

Enrolled
Senate Bill 891

Sponsored by Senator COURTNEY

CHAPTER

AN ACT

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

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

SECTION 1. The Legislative Assembly finds that the need for rental assistance and eviction prevention resources has outpaced available resources and that additional resources and prompt execution of eviction prevention programs are necessary to remedy the condition.

SECTION 2. Section 2, chapter 420, Oregon Laws 2021, is amended to read:

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

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

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

(B) "Nonpayment" **does not include payments owed by a tenant for damages to the premises.**

(2)(a) If, **on or before June 30, 2022**, a tenant provides the landlord with documentation that the tenant has applied for **emergency** rental assistance, a landlord may not, **while the application for rental assistance is pending:**

(A) Deliver a termination notice for nonpayment; or

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

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

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

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

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

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

(a) Any notice of termination for nonpayment; and

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

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

THIS IS AN IMPORTANT NOTICE ABOUT YOUR RIGHTS TO PROTECTION AGAINST EVICTION FOR NONPAYMENT.

For information in Spanish, Korean, Russian, Vietnamese or Chinese, go to the Judicial Department website at www.courts.oregon.gov.

[Until February 28, 2022, if you give your landlord documentation that you have applied for rental assistance at or before your first appearance in court, you may be temporarily protected from eviction for nonpayment.] **If you have applied for emergency rental assistance, then you may be protected from eviction for nonpayment of rent as long as your application is pending with the rental assistance provider. To qualify for this protection, no later than June 30, 2022, you must give your landlord documentation of your rental assistance application at or before your first appearance in court. The protection from eviction for nonpayment of rent applies until your application is no longer pending, but no later than September 30, 2022. Do not miss an eviction court date, even if you believe your eviction should not be moving forward.**

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

To apply for rental assistance **(before June 30, 2022)**, go to www.oregonrentalassistance.org, dial 211 or go to www.211info.org.

To find free legal assistance for low-income Oregonians, go to www.oregonlawhelp.org.

(5)(a) A court shall enter a judgment dismissing a complaint for possession that is based on a termination notice for nonpayment if the court determines that:

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

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

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

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

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

- (6) If a landlord violates this section:
- (a) A tenant may obtain injunctive relief to recover possession or address any other violation[.];
 - (b) The tenant has a defense to an action for possession by the landlord.
- (7) Notwithstanding ORS 105.137 (4), if a claim for possession is dismissed under this section, the tenant is not entitled to prevailing party fees, costs or attorney fees if the landlord:
- (a) Delivered to the tenant all notices required under subsection (3) of this section as required;
 - (b) Did not know, and did not have reasonable cause to know, at the time of commencing the action that the tenant had provided documentation of application for rental assistance under subsection (2) of this section; and
 - (c) Promptly dismissed the action upon becoming aware of the documentation of application for **emergency** rental assistance.

SECTION 3. The amendments to section 2, chapter 420, Oregon Laws 2021, by section 2 of this 2021 second special session Act apply to:

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

(2) Actions for possession filed before, on or after the effective date of this 2021 second special session Act that have not resulted in a judgment for possession, except that a summons for a complaint seeking possession based on nonpayment given before the effective date of this 2021 second special session Act may include the form of notice under section 2 (4), chapter 420, Oregon Laws 2021, that was in effect on the date the summons was given.

(3) Applications for compensation for nonpayment under section 9, chapter 420, Oregon Laws 2021, that are submitted on or after the effective date of this 2021 second special session Act.

SECTION 4. Section 5, chapter 420, Oregon Laws 2021, is amended to read:

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

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

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

SECTION 5. Section 7, chapter 420, Oregon Laws 2021, is amended to read:

Sec. 7. In distributing **emergency** rental assistance to residential tenants funded by federal, state or local moneys[.]:

(1) The Housing and Community Services Department shall prioritize processing of eligible applications for tenants who have applied for rental assistance on or before December 1, 2021, before providing assistance to subsequent applicants.

(2) The Housing and Community Services Department, other public bodies and local governments, along with their subgrantees, shall:

(a) Promptly provide a dated application receipt to each tenant who applies for assistance. The receipt may be in an electronic format.

(b) Close an application, after notice to the tenant of potential closure, if the provider reasonably determines that the tenant is no longer participating.

(c) If, upon qualifying circumstance, an application is approved and payment is made to a person other than the tenant’s landlord, provide a dated notice of payment to the tenant’s landlord at any known address or electronic mail address.

(d) If an application is denied or is otherwise closed without payment, provide a dated notice of the denial or closure to the tenant and to the tenant’s landlord at any known address or electronic mail address.

SECTION 6. Section 5, chapter 420, Oregon Laws 2021, as amended by section 4 of this 2021 second special session Act, is amended to read:

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

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

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

SECTION 7. The amendments to section 5, chapter 420, Oregon Laws 2021, by section 6 of this 2021 second special session Act become operative October 1, 2022.

SECTION 8. Section 22, chapter 3, Oregon Laws 2020 (third special session), as amended by section 4, chapter 39, Oregon Laws 2021, is amended to read:

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

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

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

SECTION 9. Section 8, chapter 420, Oregon Laws 2021, is amended to read:

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

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

(2) Section 5, chapter 420, Oregon Laws 2021, as amended by sections 4 and 6 of this 2021 second special session Act, is repealed on July 1, 2023.

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

(4) Section 7, chapter 420, Oregon Laws 2021, as amended by section 5 of this 2021 second special session Act, is repealed on October 1, 2022.

SECTION 10. Section 9, chapter 420, Oregon Laws 2021, is amended to read:

Sec. 9. The Housing and Community Services Department shall provide a grant to a third party to make distributions to compensate landlords who, under section 2 *[of this 2021 Act]*, **chapter 420, Oregon Laws 2021**, have delayed termination notices or eviction proceedings. A landlord may apply for compensation for nonpayment that accrued during the *[delay if the landlord demonstrates that:]* **time period, as demonstrated by the landlord, beginning on the date that the tenant provided documentation to the landlord, and ending on the earliest of the following:**

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

[(2) Sixty days have passed since the tenant provided documentation of application for rental assistance without the landlord receiving rental assistance.]

(1) October 1, 2022;

(2) The date the landlord receives possession of the premises from the tenant;

(3) The date a court enters a judgment for possession of the premises in favor of the landlord; or

(4)(a) Except as provided under paragraph (b) of this subsection, the date a rental assistance provider makes a payment on, denies or closes without payment a tenant’s application for rental assistance; or

(b) If the date of payment, denial or closure was before the effective date of this 2021 second special session Act, the earlier of:

(A) The effective date of this 2021 second special session Act; or

(B) The latter of:

(i) The date 60 days after the tenant provided documentation to the landlord; or

(ii) The date of expiration of any temporary moratoria provided under any local law on the eviction of a tenant for nonpayment of rent.

SECTION 11. Section 10, chapter 420, Oregon Laws 2021, is amended to read:

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

SECTION 12. This 2021 second special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 second special session Act takes effect on its passage.

Passed by Senate December 13, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House December 13, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State