oregon Laws 2021; and declaring an emer-  
5 gency.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1.** Section 2, chapter 420, Oregon Laws 2021, is amended to  
8 read:

9 **Sec. 2.** (1) As used in this section **and section 9, chapter 420, Oregon**  
10 **Laws 2021:**

11 (a) “Documentation” includes electronic mail, a screenshot or other  
12 written or electronic documentation from a [*rent*] **rental** assistance provider  
13 verifying the submission of an application for **emergency** rental assistance.

1 (b)(A) “Nonpayment” means the nonpayment of a payment that is due to  
2 a landlord, including a payment of rent, late charges, utility or service  
3 charges or any other charge or fee as described in the rental agreement or  
4 ORS 90.140, 90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.

5 (B) “Nonpayment” does not include payments owed by a tenant for  
6 damages to the premises.

7 (2)(a) If, on or before June 30, 2022, a tenant provides the landlord with  
8 documentation that the tenant has applied for emergency rental assistance,  
9 a landlord may not, while the application for rental assistance is pend-  
10 ing:

11 (A) Deliver a termination notice for nonpayment; or

12 (B) Initiate or continue an action for possession based on a termination  
13 notice for nonpayment.

14 (b) A tenant may provide documentation by any method reasonably cal-  
15 culated to achieve receipt by the landlord, including by sending a copy or  
16 photograph of the documentation by electronic mail or text message.

17 (c) If [60 days have passed since the tenant provided documentation under  
18 this subsection:] the tenant’s application is no longer pending:

19 (A) A landlord may deliver to the tenant a new termination notice for  
20 nonpayment, to which this section does not apply, without providing the  
21 notice under subsection (4) of this section; or

22 (B) If a claim for possession was postponed under subsection (5)(b) of this  
23 section, upon notice from either party that the application is no longer  
24 pending, the court shall promptly set the matter for [trial.] a first ap-  
25 pearance as described in ORS 105.137.

26 (3) Except as provided in subsection (2)(c)(A) of this section, a landlord  
27 shall deliver the notice described in subsection (4) of this section along with:

28 (a) Any notice of termination for nonpayment; and

29 (b) Any summons for a complaint seeking possession based on nonpayment  
30 given by the landlord or service processor, including a summons delivered  
31 under ORS 105.135 (3)(b).

1 (4) The notice required under subsection (3) of this section must be in  
2 substantially the following form:

3 \_\_\_\_\_  
4 THIS IS AN IMPORTANT NOTICE ABOUT YOUR RIGHTS TO PRO-  
5 TECTION AGAINST EVICTION FOR NONPAYMENT.

6  
7 For information in Spanish, Korean, Russian, Vietnamese or Chinese, go  
8 to the Judicial Department website at [www.courts.oregon.gov](http://www.courts.oregon.gov).

9  
10 *[Until February 28, 2022, if you give your landlord documentation that you*  
11 *have applied for rental assistance at or before your first appearance in court,*  
12 *you may be temporarily protected from eviction for nonpayment.]* **If you have**  
13 **applied for emergency rental assistance, then you may be protected**  
14 **from eviction for nonpayment of rent as long as your application is**  
15 **pending with the rental assistance provider. To qualify for this pro-**  
16 **tection, you must give your landlord documentation of your rental**  
17 **assistance application at or before your first appearance in court, and**  
18 **no later than June 30, 2022. The protection from eviction for nonpay-**  
19 **ment of rent applies until your application is no longer pending, but**  
20 **no later than September 30, 2022. Do not miss an eviction court date,**  
21 **even if you believe your eviction should not be moving forward.**

22  
23 Documentation *[may be made]* **of your application for rental assistance**  
24 **can be provided** by any reasonable method, including by sending a copy or  
25 photograph of the documentation **to your landlord** by electronic mail or text  
26 message. “Documentation” includes electronic mail, a screenshot or other  
27 written or electronic documentation verifying the submission of an applica-  
28 tion for **emergency** rental assistance.

29  
30 To apply for rental assistance **(before June 30, 2022)**, go to  
31 [www.oregonrentalassistance.org](http://www.oregonrentalassistance.org), dial 211 or go to [www.211info.org](http://www.211info.org).

1 To find free legal assistance for low-income Oregonians, go to  
2 [www.oregonlawhelp.org](http://www.oregonlawhelp.org).

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4 (5)(a) A court shall enter a judgment dismissing a complaint for pos-  
5 session that is based on a termination notice for nonpayment if the court  
6 determines that:

7 (A) The landlord failed to attach the notice as required under subsection  
8 (3) of this section.

