

SENATE AMENDMENTS TO SENATE BILL 282

By COMMITTEE ON HOUSING AND DEVELOPMENT

April 8

1 In line 2 of the printed bill, after “housing” insert “; creating new provisions; amending ORS
2 90.303 and 105.163 and sections 3, 4 and 7, chapter 13, Oregon Laws 2020 (first special session), and
3 section 22, chapter 3, Oregon Laws 2020 (third special session); and declaring an emergency”.

4 Delete lines 4 through 8 and insert:
5

“EVICTION MORATORIUM 6 7

8 “**SECTION 1.** Section 3, chapter 13, Oregon Laws 2020 (first special session), as amended by
9 section 8, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

10 “**Sec. 3.** (1) As used in this section and in section 7, **chapter 3, Oregon Laws 2020 (third
11 special session)** [of this 2020 third special session Act]:

12 “(a) ‘Emergency period’ means the period beginning on April 1, 2020, and ending on [December
13 31, 2020, except as the period may be extended through] June 30, 2021[, under section 7 (1) of this 2020
14 third special session Act].

15 “(b) ‘End of the grace period’ means [March 31, 2021, unless the period is extended through June
16 30, 2021, under section 7 (1) of this 2020 third special session Act] **February 28, 2022.**

17 “(c) ‘Nonpayment’ means the nonpayment of a payment that becomes due during the emergency
18 period to a landlord, including a payment of rent, late charges, utility or service charges or any
19 other charge or fee as described in the rental agreement or ORS 90.140, 90.302, 90.315, 90.392, 90.394,
20 90.560 to 90.584 or 90.630.

21 “(d) ‘Nonpayment balance’ includes all or a part of the net total amount of all items of non-
22 payment by a tenant during the emergency period.

23 “(e) ‘Termination notice without cause’ means a notice delivered by a landlord under ORS 90.427
24 (3)(b), (4)(b) or (c), or (8)(a)(B) or (b)(B).

25 “(2) Before the end of the grace period, notwithstanding this chapter or ORS 105.105 to 105.168,
26 a landlord may not, and may not threaten to:

27 “(a) Deliver a notice of termination of a rental agreement based on a tenant’s nonpayment bal-
28 ance;

29 “(b) Initiate or continue an action under ORS 105.110 to take possession of a dwelling unit based
30 on a notice of termination for nonpayment delivered during the emergency period;

31 “(c) Take any action that would interfere with a tenant’s possession or use of a dwelling unit
32 based on a tenant’s nonpayment balance;

33 “(d) Assess a late fee or any other penalty on a tenant’s nonpayment; **or**

34 “[e] Report a tenant’s nonpayment balance as delinquent to any consumer credit reporting agency;
35 or]

1 “[(f)] (e) File an action to recover the nonpayment balance.

2 “(3) Notwithstanding ORS 90.220 (9), before applying payments received from a tenant or on

3 behalf of a tenant to a tenant’s nonpayment balance, a landlord shall first apply the payments, in

4 the following order, to:

5 “(a) Rent for the current rental period;

6 “(b) Utility or service charges;

7 “(c) Late rent payment charges; and

8 “(d) Fees or charges owed by the tenant under ORS 90.302 or other fees or charges related to

9 damage claims or other claims against the tenant.

10 “[(4)(a) Before June 30, 2021, a landlord may not deliver a termination notice without cause and

11 may not file an action under ORS 105.110 based on a termination notice without cause.]

12 “[(b)] (4) If the first year of occupancy would end after April 1, 2020, and before August 31, 2021,

13 for the purposes of a termination notice without cause, the ‘first year of occupancy’ is extended to

14 mean a period lasting until August 31, 2021.

