

Requested by Representative FAHEY

**PROPOSED AMENDMENTS TO
SENATE BILL 278**

1 On page 1 of the printed bill, line 2, delete “amending ORS 456.608” and
2 insert “and declaring an emergency”.

3 Delete lines 4 through 30 and delete pages 2 and 3 and insert:

4 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part**
5 **of ORS chapter 90.**

6 **“SECTION 2. (1) As used in this section:**

7 **“(a) ‘Documentation’ includes electronic mail, a screenshot or other**
8 **written or electronic documentation from a rent assistance provider**
9 **verifying the submission of an application for rental assistance.**

10 **“(b) ‘Nonpayment’ means the nonpayment of a payment that is due**
11 **to a landlord, including a payment of rent, late charges, utility or**
12 **service charges or any other charge or fee as described in the rental**
13 **agreement or ORS 90.140, 90.302, 90.315, 90.392, 90.394, 90.560 to 90.584**
14 **or 90.630.**

15 **“(2)(a) If a tenant provides the landlord with documentation that**
16 **the tenant has applied for rental assistance, a landlord may not:**

17 **“(A) Deliver a termination notice for nonpayment; or**

18 **“(B) Initiate or continue an action for possession based on a ter-**
19 **mination notice for nonpayment.**

20 **“(b) A tenant may provide documentation by any method reason-**
21 **ably calculated to achieve receipt by the landlord, including by sending**

1 a copy or photograph of the documentation by electronic mail or text
2 message.

3 “(c) If 60 days have passed since the tenant provided documentation
4 under this subsection:

5 “(A) A landlord may deliver to the tenant a new termination notice
6 for nonpayment, to which this section does not apply, without pro-
7 viding the notice under subsection (4) of this section; or

8 “(B) If a claim for possession was postponed under subsection (5)(b)
9 of this section, the court shall promptly set the matter for trial.

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

13 “(a) Any notice of termination for nonpayment; and

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

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

19 “ _____
20 THIS IS AN IMPORTANT NOTICE ABOUT YOUR RIGHTS TO
21 PROTECTION AGAINST EVICTION FOR NONPAYMENT.

22
23 For information in Spanish, Korean, Russian, Vietnamese or
24 Chinese, go to the Judicial Department website at
25 www.courts.oregon.gov.

26
27 Until February 28, 2022, if you give your landlord documentation
28 that you have applied for rental assistance at or before your first ap-
29 pearance in court, you may be temporarily protected from eviction for
30 nonpayment. Documentation may be made by any reasonable method,

1 including by sending a copy or photograph of the documentation by
2 electronic mail or text message. “Documentation” includes electronic
3 mail, a screenshot or other written or electronic documentation veri-
4 fying the submission of an application for rental assistance.

5

6 To apply for rental assistance, go to
7 www.oregonrentalassistance.org, dial 211 or go to www.211info.org.
8 To find free legal assistance for low-income Oregonians, go to
9 www.oregonlawhelp.org.

10 “

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

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

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

21 “(C) The landlord receives rental assistance covering the rent owed
22 under the notice.

23 “(D) The tenant provided the landlord with documentation of ap-
24 plication for rental assistance as described in subsection (2) of this
25 section before the claim was filed.

26 “(b) If the tenant provides the landlord or court with documenta-
27 tion of application for rental assistance as described in subsection (2)
28 of this section at any time after the landlord commenced the action
29 for possession and at or before the first appearance, at the first ap-
30 pearance the court shall, on its own motion, postpone the first ap-

1 pearance to a date not earlier than 60 days after the documentation
2 was delivered.

3 **“(6) If a landlord violates this section:**

4 **“(a) A tenant may obtain injunctive relief to recover possession or**
5 **address any other violation;**

6 **“(b) The tenant has a defense to an action for possession by the**
7 **landlord.**

8 **“(7) Notwithstanding ORS 105.137 (4), if a claim for possession is**
9 **dismissed under this section, the tenant is not entitled to prevailing**
10 **party fees, costs or attorney fees if the landlord:**

11 **“(a) Delivered to the tenant all notices required under subsection**
12 **(3) of this section as required;**

13 **“(b) Did not know, and did not have reasonable cause to know, at**
14 **the time of commencing the action that the tenant had provided doc-**
15 **umentation of application for rental assistance under subsection (2)**
16 **of this section; and**

17 **“(c) Promptly dismissed the action upon becoming aware of the**
18 **documentation of application for rental assistance.**

19 **“SECTION 3. Section 2 of this 2021 Act applies only to a notice of**
20 **termination for nonpayment given on or after the effective date of this**
21 **2021 Act.**

22 **“SECTION 4. Section 5 of this 2021 Act is added to and made a part**
23 **of ORS 105.105 to 105.168.**

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

27 **“SECTION 6. (1)(a) The Judicial Department shall translate the**
28 **notice form under section 2 (4) of this 2021 Act into the Spanish,**
29 **Korean, Russian, Vietnamese and Chinese languages and shall display**
30 **links to the English and translated forms prominently on the main**

1 webpage at www.courts.oregon.gov.

2 “(b) Each form on the Judicial Department website must include a
3 statement in English, Spanish, Korean, Russian, Vietnamese and
4 Chinese indicating that the form and translations can be found on the
5 Judicial Department website and the web address where the forms may
6 be found.

7 “(2) The department shall prepare a summary of sections 2 and 3
8 of this 2021 Act, deliver a copy of the summary to each circuit court
9 in this state for posting at the clerk’s counter and publish the sum-
10 mary on the department’s website.

11 “SECTION 7. In distributing rental assistance to residential tenants
12 funded by federal, state or local moneys, the Housing and Community
13 Services Department, other public bodies and local governments, along
14 with their subgrantees, shall promptly provide a dated application re-
15 ceipt to each tenant who applies for assistance. The receipt may be in
16 an electronic format.

17 “SECTION 8. Sections 2, 5, 6 and 7 of this 2021 Act are repealed on
18 March 1, 2022.

19 “SECTION 9. The Oregon Business Development Department shall
20 make distributions to compensate landlords who, under section 2 of
21 this 2021 Act, have delayed termination notices or eviction pro-
22 ceedings. A landlord may apply for compensation for nonpayment that
23 accrued during the delay if the landlord demonstrates that:

24 “(1) The tenant’s application for rental assistance was denied; or

25 “(2) Sixty days have passed since the tenant provided documenta-
26 tion of application for rental assistance without the landlord receiving
27 rental assistance.

28 “SECTION 10. Section 9 of this 2021 Act is repealed on March 1,
29 2023.

30 “SECTION 11. This 2021 Act being necessary for the immediate

1 **preservation of the public peace, health and safety, an emergency is**
2 **declared to exist, and this 2021 Act takes effect July 1, 2021.”.**

3
