

Senate Bill 434

Sponsored by Senator THATCHER, Representative MORGAN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates Eviction Mediation Program within Housing and Community Services Department. Requires parties to eviction to participate in program. Appropriates moneys from General Fund to department for program.

Amends eviction mediation and settlement procedures.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to evictions; creating new provisions; amending ORS 105.113, 105.135, 105.137, 105.145,
3 105.146, 105.148 and 105.163; and prescribing an effective date.

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

5 **SECTION 1. (1) As used in sections 1 to 3 of this 2023 Act:**

6 (a) "Eviction" means a claim for possession of real property arising under ORS 105.110.

7 (b) "Eviction Mediation Program" or "program" means the program described in sections
8 **1 to 3 of this 2023 Act.**

9 (c) "First appearance" means a first appearance as described in ORS 105.137.

10 (2) **The Eviction Mediation Program is created within the Housing and Community Ser-**
11 **vices Department.**

12 (3) **The purpose of the program is to facilitate the rapid and low-cost resolution of**
13 **eviction matters and to provide independent, impartial and speedy mediations to landlords**
14 **and tenants.**

15 (4) **Under the program, the department shall establish a mandatory court-connected**
16 **mediation program for each circuit and justice court that hears evictions.**

17 (5) **Notwithstanding ORS 36.185, at the first appearance or at any time before an eviction**
18 **trial, the court shall refer the parties to the Eviction Mediation Program. The landlord and**
19 **tenant may jointly refer themselves to the program at any time before trial, including before**
20 **a case is filed.**

21 (6) **Under the program, the department shall employ mediators and provide the mediators**
22 **with initial and ongoing education and training that covers topics including mediation strat-**
23 **egies, professionalism, confidentiality and landlord-tenant law.**

24 (7) **The department may:**

25 (a) **Adopt rules implementing sections 1 to 3 of this 2023 Act; and**

26 (b) **Contract with third parties to develop, support and implement the program.**

27 (8) **The Judicial Department shall assist the Housing and Community Services Depart-**
28 **ment in developing and operating the program.**

29 **SECTION 2. (1) To serve as a mediator under the Eviction Mediation Program, a**
30 **mediator must:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (a) Complete any training required by the Housing and Community Services Department;
- 2 (b) Demonstrate to the satisfaction of the department an understanding of court-
- 3 connected mediations;
- 4 (c) Meet the qualifications of, and be approved by, each circuit court in which the
- 5 mediator operates;
- 6 (d) Have mediated at least 35 cases in which a mediated agreement is reached, including
- 7 at least 25 cases with one or more self-represented parties;
- 8 (e) Have at least 200 hours of mediation experience; and
- 9 (f) Have observed at least five first appearances, five eviction mediations and five eviction
- 10 trials.

11 (2) Except as otherwise provided in sections 1 to 3 of this 2023 Act, ORS 36.185 to 36.210
12 and 36.220 to 36.238 and the provisions of Uniform Trial Court Rules chapter 12 apply to
13 mediators and mediations in the program.

14 **SECTION 3. (1) Mediations conducted under the Eviction Mediation Program:**

- 15 (a) Must take place in person whenever possible.
- 16 (b) Must be conducted as near as practicable in time and location to any first appearance,
- 17 including inside the courthouse, if possible.
- 18 (c) May not be conducted outside of court hours without the agreement of the parties
- 19 and the mediator.

20 (d) Must allow parties to be represented by an attorney or non-attorney representative.

21 (e) May not require a payment of fees by any party or court.

22 (2) The mediator shall:

- 23 (a) Attempt to get the parties to reach a settlement agreement; and
- 24 (b) Dismiss the mediation upon finding that the parties cannot reasonably reach an
- 25 agreement, including because one or more of the parties is not participating in the mediation
- 26 in good faith.

27 (3) Notwithstanding any confidentiality requirement of the mediator, if an eviction claim
28 has been filed with a court, the mediator shall:

29 (a) Notify the court in writing of the basis of any dismissal or settlement; or

30 (b) If the parties have settled the matter, prepare a written settlement agreement and
31 provide the agreement to the court for entry of a judgment or order under section 6 (2) of
32 this 2023 Act.

33 (4) Notwithstanding any confidentiality requirement or rule of professional conduct that
34 otherwise may apply, a judge and mediator may communicate candidly together about cases
35 and state on the record the facts or reasons supporting the resolution of a case.

