

HB 2001-1
(LC 1919)
2/10/23 (RLM/ps)

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
HOUSE BILL 2001**

1 In line 2 of the printed bill, after “housing” insert “creating new pro-
2 visions; amending ORS 90.394, 105.115, 105.124, 105.135, 105.137 and 458.650
3 and section 8, chapter 420, Oregon Laws 2021, and sections 1, 2 and 6, chapter
4 531, Oregon Laws 2021; and declaring an emergency”.

5 After line 2 insert:

6 “Whereas on January 10, 2023, Governor Tina Kotek declared a state of
7 emergency due to homelessness in Oregon; and

8 “Whereas the Legislative Assembly recognizes the need to move quickly
9 and efficiently in addressing homelessness in Oregon; and

10 “Whereas the Legislative Assembly agrees with the Governor that
11 homelessness in Oregon is causing injury to people and property, and wide-
12 spread human suffering and financial loss; and

13 “Whereas the Legislative Assembly agrees with the Governor that
14 Oregonians are gravely concerned with homelessness across the state; and

15 “Whereas ORS 401.165 (5) requires that any declaration of a state of
16 emergency must specify the geographical area covered by the proclamation
17 and that such area shall be no larger than necessary to effectively respond
18 to the emergency; and

19 “Whereas section 1 of this 2023 Act is intended to allow the Governor to
20 provide a statewide response to the emergency; now, therefore,”.

21 Delete lines 4 through 8 and insert:

1 **“HOMELESSNESS EMERGENCY**

2
3 **“SECTION 1. (1) The State of Oregon declares homelessness to be**
4 **a statewide emergency.**

5 **“(2) An executive order by the Governor to address an emergency**
6 **invoking ORS 401.165 (1) relating to homelessness or lack of available**
7 **housing, including Executive Order 23-02 or any continuation of the**
8 **order or similar order, is applicable to the entire state.**

9 **“(3) This section does not restrict the Governor or those acting**
10 **under the authority of an executive order from establishing local or**
11 **regional solutions or from providing funding, resources or other sup-**
12 **port to a specific local government or to address a specific local issue,**
13 **provided that eligibility for funding and resources made available un-**
14 **der the order are not substantially being restricted based on location.**

15 **“(4) This section does not apply to executive orders relating to**
16 **emergency shelter or lack of housing caused by a natural disaster or**
17 **other discrete event occurring on or after February 1, 2023.**

18 **“(5) The section does not affect the Governor’s authority to termi-**
19 **nate a state of emergency under ORS 401.204.**

20 **“SECTION 2. Section 1 of this 2023 Act is repealed on January 2,**
21 **2026.**

22
23 **“YOUTH HOMELESSNESS**

24
25 **“SECTION 3. ORS 458.650 is amended to read:**

26 **“458.650. (1) The Housing and Community Services Department shall ad-**
27 **minister the Emergency Housing Account to assist homeless individuals and**
28 **individuals who are at risk of becoming homeless, through means including**
29 **the emergency housing assistance program and the state homeless assistance**
30 **program. Notwithstanding subsection (3)(a) of this section, the state**

1 homeless assistance program shall serve individuals experiencing
2 homelessness, especially unsheltered homelessness, without respect to in-
3 come.

4 “(2) The Oregon Housing Stability Council shall develop a policy for the
5 use of program funds with the advice of:

6 “(a) Persons who have experienced housing instability;

7 “(b) Tribes;

8 “(c) The Community Action Partnership of Oregon;

9 “(d) Continuums of care, as defined in 24 C.F.R. part 578;

10 “(e) Local governments;

11 “(f) Nonprofit organizations;

12 “(g) Homeless services providers;

13 “(h) Culturally specific organizations;

14 “(i) Housing providers;

15 “(j) Veterans’ services organizations; and

16 “(k) Other entities identified by the department by rule.

17 “(3) The policy under subsection (2) of this section shall direct that pro-
18 gram funds shall be used:

19 “(a) To provide to low and very low income individuals, including but not
20 limited to individuals more than 65 years of age, persons with disabilities,
21 agricultural workers and Native Americans:

22 “(A) Emergency shelters and attendant services;

23 “(B) Transitional housing services designed to assist individuals to make
24 the transition from homelessness to permanent housing and economic inde-
25 pendence;

26 “(C) Supportive housing services to enable individuals to continue living
27 in their own homes or to provide in-home services for such individuals for
28 whom suitable programs do not exist in their geographic area;

29 “(D) Programs that provide emergency payment of home payments, rents
30 or utilities; or

1 “(E) Some or all of the [*needs*] **services or assistance** described in sub-
2 paragraphs (A) to (D) of this paragraph.