15 “(5)(a) A landlord may deliver a written notice to a tenant before the end of the grace period

16 stating that the tenant continues to owe any rent [due.] **that accrued from April 1, 2020, through**

17 **June 30, 2021, but**

18 “[(b) If the emergency period is extended under section 7 (1) of this 2020 third special session

19 Act,] the notice must also include a statement that eviction for nonpayment of rent, charges and fees

20 accrued from April 1, 2020, to June 30, 2021, is not allowed before [June 30, 2021] **February 28,**

21 **2022.**

22 “[(c) If the emergency period is not extended under section 7 (1) of this 2020 third special session

23 Act, the notice must also include:]

24 “[(A) A statement that eviction for nonpayment of rent, charges and fees accrued from April 1,

25 2020, to December 31, 2020, is not allowed before March 31, 2021; and]

26 “[(B) A copy of both the notice and declaration form described in section 7 (3) of this 2020 third

27 special session Act].

28 “[(d)] (b) The notice may also include information regarding tenant resources and may offer a

29 voluntary payment plan for the nonpayment balance. If the notice offers a voluntary payment plan,

30 the notice must state that the payment plan is voluntary. The notice may include a request that the

31 tenant contact the landlord to discuss the voluntary payment plan.

32 “(6)(a) If a tenancy terminates before the end of the grace period, a landlord may claim from the

33 security deposit or last month’s rent deposit to repay the unpaid rent balance that accrued during

34 the emergency period under ORS 90.300 (7) or (9).

35 “(b) Prior to the end of the grace period, a tenant with an unpaid rent balance that accrued

36 during the emergency period is not considered to be in default in rent under ORS 90.385 (4)(c) or

37 90.390 (2).

38 “(c) A landlord’s acceptance of a partial payment of rent before the end of the grace period does

39 not constitute a waiver of a landlord’s right to terminate the tenancy for:

40 “(A) A violation of the rental agreement, notwithstanding ORS 90.412 (2); or

41 “(B) Nonpayment of the rent balance owed under ORS 90.394 after the end of the grace period,

42 notwithstanding ORS 90.417 (4).

43 “(7) **A termination notice given under ORS 90.394 must substantially state that:**

44 “(a) **Eviction for nonpayment of rent, charges and fees that accrued on and after April**

45 **1, 2020, and before June 30, 2021, is not allowed before February 28, 2022; and**

1 “(d) A crime involving financial fraud, including identity theft and forgery; or
2 “(e) Any other crime if the conduct for which the applicant was convicted or charged is of a
3 nature that would adversely affect:
4 “(A) Property of the landlord or a tenant; or
5 “(B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord
6 or the landlord’s agent.
7 “(4) When evaluating an applicant, a landlord may not consider the possession of a medical
8 marijuana card or status as a medical marijuana patient.
9 “(5) **When evaluating an applicant, a landlord may not consider an applicant’s unpaid
10 rent, including rent reflected in judgments or referrals of debt to a collection agency, that
11 accrued on or after April 1, 2020, and before March 1, 2022.**
12 “**SECTION 9.** ORS 105.163 is amended to read:
13 “105.163. (1) A person who was a defendant in an action under ORS 105.105 to 105.168 may apply
14 by motion to the court where the judgment was entered for an order setting aside the judgment and
15 sealing the official records of the action pertaining to the applicant. The court shall grant the mo-
16 tion if the court finds that:
17 “(a) The judgment was a judgment of restitution entered against the applicant, [*a period of at
18 least five years has passed from the date of entry of the judgment and*] the applicant has satisfied any
19 money award included in the judgment[;] **and:**
20 “(A) **At least five years have passed from the date of the judgment; or**
21 “(B) **The judgment was based on claims that arose on or after April 1, 2020, and before
22 March 1, 2022;**
23 “(b) The judgment was a judgment by stipulation of the parties under ORS 105.145 (2) and the
24 applicant has complied with the terms of the stipulated agreement and satisfied any money award
25 included in the judgment; or
26 “(c) The judgment was a judgment or judgment of dismissal entered in the applicant’s favor.
27 “(2) The applicant shall serve a copy of the motion filed under subsection (1) of this section upon
28 the person who was the plaintiff in the action under ORS 105.105 to 105.168. Within 30 days of ser-
29 vice of the motion, if a written objection is filed, the court shall schedule a hearing.
30 “(3) If, under subsection (2) of this section, no objection is filed or after a hearing the court
31 determines that the applicant is eligible for relief under subsection (1) of this section, the court shall
32 enter an appropriate order setting aside the judgment and sealing the official records of the action
33 pertaining to the applicant. Upon entry of the order, the judgment that is the subject of the motion
34 shall be deemed not to have been entered, and the applicant may answer accordingly any questions
35 relating to its occurrence.
36 “(4) The court may not charge a filing fee for the filing of a motion under subsection (1) of this
37 section.
38 “**SECTION 10.** ORS 90.303, as amended by section 8 of this 2021 Act, is amended to read:
39 “90.303. (1) When evaluating an applicant, a landlord may not consider an action to recover
40 possession pursuant to ORS 105.105 to 105.168 if the action:
41 “(a) Was dismissed or resulted in a general judgment for the applicant before the applicant
42 submits the application.
43 “(b) Resulted in a general judgment against the applicant that was[.]
44 “[*(A)*] entered five or more years before the applicant submits the application[; or].
45 “[*(B)*] *Entered on claims that arose after April 1, 2020, and before March 1, 2022.*]