36 (5) The court shall:

37 (a) Dismiss a complaint brought by a landlord if the mediator finds that the landlord did
38 not participate in mediation in good faith; or

39 (b) Enter a default judgment against a tenant if the mediator finds that the tenant did
40 not participate in mediation in good faith.

41 (6) A judge or mediator may continue a mediation for a reasonable period not to exceed
42 12 months, during which time any disputes arising under the agreement must be first re-
43 ferred to the mediator for further mediation under this section.

44 **SECTION 4. In addition to and not in lieu of any other appropriation, there is appropri-**
45 **ated to the Housing and Community Services Department, for the biennium beginning July**

1 **1, 2023, out of the General Fund, the amount of \$1, to implement and operate the Eviction**
 2 **Mediation Program under sections 1 to 3 of this 2023 Act.**

3 **SECTION 5. Section 6 of this 2023 Act is added to and made a part of ORS 105.105 to**
 4 **105.168.**

5 **SECTION 6. (1) Prior to trial, through the Eviction Mediation Program under sections 1**
 6 **to 3 of this 2023 Act, other mediation programs or otherwise, the parties may enter into a**
 7 **settlement agreement.**

8 **(2) Upon receipt of a settlement agreement from a party or a mediator under section 3**
 9 **(3)(b) of this 2023 Act, the court may either:**

10 **(a) Enter a judgment dismissing the matter and including any money award or award of**
 11 **costs, disbursements or attorney fees described in the agreement; or**

12 **(b) Enter an order incorporating a written settlement agreement or the essential terms**
 13 **of an oral settlement agreement and retaining jurisdiction over the matter for no longer**
 14 **than 12 months.**

15 **(3) The court shall enter a judgment of dismissal in favor of the defendant, without an**
 16 **award of costs or fees to either party, following an order described under subsection (2)(b)**
 17 **of this section if:**

18 **(a) The landlord or mediator under the Eviction Mediation Program under sections 1 to**
 19 **3 of this 2023 Act certifies that a defendant has fully complied with the order and settlement**
 20 **agreement; or**

21 **(b) Twelve months or more have passed since the order and no claim to enforce the order**
 22 **is currently pending, including under ORS 105.146.**

23 **SECTION 7. ORS 105.146 is amended to read:**

24 **105.146. (1) In an action to recover possession of the premises, if the court has entered an order**
 25 **by stipulation that provides for the defendant to retain possession of the premises contingent upon**
 26 **the defendant's performance or payment of moneys by a certain date as provided under [ORS 105.145**
 27 **(2)] section 6 (2)(b) of this 2023 Act, and the defendant fails to comply with the order, the plaintiff**
 28 **may obtain and enforce a judgment of restitution of the premises pursuant to this section and ORS**
 29 **105.148 and 105.149.**

30 **(2) A plaintiff may obtain and enforce a judgment of restitution based upon [an order entered as**
 31 **provided under ORS 105.145 (2), provided the order includes only] the defendant's violation of an**
 32 **order or settlement agreement under section 6 (2)(b) of this 2023 Act that includes terms**
 33 **that specify:**

34 **(a) The defendant's future performance or conduct [as described in the order] for a period of**
 35 **not more than six months following entry of the order;**

36 **(b) Payment [of past due rent and other past due] by the defendant of specified amounts pur-**
 37 **suant to a schedule [provided in the order for] over a period of not more than six months following**
 38 **entry of the order;**

39 **(c) Payment of rent due for [future rental periods that follow entry of the order pursuant to a**
 40 **schedule provided in the order for not more than] the first three monthly rental periods following**
 41 **entry of the order pursuant to a schedule; [and]**

42 **[(d) Payment of any costs, disbursements or attorney fees pursuant to a schedule provided in the**
 43 **order.]**

44 **(d) That the defendant voluntarily deliver possession to the plaintiff by a specified date**
 45 **and time; or**

1 **(e) That a court may award costs, disbursements or attorney fees based on a defendant's**
 2 **violation of the order or breach of the agreement.**

3 *[(3) The order shall contain a statement providing that 12 months following the entry of the order,*
 4 *the court shall automatically dismiss the order without further notice to either the plaintiff or the de-*
 5 *fendant.]*

6 *[(4)]* **(3)** If the defendant fails to comply with the order, the plaintiff may file with the clerk of
 7 the court an affidavit or declaration of noncompliance describing how the defendant has failed to
 8 comply. The plaintiff shall attach a copy of the order to the affidavit or declaration. The affidavit
 9 or declaration, or the order, must include the terms of the underlying settlement agreement or
 10 stipulation or have a copy of the agreement attached.