3 “**(b) To provide the services and assistance described in paragraph**
4 **(a) of this subsection to school-aged children enrolled in kindergarten**
5 **through grade 12, or to their families, who are homeless or at risk of**
6 **becoming homeless.**

7 “[*b*] **(c)** To align with federal strategies and resources that are available
8 to prevent and end homelessness, including the requirement of providing
9 culturally responsive services and using evidence-based and emerging prac-
10 tices effective in ending homelessness, including practices unique to rural
11 communities.

12 “(4)(a) The council shall require as a condition of awarding a grant that
13 the organization demonstrate to the satisfaction of the council that the or-
14 ganization:

15 “(A) Has the capacity to deliver any service proposed by the organization;

16 “(B) Is a culturally responsive organization or is engaged in a process to
17 become a culturally responsive organization;

18 “(C) Engages with culturally specific organizations; and

19 “(D) Supports local homelessness system planning efforts.

20 “(b) Any funds granted under this section may not be used to replace ex-
21 isting funds. Funds granted under this section may be used to supplement
22 existing funds. An organization may use funds to support existing programs
23 or to establish new programs.

24 “(5) The department may expend funds from the account for:

25 “(a) The administration of the account as provided for in the legislatively
26 approved budget, as that term is defined in ORS 291.002, for the department
27 in support of directing a statewide policy on homelessness that ensures use
28 of evidence-based and emerging practices, service equity in funding and local
29 planning processes.

30 “(b) The development of technical assistance and training resources for

1 organizations developing and operating emergency shelters as defined in ORS
2 197.782 and transitional housing accommodations as described in ORS
3 197.746.

4 “(6) The department shall utilize outcome-oriented contracting processes
5 and evidence-based and emerging practices for account program funds, in-
6 cluding evidence-based and emerging practices for serving rural communities.

7 “(7) Twenty-five percent of moneys deposited in the account pursuant to
8 ORS 294.187 are dedicated to the emergency housing assistance program for
9 assistance to veterans who are homeless or at risk of becoming homeless.

10 **“SECTION 4.** Section 1, chapter 531, Oregon Laws 2021, as amended by
11 section 1, chapter 42, Oregon Laws 2022, is amended to read:

12 **“Sec. 1.** (1) As used in this section, [*unaccompanied homeless youth*’]
13 **‘youth experiencing homelessness’** means a person who is at least 14
14 years of age but not more than 24 years of age, who is not in the physical
15 custody of a parent or legal guardian and who is homeless.

16 “(2) In addition to any other scholarships or grants, the Department of
17 Human Services may award two-year grants to organizations that provide
18 services to [*unaccompanied homeless*] youth **experiencing homelessness**.

19 “(3) The department may award a grant under this section to an organ-
20 ization that:

21 “(a) Has an existing grant from the department to provide services to
22 [*unaccompanied homeless*] youth **experiencing homelessness; or**

23 “[*(b) Has an existing contract with the department to provide services to*
24 *unaccompanied homeless youth and the department has determined that the*
25 *organization is capable of expanding to provide services in additional com-*
26 *munities;*]

27 “[*(c) Is a nonprofit organization or a coalition of nonprofit organizations*
28 *that the department has determined is capable of meeting the grant program*
29 *requirements; or*]

30 “[*(d) Is a new entity that the department determines is capable of meeting*

1 *the grant program requirements.]*

2 “(b) **Proposes to provide evidence-based services, as described by the**
3 **department by rule, for youth experiencing homelessness in an**
4 **underserved area or an area in which those services are not provided.**

5 “(4) Grants awarded under this section may be used for any of the fol-
6 lowing:

7 “(a) To increase the accessibility of any of the following programs and
8 services to [*unaccompanied homeless*] youth **experiencing homelessness:**

9 “(A) Shelter facilities;

10 “(B) Outreach;

11 “(C) Culturally specific services; and

12 “(D) Mental health or substance abuse services; and

13 “(b) To create or strengthen partnerships with host home programs and
14 other transitional housing options.

15 “(5) **An applicant for a grant under this section must describe how**
16 **the applicant intends to ensure that other funding, including from**
17 **federal or local governments or charitable donations, will be used to**
18 **supplement the total cost of the proposed program.**

19 “[5] (6) The department may adopt rules to administer the grant program
20 described in this section.

21 “**SECTION 5.** Section 2, chapter 531, Oregon Laws 2021, is amended to
22 read:

23 “**Sec. 2.** (1) As used in this section:

24 “(a) ‘Host home project’ means a project that facilitates an arrangement
25 under which [*an unaccompanied homeless*] youth **experiencing**
26 **homelessness** resides in the home of a private individual, pursuant to the
27 terms of a contract between the private individual and the youth, for free
28 or at below-market rent.

29 “(b) ‘Long-term host home project’ means a host home project run by an
30 organization that has a memorandum of understanding or a letter of agree-

1 ment with one or more school districts and in which [*unaccompanied*
2 *homeless*] **participating** youth **experiencing homelessness** [*participants*],
3 on average during the most recent two years, resided in host homes for a
4 minimum of 180 days, as reported by the relevant school district.