1 “(2) When evaluating the applicant, a landlord may not consider a previous arrest of the appli-
2 cant if the arrest did not result in a conviction. This subsection does not apply if the arrest has
3 resulted in charges for criminal behavior as described in subsection (4) of this section that have not
4 been dismissed at the time the applicant submits the application.

5 “(3) When evaluating the applicant, the landlord may not consider criminal conviction and
6 charging history unless the conviction or pending charge is for conduct that is:

7 “(a) A drug-related crime, but not including convictions based solely on the use or possession
8 of marijuana;

9 “(b) A person crime;

10 “(c) A sex offense;

11 “(d) A crime involving financial fraud, including identity theft and forgery; or

12 “(e) Any other crime if the conduct for which the applicant was convicted or charged is of a
13 nature that would adversely affect:

14 “(A) Property of the landlord or a tenant; or

15 “(B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord
16 or the landlord’s agent.

17 “(4) When evaluating an applicant, a landlord may not consider the possession of a medical
18 marijuana card or status as a medical marijuana patient.

19 “[5] *When evaluating an applicant, a landlord may not consider an applicant’s unpaid rent, in-*
20 *cluding rent reflected in judgments or referrals of debt to a collection agency, that accrued on or after*
21 *April 1, 2020, and before March 1, 2022.*]

22 “**SECTION 11.** ORS 105.163, as amended by section 9 of this 2021 Act, is amended to read:

23 “105.163. (1) A person who was a defendant in an action under ORS 105.105 to 105.168 may apply
24 by motion to the court where the judgment was entered for an order setting aside the judgment and
25 sealing the official records of the action pertaining to the applicant. The court shall grant the mo-
26 tion if the court finds that:

27 “(a) The judgment was a judgment of restitution entered against the applicant, the applicant has
28 satisfied any money award included in the judgment and[:]

29 “[*(A)*] at least five years have passed from the date of the judgment; [*or*]

30 “[*(B)*] *Judgments based on claims that arose on or after April 1, 2020, and before March 1, 2022;*]

31 “(b) The judgment was a judgment by stipulation of the parties under ORS 105.145 (2) and the
32 applicant has complied with the terms of the stipulated agreement and satisfied any money award
33 included in the judgment; or

34 “(c) The judgment was a judgment or judgment of dismissal entered in the applicant’s favor.

35 “(2) The applicant shall serve a copy of the motion filed under subsection (1) of this section upon
36 the person who was the plaintiff in the action under ORS 105.105 to 105.168. Within 30 days of ser-
37 vice of the motion, if a written objection is filed, the court shall schedule a hearing.

38 “(3) If, under subsection (2) of this section, no objection is filed or after a hearing the court
39 determines that the applicant is eligible for relief under subsection (1) of this section, the court shall
40 enter an appropriate order setting aside the judgment and sealing the official records of the action
41 pertaining to the applicant. Upon entry of the order, the judgment that is the subject of the motion
42 shall be deemed not to have been entered, and the applicant may answer accordingly any questions
43 relating to its occurrence.

44 “(4) The court may not charge a filing fee for the filing of a motion under subsection (1) of this
45 section.