11 *[(5)]* **(4)** Upon receipt of a plaintiff's affidavit or declaration:

12 (a) The court shall enter a judgment of restitution; and

13 (b) The clerk shall issue a notice of restitution as provided by ORS 105.151 and attach to the
 14 notice a copy of the plaintiff's affidavit or declaration of noncompliance and any attachments for
 15 service.

16 *[(6)]* **(5)** The court shall establish a procedure that allows the defendant to request a hearing
 17 on the plaintiff's affidavit or declaration of noncompliance and delay expiration of the notice of
 18 restitution period or execution upon a judgment of restitution pending the hearing.

19 **(6) A defendant may obtain a judgment of dismissal, money award or award of costs,**
 20 **disbursements or attorney fees based upon the plaintiff's violation of an order or settlement**
 21 **agreement under section 6 (2)(b) of this 2023 Act that includes terms that:**

22 **(a) Specified the plaintiff's future performance or conduct, including repairs, for a period**
 23 **of not more than six months following entry of the order;**

24 **(b) Payment by the plaintiff of specified amounts pursuant to a schedule over a period**
 25 **of not more than six months following entry of the order;**

26 **(c) A court may award costs, disbursements or attorney fees based on a plaintiff's vio-**
 27 **lation of the order or breach of the agreement.**

28 *[(7) The court shall enter a judgment dismissing the plaintiff's action in favor of the defendant*
 29 *without assessment of costs, disbursements, prevailing party fee or attorney fees against either party*
 30 *except as provided in the order and without further notice to either party:]*

31 *[(a) Upon receipt of a writing signed by the plaintiff showing compliance with or satisfaction of the*
 32 *order; or]*

33 *[(b) Twelve months following entry of the order, unless the plaintiff has filed an affidavit or dec-*
 34 *laration of noncompliance and the court has found in favor of the plaintiff on the affidavit or declara-*
 35 *tion.]*

36 **SECTION 8.** ORS 105.137 is amended to read:

37 105.137. *[In the case of a dwelling unit to which ORS chapter 90 applies:]* **In an action for a**
 38 **forcible entry or wrongful detainer:**

39 (1) If the plaintiff appears and the defendant fails to appear at the first appearance **or has failed**
 40 **to participate in good faith in mediation under section 3 (2) of this 2023 Act**, a default judgment
 41 shall be entered in favor of the plaintiff for possession of the premises and costs and disbursements.

42 (2) If the defendant appears and the plaintiff fails to appear at the first appearance **or has failed**
 43 **to participate in good faith in mediation under section 3 (2) of this 2023 Act**, a default judgment
 44 shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and
 45 disbursements.

1 (3) An attorney at law shall be entitled to appear on behalf of any party, but attorney fees may
2 not be awarded to the plaintiff if the defendant does not contest the action.

3 (4) If the plaintiff dismisses the action before the first appearance, a judgment of dismissal shall
4 be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and
5 disbursements. The defendant may not recover attorney fees for prejudgment legal services provided
6 after the delivery of written notice of the dismissal by the plaintiff to the defendant, or to an at-
7 torney for the defendant, in the manner provided under ORS 90.155.

8 (5) The plaintiff or an agent of the plaintiff may obtain a continuance of the action for as long
9 as the plaintiff or the agent of the plaintiff deems necessary [to obtain the services of an attorney at
10 law].

11 (6) If both parties appear [in court on the date contained in the summons] **at the first appear-**
12 **ance**, the court shall:

13 (a) **Continue the first appearance for up to seven days for the purpose of completing**
14 **mediation under section 3 of this 2023 Act;**

15 (b) **Enter any order or judgment under section 6 (2) of this 2023 Act; or**

16 (c) **If mediation has completed without resolution**, set the matter for trial as soon as
17 practicable[, unless the court is advised by the parties that the matter has been settled]. The trial shall
18 be scheduled no later than 15 days from the date of such appearance. If the matter is not tried
19 within the 15-day period, and the delay in trial is not attributable to the landlord, the court shall
20 order the defendant to pay rent that is accruing into court, provided the court finds after hearing
21 that entry of such an order is just and equitable.