5 “(c) ‘Short-term host home project’ means a host home project in which
6 [*unaccompanied homeless*] **participating** youth **experiencing homelessness**
7 [*participants*], on average during the most recent two years, resided in host
8 homes for a maximum of 180 days, as reported by the relevant school district.

9 “(d) [*Unaccompanied homeless youth*] ‘**Youth experiencing**
10 **homelessness**’ means a person who is:

11 “(A) At least 16 years of age but not more than 21 years of age;

12 “(B) Not in the physical custody of a parent or legal guardian;

13 “(C) Not in the custody of the Department of Human Services;

14 “(D) Not a ward of the state; and

15 “(E) Homeless.

16 “(2) In addition to and not in lieu of any other scholarships or grants, the
17 department may award two-year grants to organizations that operate host
18 home projects for [*unaccompanied homeless*] youth **experiencing**
19 **homelessness**.

20 “(3) An organization is eligible to apply for a grant under this section if
21 the organization [*operated a host home project on January 1, 2021, and*] can
22 demonstrate the ability to:

23 “(a) **Continue the operation of existing host home projects;**

24 “[*a*] (b) Expand host home projects in communities in which the organ-
25 ization provides services;

26 “[*b*] (c) Establish new long-term host home projects in communities that
27 do not have long-term host home projects; or

28 “[*c*] (d) Establish new short-term host home projects.

29 “(4) Recipients of grants awarded under this section shall work to achieve
30 the following outcomes for [*unaccompanied homeless*] youth **experiencing**

1 **homelessness:**

2 “(a) Improved school attendance.

3 “(b) Participation in formal or informal mentoring.

4 “(c) Increased access to nutrition, health care, mental trauma-informed
5 support and transportation services.

6 “(5) A recipient of a grant awarded under this section shall ensure all
7 individuals of 18 years of age or older residing in the host home who are not
8 the [*unaccompanied homeless*] youth **experiencing homelessness** have an
9 approved background check under ORS 181A.200 and 409.027.

10 “(6) A host home is not a child-caring agency as defined in ORS 418.205.

11 “(7) The department may adopt rules to administer the grant program
12 described in this section.

13 **“SECTION 6.** Section 6, chapter 531, Oregon Laws 2021, is amended to
14 read:

15 **“Sec. 6.** [(1) Sections 1 and 2 of this 2021 Act are repealed on June 30,
16 2023.]

17 “[2)] Sections 3 and 5 [of this 2021 Act], **chapter 531, Oregon Laws 2021,**
18 are repealed on January 2, 2024.

19

20 **“MODULAR HOUSING FUNDING**

21

22 **“SECTION 7. (1) The Oregon Business Development Department**
23 **shall provide grants or loans to entities to begin or expand production**
24 **capacity for the development of modular housing and components to**
25 **support home builders and developers in meeting housing demand.**

26 **“(2) The department shall establish a temporary advisory committee**
27 **under ORS 285A.060 to advise the department on providing grants or**
28 **loans under this section.**

29 **“(3) The department shall establish the terms for any loans under**
30 **this section. Proceeds from loans must be deposited in the General**

1 **Fund.**

2 “(4) Entities receiving loans or grants under this section must agree
3 to terms established by the department requiring that the entities
4 prioritize supplying modular housing components to meet demand
5 from:

6 “(a) First, state and local governments following a wildfire or other
7 disaster;

8 “(b) Second, low income housing construction in this state; and

9 “(c) Third, middle income housing construction in this state.

10 “SECTION 8. Section 7 of this 2023 Act is repealed on January 2,
11 2026.

12 “SECTION 9. In addition to and not in lieu of any other appropri-
13 ation, there is appropriated to the Oregon Business Development De-
14 partment, for the biennium beginning July 1, 2023, out of the General
15 Fund, the amount of \$20,000,000, to make loans or grants under section
16 7 of this 2023 Act.

17

18 “AFFORDABLE HOUSING PREDEVELOPMENT GRANTS

19

20 “SECTION 10. Section 11 of this 2023 Act is added to and made a
21 part of ORS chapter 289.

22 “SECTION 11. (1) The Oregon Facilities Authority shall provide fi-
23 nancing, including refinancing, to local governments or housing de-
24 velopers for predevelopment costs, including infrastructure, site
25 acquisition, planning, reports, surveys and consultants.