9 (B) The tenant's nonpayment was substantially caused by the landlord's  
10 failure to reasonably participate with a rental assistance program. This  
11 subparagraph does not require that a landlord apply for compensation under  
12 section 2, chapter 3, Oregon Laws 2020 (third special session).

13 (C) The landlord [*receives rental assistance covering the rent*] **has received**  
14 **rental assistance or any other payment covering the nonpayment**  
15 **amount** owed under the notice.

16 (D) The tenant provided the landlord with documentation of application  
17 for rental assistance as described in subsection (2) of this section before the  
18 claim was filed.

19 (b) If the tenant provides the landlord or court with documentation of  
20 application for rental assistance as described in subsection (2) of this section  
21 at any time after the landlord commenced the action for possession and at  
22 or before the first appearance, at the first appearance the court shall, on its  
23 own motion, postpone the first appearance [*to a date not earlier than 60 days*  
24 *after the documentation was delivered.*] **until the tenant's application is**  
25 **no longer pending.**

26 (6) If a landlord violates this section;

27 (a) A tenant may obtain injunctive relief to recover possession or address  
28 any other violation[;].

29 (b) The tenant has a defense to an action for possession by the landlord.

30 (7) Notwithstanding ORS 105.137 (4), if a claim for possession is dismissed  
31 under this section, the tenant is not entitled to prevailing party fees, costs

1 or attorney fees if the landlord:

2 (a) Delivered to the tenant all notices required under subsection (3) of  
3 this section as required;

4 (b) Did not know, and did not have reasonable cause to know, at the time  
5 of commencing the action that the tenant had provided documentation of  
6 application for rental assistance under subsection (2) of this section; and

7 (c) Promptly dismissed the action upon becoming aware of the documen-  
8 tation of application for **emergency** rental assistance.

9 **SECTION 2. The amendments to section 2, chapter 420, Oregon**  
10 **Laws 2021, by section 1 of this 2021 second special session Act apply to:**

11 **(1) Termination notices for nonpayment given before, on or after**  
12 **the effective date of this 2021 second special session Act, except that**  
13 **termination notices given before the effective date of this 2021 second**  
14 **special session Act may include the form of notice under section 2 (4),**  
15 **chapter 420, Oregon Laws 2021, that was in effect on the date the ter-**  
16 **mination notice was given.**

17 **(2) Actions for possession filed before, on or after the effective date**  
18 **of this 2021 second special session Act that have not resulted in a**  
19 **judgment for possession.**

20 **(3) Applications for compensation for nonpayment under section 9,**  
21 **chapter 420, Oregon Laws 2021, that are submitted on or after the ef-**  
22 **fective date of this 2021 second special session Act.**

23 **SECTION 3. Section 5, chapter 420, Oregon Laws 2021, is amended to**  
24 **read:**

25 **Sec. 5.** The clerk shall include *[the notice described in section 2 (4) of this*  
26 *2021 Act]* with the summons and complaint mailed to a defendant under ORS  
27 105.135 (3)(a)[.]:

28 **(1) A copy of the notice described in section 2 (4), chapter 420,**  
29 **Oregon Laws 2021; and**

30 **(2) The following statement: “Low-income tenants who have re-**  
31 **ceived a court summons about an eviction case may contact the**

1 **Eviction Defense Project at (888) 585-9638 or e-mail**  
2 **evictiondefense@oregonlawcenter.org to seek free legal defense.”**

3 **SECTION 4.** Section 7, chapter 420, Oregon Laws 2021, is amended to  
4 read:

5 **Sec. 7.** In distributing **emergency** rental assistance to residential tenants  
6 funded by federal, state or local moneys, the Housing and Community Ser-  
7 vices Department, other public bodies and local governments, along with  
8 their subgrantees, shall:

9 (1) Promptly provide a dated application receipt to each tenant who ap-  
10 plies for assistance. The receipt may be in an electronic format.

11 (2) **Close an application, after notice to the tenant of potential clo-**  
12 **sure, if the provider reasonably determines that the tenant is no**  
13 **longer participating.**

14 (3) **If, upon qualifying circumstance, an application is approved and**  
15 **payment is made to an entity other than the tenant’s landlord, provide**  
16 **a dated notice of payment to the tenant’s landlord at any known ad-**  
17 **dress or electronic mail address.**

18 (4) **If an application is denied or is otherwise closed without pay-**  
19 **ment, provide a dated notice of the denial or closure to the tenant and**  
20 **to the tenant’s landlord at any known address or electronic mail ad-**  
21 **dress.**