22 (7)(a) The court shall permit an unrepresented defendant **to a claim under ORS chapter 90** to
23 proceed to trial by directing the defendant to file an answer in writing on a form which shall be
24 available from the court clerk, and to serve a copy upon the plaintiff on the same day as first ap-
25 pearance.

26 (b) The answer shall be in substantially the following form:
27 _____

28
29 IN THE _____ COURT FOR
30 THE COUNTY OF _____

31
32 (Landlord),)
33)
34 Plaintiff(s),)
35)
36 vs.) No. _____
37)
38 (Tenant),)
39)
40 Defendant(s).)

41
42 ANSWER

43 I (we) deny that the plaintiff(s) is (are) entitled to possession because:
44 _____ The landlord did not make repairs.

45 List any repair problems: _____

1 _____
 2 _____
 3 — The landlord is attempting to evict me (us) because of my (our) complaints (or the eviction is
 4 otherwise retaliatory).
 5 — The landlord is attempting to evict me because of my status as a victim of domestic violence,
 6 sexual assault or stalking.
 7 — The eviction notice is wrong.
 8 — List any other defenses: _____
 9 _____
 10 _____
 11 _____
 12 _____

13 I (we) may be entitled as the prevailing party to recover attorney fees from plaintiff(s) if I (we)
14 obtain legal services to defend this action pursuant to ORS 90.255.

15 I (we) ask that the plaintiff(s) not be awarded possession of the premises and that I (we) be
16 awarded my (our) costs and disbursements and attorney fees, if applicable, or a prevailing party fee.

17 _____
 18 _____
 19 Date Signature of defendant(s)

20 _____

21
 22 (8) If an unrepresented defendant files an answer as provided in subsection (7) of this section,
 23 the answer may not limit the defenses available to the defendant at trial under ORS chapter 90. If
 24 such a defendant seeks to assert at trial a defense not fairly raised by the answer, the plaintiff shall
 25 be entitled to a reasonable continuance for the purposes of preparing to meet the defense.

26 **SECTION 9.** ORS 105.113 is amended to read:

27 105.113. (1) Notwithstanding ORCP 7, for premises to which ORS chapter 90 or ORS 91.120 ap-
28 plies, the summons must be in substantially the following form and be available from the court clerk:

29 _____

30
 31 IN THE CIRCUIT COURT
 32 FOR THE COUNTY OF

33 _____
 34 No. _____

35
 36 SUMMONS
 37 RESIDENTIAL EVICTION

38
39 PLAINTIFF (Landlord or agent):

40 _____
 41 _____
 42 _____
 43 _____

44
45 vs.

1 DEFENDANT (Tenants/Occupants):

2 _____

3 _____

4 TO: _____ (Street address and city of property occupied by defendant)

5 _____ (Mailing address if different)

6
7
8
9
10 NOTICE TO TENANTS:
11 READ THESE PAPERS CAREFULLY
12 YOUR LANDLORD WANTS TO
13 EVICT YOU

14
15 ON _____, 2_____ AT _____ A.M./P.M., you must come to the County Court House
16 located at _____. You do not have to pay any fees to the court for this first hearing.

17
18 • If you do not appear in court and your landlord does, your landlord will win automatically and
19 can have the Sheriff physically remove you.

20
21 • If you do show up in court and your landlord does not, this eviction action will be dropped.

22
23 • If both of you show up:

24
25 • *[The judge may ask you to try to reach an agreement with your landlord, but this is volun-*
26 *tary. Trained mediators may be available free of charge to help resolve disputes.]* **If you have**
27 **not already participated in mediation, you may be assigned a trained mediator to help**
28 **you and your landlord reach an agreement.**

29
30 • The court will schedule a trial if you and your landlord do not reach an agreement *[or if*
31 *you do not agree to move out].*

32
33 IF YOU WANT A TRIAL, YOU MUST:

34
35 • Show up in court at the time scheduled above;

36
37 • On the same day, file an Answer with the Court giving a legal reason why you should not be
38 evicted (the Court can give you a form);

39
40 • Give a copy of the Answer to your landlord (or your landlord’s agent or attorney); and

41
42 • Pay a filing fee of \$_____ (the judge may allow payment to be deferred in certain circum-
43 stances).

