

LC 9 (December 9, 2021) STAFF MEASURE SUMMARY
Joint Interim Committee on the Second Special Session of 2021

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WHAT THE MEASURE DOES:

Prohibits residential landlords from delivering a termination notice for nonpayment or from taking action for possession based on a termination notice for nonpayment while a tenant’s application for emergency rental assistance is pending, if tenant has provided landlord with documentation that tenant has applied for emergency rental assistance on or before June 30, 2022. Allows landlords to deliver a termination notice for nonpayment when tenant application for emergency rental assistance is no longer pending, or on or after October 1, 2022, whichever is earlier. Requires Oregon Housing and Community Services, public bodies, local governments, and subgrantees to: close an application for emergency rental assistance if the provider reasonably determines that tenant is no longer participating; provide landlord with dated notice of payment if application is approved and payment made to entity other than landlord; and provide landlord and tenant with dated notice of denials or closure without payment. Extends requirement for landlord delivery of written notice of nonpayment and intent to terminate no sooner than 10 days before terminating and taking possession. Clarifies that landlords who delayed termination notices or eviction proceedings may apply for compensation for nonpayment accrued between date tenant sent documentation of emergency rental assistance application and earliest date of the following: landlord repossession of premises; court enters judgment for possession in landlord’s favor; rental assistance provider denies or closes application without payment; or rental assistance provider makes payment on behalf of tenant. Modifies notices from landlords to tenants required with eviction summons to include legal defense information for low-income tenants until October 1, 2023. Clarifies court process regarding scheduling a first appearance based on notice from landlord or tenant regarding application status. Clarifies courts will dismiss complaints for possession based on termination for nonpayment if landlord receives rental assistance or any other payment covering the nonpayment amount owed on notice. Clarifies “nonpayment” does not include tenant payments owed for property damage. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

BACKGROUND:

According to the U.S. Census Bureau's Household Pulse Survey from September 29 – October 11, 2021, nearly 20 percent of Oregon renters reported little or no confidence that they would be able to pay the next month's rent, while approximately 48 percent of Oregon renters surveyed said they are very or somewhat likely to be evicted in the next two months due to their inability to pay rent. According to a June 2021 report by Portland State University’s Homeless Research & Action Collaborative, as many as 125,000 Oregon households are at risk of eviction. The report estimated that the statewide cost of evictions could reach between \$720 million and \$4.7 billion based on health, shelter, child welfare, and juvenile justice costs associated with the loss of housing. 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.

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, 2020, 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 nonresidential evictions for nonpayment.

During its First Special Session in June 2020, the Legislative Assembly passed House Bill 4213, which established an eviction moratorium for residential and nonresidential 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, 2020, 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.

During its Third Special Session in December 2020, the Legislative Assembly enacted House Bill 4401, which extended the grace period for tenant nonpayment of rent and other charges, as well as the moratorium on evictions without cause, until June 30, 2021. The measure also extended the moratorium on eviction for nonpayment through June 30, 2021, for tenants who declare a financial hardship and established a Landlord Compensation Fund to reimburse landlords for unpaid rent.

In May 2021, the Legislative Assembly enacted Senate Bill 282, extending the expiration of the grace period from June 30, 2021, to February 28, 2022, for tenant repayment of residential rent accrued during the emergency period of April 1, 2020, through June 30, 2021.

In June 2021, the Legislative Assembly enacted Senate Bill 278, prohibiting residential landlords from pursuing eviction actions against a tenant for nonpayment for a 60-day period from the time that a tenant has provided a landlord with documentation of application for rental assistance, beginning July 1, 2021. The measure also directed Oregon Housing and Community Services (OHCS) to contract with a third-party grantee to distribute rental assistance to landlords who have delayed termination notice or eviction proceedings, and directed OHCS to reimburse landlords participating in the Landlord Compensation Fund for the 20 percent of past-due rent that was initially forgiven, and compensate new qualifying applicants for 100 percent of past-due rent.

On December 1, 2021, OHCS paused acceptance of new applications for rental assistance through the Oregon Emergency Rental Assistance Program (OERAP), reporting that the \$289 million in federal funding has been paid or will be allocated to applications already in the queue. On December 6, 2021, the agency reported that it had distributed \$157.5 million in federal rental assistance statewide. OHCS estimates that as of December 1, 2021, 7,902 tenants who have applied for and are awaiting payment are outside the 60-day safe harbor period established by Senate Bill 278 (this number includes Multnomah County residents who are outside the county's 90-day safe harbor period). This figure does not include applications to the counties that received direct federal emergency rental assistance allocations.

Legislative Concept 9 extends the safe harbor period for residential tenants with a pending application for emergency rental assistance, if the tenant provides their landlord with documentation that they have applied for rental assistance on or before June 30, 2022. It clarifies that landlords may deliver a termination notice for nonpayment when a tenant application for emergency rental assistance is no longer pending, or on or after October 1, 2022, whichever is earlier. The concept also requires Oregon Housing and Community Services and other emergency rental assistance providers to notify landlords when a tenant application has been approved and payment was made to an entity other than the landlord, and to provide landlords with dated notice of an application denial or closure. Landlords who delayed termination notices or eviction proceedings may apply for compensation for nonpayment accrued during specified dates.