22 **SECTION 5.** Section 5, chapter 420, Oregon Laws 2021, as amended by  
23 section 3 of this 2021 special session Act, is amended to read:

24 **Sec. 5.** The clerk shall include with the summons and complaint mailed  
25 to a defendant under ORS 105.135 (3)(a)[:]

26 [(1) *A copy of the notice described in section 2 (4), chapter 420, Oregon*  
27 *Laws 2021; and]*

28 [(2)] the following statement: “Low-income tenants who have received a  
29 court summons about an eviction case may contact the Eviction Defense  
30 Project at (888) 585-9638 or e-mail [evictiondefense@oregonlawcenter.org](mailto:evictiondefense@oregonlawcenter.org) to  
31 seek free legal defense.”

1       **SECTION 6.** The amendments to section 5, chapter 420, Oregon  
2 Laws 2021, by section 5 of this 2021 second special session Act become  
3 operative October 1, 2022.

4       **SECTION 7.** Section 22, chapter 3, Oregon Laws 2020 (third special ses-  
5 sion), as amended by section 4, chapter 39, Oregon Laws 2021, is amended to  
6 read:

7       **Sec. 22.** (1) The amendments to ORS 105.113 by section 20, chapter 3,  
8 Oregon Laws 2020 (third special session), become operative on July 1, 2021.

9       (2) The amendments to ORS 90.385[, 90.394 and 105.124 by sections 18, 19  
10 and 21] **by section 18**, chapter 3, Oregon Laws 2020 (third special session),  
11 become operative on March 1, 2022.

12       **(3) The amendments to ORS 90.394 and 105.124 by sections 19 and 21,**  
13 **chapter 3, Oregon Laws 2020 (third special session), become operative**  
14 **on October 1, 2022.**

15       **SECTION 8.** Section 8, chapter 420, Oregon Laws 2021, is amended to  
16 read:

17       **Sec. 8.** [*Sections 2, 5, 6 and 7 of this 2021 Act are repealed on March 1,*  
18 *2022.*]

19       **(1) Section 2, chapter 420, Oregon Laws 2021, as amended by section**  
20 **1 of this 2021 second special session Act, is repealed on October 1, 2022.**

21       **(2) Section 5, chapter 420, Oregon Laws 2021, as amended by sections**  
22 **3 and 5 of this 2021 second special session Act, is repealed on July 1,**  
23 **2023.**

24       **(3) Section 6, chapter 420, Oregon Laws 2021, is repealed on October**  
25 **1, 2022.**

26       **(4) Section 7, chapter 420, Oregon Laws 2021, as amended by section**  
27 **4 of this 2021 second special session Act, is repealed on October 1, 2022.**

28       **SECTION 9.** Section 9, chapter 420, Oregon Laws 2021, is amended to  
29 read:

30       **Sec. 9.** The Housing and Community Services Department shall provide  
31 a grant to a third party to make distributions to compensate landlords who,

1 under section 2 *[of this 2021 Act]*, **chapter 420, Oregon Laws 2021**, have  
2 delayed termination notices or eviction proceedings. A landlord may apply  
3 for compensation for nonpayment that accrued during the *[delay if the land-*  
4 *lord demonstrates that:]* **time period, as demonstrated by the landlord,**  
5 **beginning on the date that the tenant provided documentation to the**  
6 **landlord, and ending on the earliest of the following:**

7 *[(1) The tenant's application for rental assistance was denied; or]*

8 *[(2) Sixty days have passed since the tenant provided documentation of ap-*  
9 *plication for rental assistance without the landlord receiving rental*  
10 *assistance.]*

11 **(1) The date the landlord receives possession of the premises from**  
12 **the tenant;**

13 **(2) The date a court enters a judgment for possession of the prem-**  
14 **ises in favor of the landlord;**

15 **(3) The date a rental assistance provider denies or closes without**  
16 **payment a tenant's application for rental assistance; or**

17 **(4) The date a rental assistance provider makes a payment of rental**  
18 **assistance on behalf of the tenant.**

19 **SECTION 10.** Section 10, chapter 420, Oregon Laws 2021, is amended to  
20 read:

21 **Sec. 10.** Section 9, **chapter 420, Oregon Laws 2021**, as amended by  
22 **section 10 of this 2021 second special session Act**, *[of this 2021 Act]* is  
23 repealed on **October 1, 2023** *[March 1, 2023]*.

24 **SECTION 11.** **This 2021 second special session Act being necessary**  
25 **for the immediate preservation of the public peace, health and safety,**  
26 **an emergency is declared to exist, and this 2021 second special session**  
27 **Act takes effect on its passage.**

28