44
45 IF YOU HAVE QUESTIONS, YOU SHOULD SEE AN ATTORNEY IMMEDIATELY. If you need

1 help finding an attorney, you can contact the Oregon State Bar's Lawyer Referral Service online
2 at _____ (current website) or by calling _____ (current phone num-
3 bers).

4
5
6 _____
7 Signature of Plaintiff (landlord or agent)

8
9 Plaintiff's address:

10 _____
11 _____
12 _____
13 _____

14
15 Plaintiff's telephone number: _____
16
17
18 _____
19

20 (2) Except as provided in ORS 408.515 (3), the information required under ORS 408.515 must be
21 included with the summons.

22 **SECTION 10.** ORS 105.135 is amended to read:

23 105.135. (1) Except as provided in this section, the summons shall be served and returned as in
24 other actions.

25 (2) The clerk shall enter the first appearance date on the summons. That date shall be seven
26 days after the judicial day next following payment of filing fees unless no judge is available for first
27 appearance at that time, in which case the clerk may extend the first appearance date for up to
28 seven additional days. At the request of the plaintiff, the clerk may enter a date more than seven
29 days after the judicial day next following payment of filing fees if a judge will be available.

30 (3) Notwithstanding ORCP 10, by the end of the judicial day next following the payment of filing
31 fees:

32 (a) The clerk shall mail the summons and complaint by first class mail to the defendant at the
33 premises.

34 (b) The process server shall serve the defendant with the summons and complaint at the prem-
35 ises by personal delivery to the defendant or, if the defendant is not available for service, by at-
36 taching the summons and complaint in a secure manner to the main entrance to that portion of the
37 premises of which the defendant has possession.

38 (4) A sheriff may serve a facsimile of a summons and complaint that is transmitted to the sheriff
39 by a trial court administrator or another sheriff by means of facsimile communication. A copy of the
40 facsimile must be attached to the sheriff's return of service. Before transmitting a summons and
41 complaint to a sheriff under this subsection, the person sending the facsimile must receive confir-
42 mation by telephone from the sheriff's office that a telephonic facsimile communication device is
43 available and operating.

44 (5) The process server shall indicate the manner in which service was accomplished by promptly
45 filing with the clerk a certificate of service as provided by ORCP 7 F(2)(a).

1 (6) *[In the case of premises to which ORS chapter 90 applies,]* The summons shall inform the de-
 2 fendant of the procedures, rights and responsibilities of the parties as specified in ORS 105.137.

3 **SECTION 11.** ORS 105.145 is amended to read:

4 105.145. (1) If an action **for possession under ORS 105.110** is tried by the court *[without a*
 5 *jury,]* and after hearing the evidence the court **or jury** concludes that the complaint is not true, the
 6 court shall enter judgment against the plaintiff for costs and disbursements. If *[the court finds]* the
 7 complaint true or if judgment is rendered by default, the court shall render a general judgment
 8 against the defendant and in favor of the plaintiff, for restitution of the premises and the costs and
 9 disbursements of the action. If the *[court finds the]* complaint **is** true in part, the court shall render
 10 judgment for the restitution of such part only, and the costs and disbursements shall be taxed as the
 11 court deems just and equitable.

12 **(2) Notwithstanding ORS 14.250 to 14.270, a judge may not be disqualified from trying an**
 13 **action under this section solely based on the judge's role in presiding over the first appear-**
 14 **ance, mediation or other pretrial settlement matters associated with the action.**

15 *[(2) If, as a result of a court-sponsored or other mediation or otherwise, the plaintiff and defendant*
 16 *agree, in the manner provided by ORCP 67 F for judgment by stipulation, that the defendant shall*
 17 *perform in a certain manner or that the plaintiff shall be paid moneys agreed to be owing by the de-*
 18 *fendant and that as a result of that performance or payment the defendant shall retain possession of*
 19 *the premises, including retention of possession contingent upon that performance or payment of moneys*
 20 *by the defendant by a certain date, the court shall enter an order or judgment to that effect. In addition,*
 21 *if the plaintiff and defendant agree that the plaintiff shall perform in a certain manner or pay moneys*
 22 *to the defendant by a certain date, the court shall enter an order or judgment to that effect.]*

