

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 “creating new provisions; amending section 2, chapter 3, Oregon Laws
3 2020 (third special session); and declaring an emergency”.

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

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

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

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

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

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

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

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

21 **“(b) A tenant may provide documentation by any method reason-**

1 ably calculated to achieve receipt by the landlord, including by sending
2 a copy or photograph of the documentation by electronic mail or text
3 message.

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

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

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

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

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

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

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

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

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

27
28 Until February 28, 2022, if you give your landlord documentation
29 that you have applied for rental assistance at or before your first ap-
30 pearance in court, you may be temporarily protected from eviction for

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

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

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

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

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

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

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

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

1 **pearance the court shall, on its own motion, postpone the first ap-**
2 **pearance to a date not earlier than 60 days after the documentation**
3 **was delivered.**

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

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

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

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

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

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

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

20 **“SECTION 3. Section 2 of this 2021 Act applies only to a notice of**
21 **termination for nonpayment given on or after July 1, 2021.**

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 Housing and Community Services Department
20 shall provide a grant to a third party to make distributions to com-
21 pensate landlords who, under section 2 of this 2021 Act, have delayed
22 termination notices or eviction proceedings. A landlord may apply for
23 compensation for nonpayment that accrued during the delay if the
24 landlord demonstrates that:

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

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

29 “SECTION 10. Section 9 of this 2021 Act is repealed on March 1,
30 2023.

1 **“SECTION 11. Sections 2, 5, 6, 7 and 9 of this 2021 Act become op-**
2 **erative on July 1, 2021.**

3 **“SECTION 12.** Section 2, chapter 3, Oregon Laws 2020 (third special
4 session), is amended to read:

5 **“Sec. 2.** (1) The Housing and Community Services Department shall make
6 distributions to compensate residential landlords for [80] **100** percent of the
7 past-due rent of qualified tenants that the landlord has not collected after
8 April 1, 2020, **and on or before the earlier of June 30, 2021 or the date**
9 **of the application**, if the landlord or the landlord’s designee:

10 “(a) Submits an application to the department for all of the landlord’s
11 tenants who have not paid rent and have delivered to the landlord a signed
12 declaration under section 7 (1)(b) [*of this 2020 third special session Act*],
13 **chapter 3, Oregon Laws 2020 (third special session), as in effect on**
14 **June 30, 2021;**

15 “(b) Includes in the application a copy of the tenants’ declarations;

16 “(c) Provides the department with a description of the unpaid rent for all
17 current tenants;

18 “[(d) *Agrees to forgive the remaining 20 percent of the unpaid rent due from*
19 *qualified tenants that has accrued between April 1, 2020, and the date of the*
20 *application, upon receiving a distribution under this subsection;*]

21 “[(e)] **(d)** Agrees to repay to the department any amount [*that was forgiven*
22 *by the landlord or*] that was paid to the landlord under this section and the
23 landlord later receives from the qualified tenant or on the tenant’s behalf,
24 within the period requested by the department;

25 “[(f)] **(e)** Is not a member of the tenant’s immediate family, as defined in
26 ORS 90.427;

27 “[(g)] **(f)** During the pendency of the distribution application, agrees to
28 not give a termination notice without cause or for nonpayment, as those
29 terms are defined in section 3, chapter 13, Oregon Laws 2020 (first special
30 session); and

1 “[~~h~~] (g) Provides any other information or materials required by the
2 department.

3 “(2)(a) The department shall develop an online application for landlords
4 to apply for distributions under this section.

5 “(b) The application must be made available in languages other than
6 English.

7 “(c) The application period must be open more than once to allow for
8 greater outreach and participation.

9 “(3) The department may establish any qualifications, priorities, re-
10 strictions or limits on the distributions made under this section, to prioritize
11 landlords with fewer units and landlords with a higher percentage of unpaid
12 rents. Restrictions or limits may include:

13 “(a) Limits per tenant, per landlord or per time period;

14 “(b) The number of units a landlord must own; or

15 “(c) The percentage or amount of total rent unpaid.

16 “(4) The department may coordinate with local housing authorities to
17 administer this section, including through making distributions to landlords.

18 “(5) The department or local housing authority shall mail to tenants
19 copies of a notice of distribution to their landlords [*and the amount of rent*
20 *forgiveness agreed to by their landlords*].

21 “(6) The department may conduct outreach to landlords and tenants, in-
22 cluding outreach to non-English speakers.

23 “(7) Notwithstanding ORS 276A.300, 279A.025, 279A.050 (6)(g), 279A.205
24 and 456.571, the department shall expedite the implementation of the landlord
25 compensation fund.

26 “(8) As used in this section, ‘landlord’ includes a manufactured dwelling
27 park nonprofit cooperative as defined in ORS 62.803.

28 **“SECTION 13. (1) The amendments to section 2, chapter 3, Oregon**
29 **Laws 2020 (third special session), by section 12 of this 2021 Act apply**
30 **to all applications submitted or approved before, on or after the ef-**

1 **fective date of this 2021 Act.**

2 **“(2) The Housing and Community Services Department shall make**
3 **distributions to adjust the compensation under section 2 (1), chapter**
4 **3, Oregon Laws 2020 (third special session), for landlords whose appli-**
5 **cations were approved before the effective date of this 2021 Act without**
6 **requiring that the landlord submit an additional application.**

7 **“SECTION 14. This 2021 Act being necessary for the immediate**
8 **preservation of the public peace, health and safety, an emergency is**
9 **declared to exist, and this 2021 Act takes effect on its passage.”.**

10
