

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 verifying the submission of an**
9 **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 continued under subsection (5)(b)
9 of this section, the court shall promptly set the matter for trial upon
10 request from the landlord.

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;

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

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, the court shall
30 grant a continuance in the action and, notwithstanding ORS 105.137
(6), may not set the matter for trial until 60 days after the documen-

1 tation was delivered. Notwithstanding ORS 105.140, a defendant is not
2 required to give any undertaking for a continuance granted under this
3 paragraph.

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 and may recover from the landlord an
7 amount equal to one month’s periodic rent plus any actual damages;
8 and

9 “(b) The tenant has a defense to an action for possession by the
10 landlord.

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

14 “(a) Delivered to the tenant all notices required under subsection
15 (3) of this section as required;

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

20 “(c) Promptly dismissed the action upon becoming aware of the
21 documentation of application for rental assistance.

22 “SECTION 3. Section 2 of this 2021 Act applies only to a notice of
23 termination for nonpayment given on or after the effective date of this
24 2021 Act.

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

27 “SECTION 5. The clerk shall include the notice described in section
28 2 (4) of this 2021 Act with the summons and complaint mailed to a
29 defendant under ORS 105.135 (3)(a).

30 “SECTION 6. (1)(a) The Judicial Department shall translate the

1 notice form under section 2 (4) of this 2021 Act into the Spanish,
2 Korean, Russian, Vietnamese and Chinese languages and shall display
3 links to the English and translated forms prominently on the main
4 webpage at www.courts.oregon.gov.

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

10 “(2) The department shall prepare a summary of sections 2 and 3
11 of this 2021 Act, deliver a copy of the summary to each circuit court
12 and justice court in this state for posting at the clerk’s counter and
13 publish the summary on the department’s website.

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

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

22 “SECTION 9. This 2021 Act being necessary for the immediate
23 preservation of the public peace, health and safety, an emergency is
24 declared to exist, and this 2021 Act takes effect July 1, 2021.”.

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