23 *[(3) If, as provided by subsection (2) of this section, the parties enter an order or judgment by*
 24 *stipulation that requires the defendant to perform in a certain manner or make a payment by a certain*
 25 *date and the defendant later demonstrates compliance with the stipulation, the court shall enter a*
 26 *judgment of dismissal in favor of the defendant.]*

27 **SECTION 12.** ORS 105.148 is amended to read:

28 105.148. (1)(a) To contest a plaintiff's affidavit or declaration of noncompliance under ORS
 29 105.146 and delay expiration of the notice of restitution period or execution upon the judgment of
 30 restitution, a defendant shall file a request for hearing with the clerk of the court. The request must
 31 be filed prior to issuance by the clerk of a writ of execution of judgment of restitution and must
 32 include a statement by the defendant describing how the defendant complied with the order or de-
 33 scribing why the defendant should not be required to comply.

34 (b) A court may, as part of the procedure authorized by ORS 105.146 *[(6)]* **(5)**, require that a
 35 defendant submit a hearing request to the court for ex parte review prior to the defendant's filing
 36 the request with the clerk. If the court provides for ex parte review, the ex parte review must be
 37 available every judicial day for appearance by the defendant before the court within the time period
 38 between service of the notice of restitution and the date of expiration of the notice of restitution.
 39 The notice of restitution must include or have attached to it a description of the requirements for
 40 appearing before the court for ex parte review and a copy of the hearing request form. The court
 41 may not require that the defendant notify the plaintiff of the defendant's intention to appear before
 42 the court. If, after hearing the defendant at the ex parte review, the court finds that the reasons
 43 given by the defendant for opposing the plaintiff's affidavit or declaration of noncompliance do not
 44 relate to the issues listed in ORS 105.149 (2), the court shall deny the request for a hearing.

45 (2) The clerk shall make available a document providing for a request for hearing by a defend-

1 ant. The document must be in substantially the following form:

2 _____
3
4 IN THE CIRCUIT COURT
5 FOR THE COUNTY OF
6 _____

7
8 Defendant's Request for Hearing to
9 Contest an Affidavit or Declaration
10 of Noncompliance
11 Case No. _____

12
13 Landlord or agent (Plaintiff):

14
15 _____

16
17 vs.

18
19 Tenant/Occupant (Defendant):

20
21 _____

22
23 Address of Property:

24
25 _____

26
27 _____

28
29 1. My landlord has filed a statement with the court saying that I have not complied with a
30 court-approved agreement and that as a result my landlord is entitled to possession of the property.

31 2. I deny the landlord is entitled to possession of the property because (The reason must be one
32 of the following. You must check one or more of these responses and you must explain in section
33 3.):

34 _____ a. The landlord is wrong. As explained below, I did comply with the agreement.

35 _____ b. Before I could comply with the agreement, the landlord was supposed to do what is
36 explained below, which the landlord did not do.

37 _____ c. The landlord and I changed the agreement and I complied with the agreement as
38 changed. The change we agreed to is explained below.

39 _____ d. The landlord prevented me from keeping the agreement. The way the landlord did
40 that is explained below.

41 _____ e. The agreement was not made in good faith as required by ORS 90.130. The lack of
42 good faith is explained below.

43 _____ f. The portion of the agreement described below was unconscionable as described in
44 ORS 90.135.

45 _____ g. The landlord is required by law or contract to have good cause to force me to move

1 out and my alleged conduct or performance does not meet the standard of good cause, as explained
2 below.

3 _____ h. The landlord is claiming I did not pay rent for a period of time following the date
4 of the agreement. I did not pay that rent because I have claims for money against the landlord to
5 offset the rent. Those claims arise from the landlord’s violation of the Residential Landlord and
6 Tenant Act or the rental agreement since the date of the court order and are explained below.

7 _____ i. **Under our agreement were required to be referred to mediation under section
8 3 (6) of this 2023 Act and mediation has not yet occurred.**

9 3. Here is my explanation for the reason or reasons checked above:

10 _____
11 _____
12 _____
13 _____
14 _____
15 _____

16 4. I understand that if I lose in court, I may be responsible for the landlord’s costs, disburse-
17 ments, any attorney fees and a prevailing party fee.

18 I hereby declare that the above statement is true to the best of my knowledge and belief, and
19 that I understand it is made for use as evidence in court and is subject to penalty for perjury.

