

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 891**81st Oregon Legislative Assembly – 2021 2nd Special Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Haylee Morse-Miller
Reviewed by: Amanda Beitel, Michelle Deister, John Borden
Date: December 13, 2021

Measure Description:

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.

Government Unit(s) Affected:

Counties, Oregon Judicial Department (OJD), Cities, Housing and Community Services Department (HCSD)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

SB 891 extends the safe harbor provisions for tenants who apply for emergency rental assistance and the eligibility for certain landlords to receive compensation for nonpayment. Under this measure, if a tenant provides a landlord with documentation that the tenant has applied for emergency rental assistance on or before June 30, 2022, then the landlord may not deliver a termination notice, or initiate or continue eviction proceedings, while the tenant's application for rental assistance is pending. Protection from eviction for nonpayment of rent is applicable until an application for emergency rental assistance is no longer pending, but not later than September 30, 2022. Previously, tenants only had until February 28, 2022 to provide documentation that they had applied for rental assistance; and a landlord could take an eviction action starting 60 days after a tenant provided documentation. This measure also modifies the notice that a landlord must deliver to a tenant regarding their rights to protection against eviction for nonpayment.

Additionally, this measure requires the Housing and Community Services Department (HCSD), and other public bodies, local governments, and subgrantees, when distributing emergency rental assistance to residential tenants, to close an application for rental assistance if it is determined a tenant is no longer participating; to provide a landlord with notice of payment if an application is approved and payment is made to a person other than the tenant's landlord; and if an application is denied or closed without payment, to provide a dated notice of the denial or closure to the tenant and their landlord. HCSD is directed to prioritize processing of eligible applications for tenants who applied for rental assistance on or before December 1, 2021, before assisting subsequent applicants.

Finally, the measure modifies the time period that landlords who have delayed termination notices or eviction proceedings may apply for compensation available through a grant from HCSD to a third-party. A landlord may apply for compensation for nonpayment that accrues starting on the date that the tenant provided documentation to the landlord, and ending on the earliest of the following: either October 1, 2022, the date the landlord receives possession of the premises from the tenant, the date a court enters a judgment for possession of the premises in favor of the landlord, the date an application for rental assistance is denied or closed, or on the date a rental assistance payment is made. If the date of payment, denial, or closure of an application was before the date this measure goes into the effect, then a landlord may be compensated until either the effective date of

this measure; or either the date 60 days after a tenant provided documentation to the landlord or the date of expiration of any local temporary moratoria on eviction for nonpayment of rent, whichever comes later.

HCSO administers the Oregon Emergency Rental Assistance Program (OERAP) which provides payments for rent in arrears on behalf of tenants. The omnibus budget bill for the 2021 Second Special Session includes \$100 million for OERAP and an additional \$5 million for OERAP program delivery and administrative expenses that will help to ensure that existing applications are evaluated and processed in a timely fashion. The omnibus bill also includes \$10 million for a grant to Home Forward for the Landlord Guarantee Program, which remits payments to landlords who can demonstrate that they accumulated nonpayment balances while they delayed termination notices or eviction proceedings. All funds are American Rescue Plan Act (ARPA) Coronavirus State Fiscal Recovery Fund moneys which will be expended by HCSO as Other Funds.

The fiscal impact of this measure is indeterminate since this measure does not require that OERAP or the Landlord Guarantee Program be funded at a certain level. However, should the omnibus budget bill pass with additional funding provided for OERAP, and OERAP timelines are extended by this measure, then HCSO will incur costs for continued OERAP administration and program delivery. To date, \$289 million has been provided for OERAP and it is estimated that all funds will be expended in coming weeks, effectively ending the program unless additional funds are provided.

Assuming additional funding is provided for OERAP, administrative and program delivery costs would likely include additional staffing, software updates, and translation services. HCSO currently contracts with Public Partnerships LLC (PPL) for administration of OERAP. The cost to continue contracting with PPL is indeterminate, as HCSO will need to complete contract negotiations with PPL. PPL will also need to modify the software they use to administer OERAP, to provide the notices required by this measure; and will hire additional staff to decrease application processing times. Additionally, HCSO will need to update communication materials and translations to reflect the revisions to OERAP, though cost estimates for this work are indeterminate at this time. HCSO plans to stand up an ongoing policy framework to coordinate and monitor eviction diversion and prevention strategies at the state and local level, to complement existing efforts and programs related to preventing homelessness. Funding for this work would come from the \$5 million in administrative and program delivery funding and up to 10% of the OERAP investment provided by the omnibus budget bill.

There is minimal fiscal impact for the Oregon Judicial Department, and no fiscal impact for Cities or Counties.