26 “(2) Financing under this section is available only for housing
27 projects that will be subject to an affordability restriction, including
28 an affordable housing covenant under ORS 456.270 to 456.295, that:

29 “(a) Has a term of no less than 25 years; and

30 “(b) Requires that each dwelling unit be rented as the primary res-

1 **idence for a moderate income household as defined in ORS 456.270.**

2 **“(3) The financing provided by the authority under this section:**

3 **“(a) May not exceed \$500,000 per eligible project;**

4 **“(b) Must charge interest of three percent or lower;**

5 **“(c) May only be used for a project with a total cost of less than**
6 **\$40,000,000 or that consists of 80 or fewer residential units; and**

7 **“(d) May not exceed 75 percent of the project’s total predevelopment**
8 **costs unless the project will be restricted to households with incomes**
9 **equal to or less than the area median income.**

10 **“(4) Notwithstanding the definitions of ‘housing institution’ and**
11 **‘project’ under ORS 289.005, the activity of the authority under this**
12 **section is an eligible project, as that term is used in this chapter.**

13 **“SECTION 12. Section 11 of this 2023 Act is repealed on January 2,**
14 **2026.**

15 **“SECTION 13. In addition to and not in lieu of any other appropri-**
16 **ation, there is appropriated to the Oregon Facilities Authority, for the**
17 **biennium beginning July 1, 2023, out of the General Fund, the amount**
18 **of \$3,000,000, for deposit into the Oregon Facilities Authority Account**
19 **to be used for the purposes of section 11 of this 2023 Act.**

20
21 **“TERMINATION OF RESIDENTIAL TENANCY FOR NONPAYMENT**

22
23 **“SECTION 14. Section 15 of this 2023 Act is added to and made a**
24 **part of ORS chapter 90.**

25 **“SECTION 15. (1) As used in this section:**

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

1 “(b) ‘Nonpayment’ does not include payments owed by a tenant for
2 damages to the premises.

3 “(2) A landlord shall deliver a copy of the notice posted on the
4 website of the Judicial Department under section 16 of this 2023 Act
5 along with:

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

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

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

13 “(a) The landlord failed to deliver the notice as required under
14 subsection (2) of this section;

15 “(b) The landlord caused the tenant to not tender rent, including
16 as a result of the landlord’s failure to reasonably participate with a
17 rental assistance program; or

18 “(c) The tenant has tendered or caused to be tendered rental as-
19 sistance or any other payment covering the nonpayment amount owed
20 under the termination notice for nonpayment.

21 “(4) Notwithstanding ORS 105.137 (4), if a claim for possession is
22 dismissed under subsection (3)(c) of this section and the payment was
23 tendered after the action was commenced, the tenant is not entitled
24 to prevailing party fees, costs or attorneys fees.

25 “(5) Notwithstanding 90.302, a landlord may charge a tenant for fil-
26 ing fees paid under ORS 105.130, if the complaint for possession is
27 dismissed under subsection (3)(c) of this section. Payment of the fees
28 is not a prerequisite for dismissal under subsection (3)(c) of this sec-
29 tion.

30 “SECTION 16. (1) The Judicial Department, in consultation with the

1 **Housing and Community Services Department, shall supply and may**
2 **regularly update the notice required under ORS 105.135 (2)(d) and sec-**
3 **tion 15 (2) of this 2023 Act. The notice must be in substantially the**
4 **following form:**

5 “ _____
6 **THIS IS AN IMPORTANT NOTICE OF WHERE TO GET HELP IF**
7 **YOU ARE FACING POTENTIAL EVICTION FOR NONPAYMENT.**

8
9 **For information in Spanish, Korean, Russian, Vietnamese or**
10 **Chinese, go to the Judicial Department website at**
11 _____.

12
13 **You must comply with deadlines identified in a notice of nonpay-**
14 **ment, or you risk losing your housing.**

15
16 **Rental assistance and support services may be available. Dial 2-1-1**
17 **or go to www.211info.org or contact a local service provider at**
18 _____.

19
20 **Low-income tenants may be able to receive free or low-cost legal**
21 **advice by contacting a legal aid organization. Go to**
22 _____ **to find an office near you.**

23
24 **The Oregon State Bar provides information about legal assistance**
25 **programs at _____.**

26 “ _____
27 **“(2) The Judicial Department shall translate the completed form**
28 **under subsection (1) of this section into the Spanish, Korean, Russian,**
29 **Vietnamese and Chinese languages and shall display links to the**
30 **English and translated forms prominently on the department’s**

1 webpage.