20 _____
21 _____

22 (Signature of tenant)

23 Date: _____

24 _____
25 _____

26
27 (3) As an alternative to the document described in subsection (2) of this section, a defendant
28 may request a hearing by use of a notarized affidavit.

29 **SECTION 13.** ORS 105.163 is amended to read:

30 105.163. (1) A person who was a defendant in an action under ORS 105.105 to 105.168 may apply
31 by motion to the court where the judgment was entered for an order setting aside the judgment and
32 sealing the official records of the action pertaining to the applicant. The court shall grant the mo-
33 tion if the court finds that:

34 (a) The judgment was a judgment of restitution entered against the applicant, the applicant has
35 satisfied any money award included in the judgment and:

36 (A) At least five years have passed from the date of the judgment; or

37 (B) The judgment was based on claims that arose on or after April 1, 2020, and before March
38 1, 2022;

39 (b) The judgment was a judgment by stipulation of the parties under [*ORS 105.145 (2) and the*
40 *applicant has complied with the terms of the stipulated agreement and*] **section 6 (2)(a) of this 2023**
41 **Act, the applicant has** satisfied any money award included in the judgment **and at least 90 days**
42 **have passed from the date of the judgment; or**

43 (c) The judgment was a judgment [*or judgment of dismissal*] entered in the applicant’s favor,
44 **including a judgment of dismissal.**

45 (2) The applicant shall serve a copy of the motion filed under subsection (1) of this section upon

1 the person who was the plaintiff in the action under ORS 105.105 to 105.168. Within 30 days of ser-
2 vice of the motion, if a written objection is filed, the court shall schedule a hearing.

3 (3) If, under subsection (2) of this section, no objection is filed or after a hearing the court de-
4 termines that the applicant is eligible for relief under subsection (1) of this section, the court shall
5 enter an appropriate order setting aside the judgment and sealing the official records of the action
6 pertaining to the applicant. Upon entry of the order, the judgment that is the subject of the motion
7 shall be deemed not to have been entered, and the applicant may answer accordingly any questions
8 relating to its occurrence.

9 (4) The court may not charge a filing fee for the filing of a motion under subsection (1) of this
10 section.

11 **(5) The Judicial Department shall develop and publish a form for the motion described in**
12 **subsection (1) of this section.**

13 **SECTION 14.** ORS 105.163, as amended by section 11, chapter 39, Oregon Laws 2021, is
14 amended to read:

15 105.163. (1) A person who was a defendant in an action under ORS 105.105 to 105.168 may apply
16 by motion to the court where the judgment was entered for an order setting aside the judgment and
17 sealing the official records of the action pertaining to the applicant. The court shall grant the mo-
18 tion if the court finds that:

19 (a) The judgment was a judgment of restitution entered against the applicant, the applicant has
20 satisfied any money award included in the judgment and at least five years have passed from the
21 date of the judgment;

22 (b) The judgment was a judgment by stipulation of the parties under [*ORS 105.145 (2) and the*
23 *applicant has complied with the terms of the stipulated agreement and*] **section 6 (2)(a) of this 2023**
24 **Act, the applicant has** satisfied any money award included in the judgment **at least 90 days have**
25 **passed from the date of the judgment; or**

26 (c) The judgment was a judgment [*or judgment of dismissal*] entered in the applicant's favor,
27 **including a judgment of dismissal.**

28 (2) The applicant shall serve a copy of the motion filed under subsection (1) of this section upon
29 the person who was the plaintiff in the action under ORS 105.105 to 105.168. Within 30 days of ser-
30 vice of the motion, if a written objection is filed, the court shall schedule a hearing.

31 (3) If, under subsection (2) of this section, no objection is filed or after a hearing the court de-
32 termines that the applicant is eligible for relief under subsection (1) of this section, the court shall
33 enter an appropriate order setting aside the judgment and sealing the official records of the action
34 pertaining to the applicant. Upon entry of the order, the judgment that is the subject of the motion
35 shall be deemed not to have been entered, and the applicant may answer accordingly any questions
36 relating to its occurrence.

37 (4) The court may not charge a filing fee for the filing of a motion under subsection (1) of this
38 section.

39 **(5) The Judicial Department shall develop and publish a form for the motion described in**
40 **subsection (1) of this section.**

41 **SECTION 15.** **This 2023 Act takes effect on the 91st day after the date on which the 2023**
42 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**