

Enrolled
House Bill 2966

Sponsored by Representative NOSSE, Senator LIEBER; Representatives ALONSO LEON, BYNUM, CAMPOS, DEXTER, GOMBERG, NERON, PHAM, POWER, PRUSAK, WILLIAMS, Senator RILEY

CHAPTER

AN ACT

Relating to terminations of commercial tenancies; creating new provisions; amending sections 5 and 6, chapter 13, Oregon Laws 2020 (first special session); and declaring an emergency.

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

SECTION 1. Section 5, chapter 13, Oregon Laws 2020 (first special session), is amended to read:

Sec. 5. (1) As used in this section:

(a) "Emergency period" means the period beginning on April 1, 2020, and ending on September 30, 2020.

(b) "Landlord" means the owner, lessor or sublessor of a rental unit or the building or premises of which the rental unit is a part, or a person who is authorized by the owner, lessor or sublessor to manage the premises or to enter into a rental agreement.

(c) "Nonpayment" includes the nonpayment of rent, late charges, utility charges or any other service charge or fee, as described in the rental agreement or ORS 91.090, 91.210 or 91.220, during the emergency period.

(d) "Nonpayment balance" includes all or a part of the net total amount of all items of nonpayment by a tenant.

(e) "Rental unit" means a structure or part of a structure for use as a commercial space by a tenant.

(f) "Tenant" means an individual or organization entitled under a rental agreement to occupy a rental unit to the exclusion of others.

(2) During and after the emergency period and notwithstanding ORS chapter 91 and ORS 105.105 to 105.168, a landlord may not, and may not threaten to:

(a) Deliver a notice terminating a rental agreement for a rental unit based on a tenant's nonpayment;

(b) Initiate or continue an action under ORS 105.110 to take possession of a rental unit based on a termination notice for nonpayment delivered on or after April 1, 2020; or

(c) Take any action that would interfere with a tenant's possession or use of a rental unit based on a tenant's nonpayment.

(3) Notwithstanding any provision in the rental agreement, a landlord may not impose a late fee or other penalty on a tenant for nonpayment under this section.

(4) Following the emergency period, a tenant with an outstanding nonpayment balance has a [six-month] grace period that ends on [March 31, 2021] **September 30, 2021**, to pay the outstanding nonpayment balance.

(5) This section does not apply if:

(a) A landlord attempts to apply for financial assistance, including assistance on behalf of the tenant;

(b) The application requires that the tenant be a coapplicant or provide information or consent; and

(c) The tenant does not make a good faith effort to comply with the application requirements for the tenant.

[(5) Following the emergency period, a landlord may deliver a written notice to a tenant that substantially states:]

[(a) The date that the emergency period ended;]

[(b) That if rents and other payments that come due after the emergency period are not timely paid, the landlord may terminate the tenancy;]

[(c) That the nonpayment balance that accrued during the emergency period is still due and must be paid;]

[(d) That the tenant will not owe a late charge for the nonpayment balance;]

[(e) That the tenant is entitled to a six-month grace period to repay the nonpayment balance that ends on March 31, 2021;]

[(f) That within a specified date stated in the notice given under this subsection that is no earlier than 14 days following the delivery of the notice, the tenant must pay the nonpayment balance or notify the landlord that the tenant intends to pay the nonpayment balance by the end of the six-month grace period described in subsection (4) of this section;]

[(g) That failure of a tenant to give notice to the landlord of utilization of the grace period described in subsection (4) of this section may result in a penalty described in subsection (8) of this section; and]

[(h) That rents and other charges or fees that come due after the emergency period must be paid as usual or the landlord may terminate the tenancy.]

[(6)(a) If a landlord gives a notice as described in subsection (5) of this section, a tenant who has an outstanding nonpayment balance as of the date listed on the landlord's notice as described in subsection (5)(f) of this section must notify the landlord of the tenant's intention to use the grace period described in subsection (4) of this section to pay the nonpayment balance.]

[(b) The tenant's notice under this subsection must be given in compliance with ORS 91.110 or notice given by electronic means, and must be given to the landlord by the date given in the landlord's notice as described in subsection (5)(f) of this section.]

[(7) The landlord's notice described in subsection (5) of this section may offer an alternate voluntary payment plan for payment of the nonpayment balance, but the notice must state that the alternate payment plan is voluntary.]

[(8) A tenant's failure to give the notice required by subsection (6) of this section to a landlord entitles the landlord to recover damages equal to 50 percent of one month's rent following the grace period.]

[(9) If a landlord violates this section, a tenant may obtain injunctive relief to recover possession or address any other violation of this section and may recover from the landlord an amount up to three months' periodic rent plus any actual damages.]

SECTION 2. Section 6, chapter 13, Oregon Laws 2020 (first special session), is amended to read:

Sec. 6. Section 5 [of this 2020 special session Act], chapter 13, Oregon Laws 2020 (first special session), as amended by section 1 of this 2021 Act, is repealed on [March 31] September 30, 2021.

SECTION 3. If this 2021 Act does not become effective until after March 31, 2021:

(1) The amendments to section 6, chapter 13, Oregon Laws 2020 (first special session), by section 2 of this 2021 Act revives section 5, chapter 13, Oregon Laws 2020 (first special session), as amended by section 1 of this 2021 Act.

(2) This 2021 Act shall be operative retroactively to that date, and the operation and effect of section 5, chapter 13, Oregon Laws 2020 (first special session), as amended by section

1 of this 2021 Act, shall continue unaffected from April 1, 2021, to the effective date of this 2021 Act to September 30, 2021.

(3) Any otherwise lawful action taken or otherwise lawful obligation incurred under the authority of section 5, chapter 13, Oregon Laws 2020 (first special session), after March 31, 2021, and before the effective date of this 2021 Act, is ratified and approved.

(4) A claim for possession of real property under ORS 105.105 to 105.168 based on a tenant's nonpayment, as defined in section 5, chapter 13, Oregon Laws 2020 (first special session), that has not resulted in a judgment and that was filed after March 31, 2021, and before the effective date of this 2021 Act, must be stayed until October 1, 2021, or dismissed without prejudice or costs to any party.

SECTION 4. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect March 31, 2021.

Passed by House April 16, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 2, 2021

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Peter Courtney, President of Senate

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