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

7 **“SECTION 17. In distributing rental assistance to residential ten-
8 ants funded by federal, state or local moneys, a public body, as defined
9 in ORS 174.109, and any designee or grantee of a public body shall:**

10 **“(1) Promptly provide a dated application receipt to each tenant
11 who applies for assistance. The receipt may be in an electronic format.**

12 **“(2) Close an application, after providing notice of potential closure
13 to the tenant, if the provider reasonably determines that the tenant
14 is no longer participating.**

15 **“(3) If, upon qualifying circumstance, an application is approved
16 and payment is made to a person other than the tenant’s landlord,
17 provide a dated notice of payment to the tenant’s landlord at any
18 known address or electronic mail address.**

19 **“(4) If an application is denied or is otherwise closed without pay-
20 ment, provide a dated notice of the denial or closure to the tenant and
21 to the tenant’s landlord at any known address or electronic mail ad-
22 dress.**

23 **“SECTION 18. ORS 90.394 is amended to read:**

24 **“90.394. The landlord may terminate the rental agreement for nonpayment
25 of rent and take possession as provided in ORS 105.105 to 105.168, as follows:**

26 **“(1) When the tenancy is a week-to-week tenancy, by delivering to the
27 tenant at least 72 hours’ written notice of nonpayment and the landlord’s
28 intention to terminate the rental agreement if the rent is not paid within
29 that period. The landlord shall give this notice no sooner than on the fifth
30 day of the rental period, including the first day the rent is due.**

1 “(2) For all tenancies other than week-to-week tenancies, by delivering to
2 the tenant:

3 “(a) At least [72 hours’] **10 days’** written notice of nonpayment and the
4 landlord’s intention to terminate the rental agreement if the rent is not paid
5 within that period. The landlord shall give this notice no sooner than on the
6 eighth day of the rental period, including the first day the rent is due; or

7 “(b) At least [144 hours’] **13 days’** written notice of nonpayment and the
8 landlord’s intention to terminate the rental agreement if the rent is not paid
9 within that period. The landlord shall give this notice no sooner than on the
10 fifth day of the rental period, including the first day the rent is due.

11 “(3) The notice described in this section must also specify the amount of
12 rent that must be paid and the date and time by which the tenant must pay
13 the rent to cure the nonpayment of rent.

14 “(4) Payment by a tenant who has received a notice under this section is
15 timely if mailed to the landlord within the period of the notice unless:

16 “(a) The notice is served on the tenant:

17 “(A) By personal delivery as provided in ORS 90.155 (1)(a); or

18 “(B) By first class mail and attachment as provided in ORS 90.155 (1)(c);

19 “(b) A written rental agreement and the notice expressly state that pay-
20 ment is to be made at a specified location that is either on the premises or
21 at a place where the tenant has made all previous rent payments in person;
22 and

23 “(c) The place so specified is available to the tenant for payment
24 throughout the period of the notice.

25 “**SECTION 19.** ORS 105.124 is amended to read:

26 “105.124. For a complaint described in ORS 105.123, if ORS chapter 90
27 applies to the dwelling unit:

28 “(1) The complaint must be in substantially the following form and be
29 available from the clerk of the court:

30 “ _____

1 IN THE CIRCUIT COURT
2 FOR THE COUNTY OF

3 _____
4 No. _____
5

6 RESIDENTIAL EVICTION COMPLAINT
7

8 PLAINTIFF (Landlord or agent):

9 _____
10 _____

11 Address: _____

12 City: _____

13 State: _____ Zip: _____

14 Telephone: _____
15

16 vs.
17

18 DEFENDANT (Tenants/Occupants):

19 _____
20 _____

21 MAILING ADDRESS: _____

22 City: _____

23 State: _____ Zip: _____

24 Telephone: _____
25

26 1.

27 Tenants are in possession of the dwelling unit, premises or rental prop-
28 erty described above or located at:

29 _____
30 _____

2.

Landlord is entitled to possession of the property because of:

- _____ 24-hour notice for personal injury, substantial damage, extremely outrageous act or unlawful occupant. ORS 90.396 or 90.403.
- _____ 24-hour or 48-hour notice for violation of a drug or alcohol program. ORS 90.398.
- _____ 24-hour notice for perpetrating domestic violence, sexual assault or stalking. ORS 90.445.
- _____ 72-hour [or 144-hour] notice for nonpayment of rent **in a week-to-week tenancy**. ORS 90.394 (1).
- _____ 7-day notice with stated cause in a week-to-week tenancy. ORS 90.392 (6).
- _____ 10-day notice for a pet violation, a repeat violation in a month-to-month tenancy or without stated cause in a week-to-week tenancy. ORS 90.392 (5), 90.405 or 90.427 (2).
- _____ **10-day or 13-day notice for nonpayment of rent. ORS 90.394 (2).**
- _____ 20-day notice for a repeat violation. ORS 90.630 (5).
- _____ 30-day, 60-day or 180-day notice without stated cause in a month-to-month tenancy. ORS 90.427 (3)(b) or (8)(a)(B)

1 or (C) or 90.429.
2 _____ 30-day notice with stated cause.
3 ORS 90.392, 90.630 or 90.632[:
4 _____ **The stated cause is for**
5 **nonpayment as defined in section 15 of**
6 **this 2023 Act.**

7 _____ 60-day notice with stated cause.
8 ORS 90.632.

9 _____ 90-day notice with stated cause.
10 ORS 90.427 (5) or (7).

11 _____ Notice to bona fide tenants after
12 foreclosure sale or termination of
13 fixed term tenancy after foreclosure
14 sale. ORS 86.782 (6)(c).

15 _____ Other notice _____

16 _____ No notice (explain) _____

17

18 A COPY OF THE NOTICE RELIED UPON, IF ANY, IS ATTACHED

19

20 3.

21 If the landlord uses an attorney, the case goes to trial and the landlord
22 wins in court, the landlord can collect attorney fees from the defendant
23 pursuant to ORS 90.255 and 105.137 (3).

24 Landlord requests judgment for possession of the premises, court costs,
25 disbursements and attorney fees.

26 I certify that the allegations and factual assertions in this complaint are
27 true to the best of my knowledge.

28

29 _____

30 Signature of landlord or agent.

1 “

2 “(2) The complaint must be signed by the plaintiff, or an attorney repre-
3 senting the plaintiff as provided by ORCP 17, or verified by an agent or
4 employee of the plaintiff or an agent or employee of an agent of the plaintiff.

5 “(3) A copy of the notice relied upon, if any, must be attached to the
6 complaint.

7 **“SECTION 20.** ORS 105.135 is amended to read:

8 “105.135. (1) Except as provided in this section, the summons shall be
9 served and returned as in other actions.

10 **“(2)(a) The clerk shall calculate the first appearance, which shall**
11 **be:**

12 **“(A) Seven days after the judicial day next following payment of the**
13 **filing fees; or**

14 **“(B) If the claim for possession is brought under ORS 90.392 or**
15 **90.394 for nonpayment as defined in section 15 of this 2023 Act, 15 days**
16 **after the judicial day next following payment of the filing fees.**

17 **“(b) The clerk may delay the first appearance by up to seven days**
18 **to accommodate dates on which a judge is unavailable to conduct the**
19 **first appearance and, if possible, to accommodate dates that the**
20 **plaintiff has indicated unavailability.**

21 **“(c) The clerk shall enter the first appearance date on the summons.**
22 *[That date shall be seven days after the judicial day next following payment*
23 *of filing fees unless no judge is available for first appearance at that time, in*
24 *which case the clerk may extend the first appearance date for up to seven ad-*
25 *ditional days. At the request of the plaintiff, the clerk may enter a date more*
26 *than seven days after the judicial day next following payment of filing fees if*
27 *a judge will be available.]*

28 **“(d) If the claim for possession is based on nonpayment as defined**
29 **in section 15 of this 2023 Act, the clerk shall include as part of the**
30 **summons a copy of the notice described in section 16 of this 2023 Act.**

1 “(3) Notwithstanding ORCP 10, by the end of the judicial day next fol-
2 lowing the payment of filing fees:

3 “(a) The clerk shall mail the summons and complaint by first class mail
4 to the defendant at the premises.

5 “(b) The process server shall serve the defendant with the summons and
6 complaint at the premises by personal delivery to the defendant or, if the
7 defendant is not available for service, by attaching the summons and com-
8 plaint in a secure manner to the main entrance to that portion of the prem-
9 ises of which the defendant has possession.

10 “(4) A sheriff may serve a facsimile of a summons and complaint that is
11 transmitted to the sheriff by a trial court administrator or another sheriff
12 by means of facsimile communication. A copy of the facsimile must be at-
13 tached to the sheriff’s return of service. Before transmitting a summons and
14 complaint to a sheriff under this subsection, the person sending the facsimile
15 must receive confirmation by telephone from the sheriff’s office that a tele-
16 phonic facsimile communication device is available and operating.

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

20 “(6) In the case of premises to which ORS chapter 90 applies, the sum-
21 mons shall inform the defendant of the procedures, rights and responsibilities
22 of the parties as specified in ORS 105.137.

23 “**SECTION 21.** Section 8, chapter 420, Oregon Laws 2021, as amended by
24 section 9, chapter 1, Oregon Laws 2021 (second special session), is amended
25 to read:

26 “**Sec. 8.** (1) Section 2, chapter 420, Oregon Laws 2021, as amended by
27 section 2, **chapter 1, Oregon Laws 2021 (second special session)** [*of this*
28 *2021 second special session Act*], is repealed on October 1, 2022.

29 “(2) Section 5, chapter 420, Oregon Laws 2021, as amended by sections 4
30 and 6, **chapter 1, Oregon Laws 2021 (second special session)** [*of this 2021*

1 *second special session Act*], is repealed on [July 1, 2023] **the effective date**
2 **of this 2023 Act.**

3 “(3) Section 6, chapter 420, Oregon Laws 2021, is repealed on October 1,
4 2022.

5 “(4) Section 7, chapter 420, Oregon Laws 2021, as amended by section 5,
6 **chapter 1, Oregon Laws 2021 (second special session)** [*of this 2021 second*
7 *special session Act*], is repealed on October 1, 2022.

8

9 **“EVICTION PROCESS**

10

11 **“SECTION 22.** ORS 105.115 is amended to read:

12 “105.115. (1) Except as provided by subsections (2) and (3) of this section,
13 the following are causes of unlawful holding by force within the meaning
14 of ORS 105.110, 105.123 and 105.126:

15 “(a) When the tenant or person in possession of any premises fails or re-
16 fuses to pay rent within 10 days after the rent is due under the lease or
17 agreement under which the tenant or person in possession holds, or to de-
18 liver possession of the premises after being in default on payment of rent for
19 10 days.

20 “(b) When the lease by its terms has expired and has not been renewed,
21 or when the tenant or person in possession is holding from month to month,
22 or year to year, and remains in possession after notice to quit as provided
23 in ORS 105.120, or is holding contrary to any condition or covenant of the
24 lease or is holding possession without any written lease or agreement.

25 “(c) When the owner or possessor of a recreational vehicle that was
26 placed or driven onto property without the prior consent of the property
27 owner, operator or tenant fails to remove the recreational vehicle. The
28 property owner or operator is not required to serve a notice to quit the
29 property before commencing an action under ORS 105.126 against a recre-
30 ational vehicle owner or possessor holding property by force as described in

1 this paragraph.

2 “(d) When the person in possession of a premises remains in possession
3 after the time when a purchaser of the premises is entitled to possession in
4 accordance with the provisions of ORS 18.946 or 86.782.

5 “(e) When the person in possession of a premises remains in possession
6 after the time when a deed given in lieu of foreclosure entitles the transferee
7 named in the deed to possession of the premises.

8 “(f) When the person in possession of a premises remains in possession
9 after the time when a seller is entitled to possession in accordance with the
10 provisions of ORS 93.930 (2)(c) or pursuant to a judgment of strict foreclosure
11 of a recorded contract for transfer or conveyance of an interest in real
12 property.

13 “(g) When the person in possession of a premises remains in possession
14 after the expiration of a valid notice terminating the person’s right to occupy
15 the premises pursuant to ORS 91.120, 91.122 or 91.130.

16 “(2) In the case of a dwelling unit to which ORS chapter 90 applies:

17 “(a) The following are causes of unlawful holding by force within the
18 meaning of ORS 105.110 and 105.123:

19 “(A) When the tenant or person in possession of any premises fails or
20 refuses to pay rent within the time period required by a notice under ORS
21 **90.392 or 90.394.**

22 “(B) When a rental agreement by its terms has expired and has not been
23 renewed, or when the tenant or person in possession remains in possession
24 after a valid notice terminating the tenancy pursuant to ORS chapter 90, or
25 is holding contrary to any valid condition or covenant of the rental agree-
26 ment or ORS chapter 90.

27 “(b) A landlord may not file an action for the return of possession of a
28 dwelling unit based upon a cause of unlawful holding by force as described
29 in paragraph (a) of this subsection until after the expiration of a rental
30 agreement for a fixed term tenancy or after the expiration of the time period

1 provided in a notice terminating the tenancy.

2 **“(c) The court may dismiss a claim for possession at any time if the**
3 **complaint does not comply with this subsection.**

4 **“(3) In an action under subsection (2) of this section, ORS chapter 90 shall**
5 **be applied to determine the rights of the parties, including:**

6 **“(a) Whether and in what amount rent is due;**

7 **“(b) Whether a tenancy or rental agreement has been validly terminated;**
8 **and**

9 **“(c) Whether the tenant is entitled to remedies for retaliatory conduct by**
10 **the landlord as provided by ORS 90.385 and 90.765.**

11 **“SECTION 23. ORS 105.137 is amended to read:**

12 **“105.137. In the case of a dwelling unit to which ORS chapter 90 applies:**

13 **“(1) [*If the plaintiff appears and the defendant fails to appear at the first***
14 ***appearance,*] A default judgment shall be entered in favor of the plaintiff for**
15 **possession of the premises and costs and disbursements[.] **only if:****

16 **“(a) The plaintiff appears and the defendant fails to appear at the**
17 **first appearance;**

18 **“(b) The court determines that the complaint complies with ORS**
19 **105.115 and 105.124 and is sufficient to state a cause of action for pos-**
20 **session; and**

21 **“(c) The plaintiff testifies under oath or submits an affidavit or**
22 **declaration under penalty of perjury stating that, as of the date of the**
23 **testimony:**

24 **“(A) The plaintiff does not have knowledge that the defendant has**
25 **delivered possession to the plaintiff as described in ORS 90.147 (2); and**

26 **“(B) The plaintiff reasonably believes that the defendant remains**
27 **in possession of the premises.**

28 **“(2) If the defendant appears and the plaintiff fails to appear at the first**
29 **appearance, a default judgment shall be entered in favor of the defendant**
30 **dismissing the plaintiff’s complaint and awarding costs and disbursements.**

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

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

11 “(5) The plaintiff or an agent of the plaintiff may obtain a continuance
12 of the action for as long as the plaintiff or the agent of the plaintiff deems
13 necessary to obtain the services of an attorney at law.

14 “(6) If both parties appear in court on the date contained in the summons,
15 the court shall set the matter for trial [*as soon as practicable,*] unless the
16 court is advised by the parties that the matter has been settled. The trial
17 shall be scheduled:

18 “(a) **For a claim based on nonpayment, as defined in section 15 of**
19 **this 2023 Act, no earlier than 15 days, and no later than 30 days, fol-**
20 **lowing the appearance; or**

21 “(b) **For any other claim, as soon as practicable and** no later than
22 15 days from the date of [*such*] **the** appearance.

23 “(7) If the matter is not tried within the [*15-day*] period **described in**
24 **subsection (6) of this section**, and the delay in trial is not attributable to
25 the landlord, the court shall order the defendant to pay rent that is accruing
26 into court, provided the court finds after hearing that entry of such an order
27 is just and equitable.

28 “[*(7)(a)*] **(8)(a)** The court shall permit an unrepresented defendant to pro-
29 ceed to trial by directing the defendant to file an answer in writing on a
30 form which shall be available from the court clerk, and to serve a copy upon

1 the plaintiff on the same day as first appearance.

2 “(b) The answer shall be in substantially the following form:

3 “ _____

4 IN THE _____ COURT FOR

5 THE COUNTY OF _____

6

7 (Landlord),)

8)

9 Plaintiff(s),)

10)

11 vs.) No. _____

12)

13 (Tenant),)

14)

15 Defendant(s).)

16

17 ANSWER

18 I (we) deny that the plaintiff(s) is (are) entitled to possession because:

19 — The landlord did not make repairs.

20 List any repair problems: _____

21 _____

22 _____

23 — The landlord is attempting to evict me (us) because of my (our) complaints

24 (or the eviction is otherwise retaliatory).

25 — The landlord is attempting to evict me because of my status as a victim
26 of domestic violence, sexual assault or stalking.

27 — The eviction notice is wrong.

28 — List any other defenses: _____

29 _____

30 _____

1 _____
2 _____

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

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

9
10 _____

11 Date Signature of defendant(s)

12 “ _____

13 “[8] (9) If an unrepresented defendant files an answer as provided in
14 subsection [(7)] (8) of this section, the answer [*may*] **does** not limit the de-
15 fenses available to the defendant at trial under ORS chapter 90. If such a
16 defendant seeks to assert at trial a defense not fairly raised by the answer,
17 the plaintiff [*shall be*] **is** entitled to a reasonable continuance for the pur-
18 poses of preparing to meet the defense.

19

20 **“SEALING EVICTION RECORDS**

21

22 **“SECTION 24. Section 25 of this 2023 Act is added to and made a**
23 **part of ORS 105.105 to 105.168.**

24 **“SECTION 25. (1) On an annual basis, each justice and circuit court**
25 **shall enter an order setting aside a judgment and sealing the official**
26 **records for each case for possession brought under ORS chapter 90 for**
27 **which the court finds that:**

28 **“(a) The judgment does not contain a money award or that any**
29 **money award has expired or been satisfied or discharged; and**

30 **“(b)(A) The judgment was a judgment of restitution entered for the**

1 plaintiff and at least five years have passed from the date of the
2 judgment; or

3 “(B) The judgment was a judgment by stipulation of the parties
4 under ORS 105.145 (2) and at least 12 months have passed from the date
5 of the judgment.

6 “(2) Upon entry of the order, the judgment that is the subject of the
7 motion is deemed not to have been entered, and any party may answer
8 accordingly any questions relating to its occurrence.

9 “(3) Nothing in this section limits the ability of a defendant to apply
10 for an order under ORS 105.163.

11 “SECTION 26. (1) Section 25 of this 2023 Act does not apply to
12 judgments entered on or before January 1, 2014.

13 “(2) Each justice and circuit court shall conduct a review of its re-
14 cords and enter its first order under section 25 of this 2023 Act on or
15 before December 31, 2024.

16

17 “CAPTIONS

18

19 “SECTION 27. The unit captions used in this 2023 Act are provided
20 only for the convenience of the reader and do not become part of the
21 statutory law of this state or express any legislative intent in the
22 enactment of this 2023 Act.

23

24 “EMERGENCY CLAUSE

25

26 “SECTION 28. This 2023 Act being necessary for the immediate
27 preservation of the public peace, health and safety, an emergency is
28 declared to exist, and this 2023 Act takes effect on its passage.”.

29