

CHAPTER 39

AN ACT

SB 282

Relating to rental housing; creating new provisions; amending ORS 90.303 and 105.163 and sections 3, 4 and 7, chapter 13, Oregon Laws 2020 (first special session), and section 22, chapter 3, Oregon Laws 2020 (third special session); and declaring an emergency.

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

EVICTION MORATORIUM

SECTION 1. Section 3, chapter 13, Oregon Laws 2020 (first special session), as amended by section 8, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

Sec. 3. (1) As used in this section and in section 7, chapter 3, Oregon Laws 2020 (third special session) [of this 2020 third special session Act]:

(a) "Emergency period" means the period beginning on April 1, 2020, and ending on [December 31, 2020, except as the period may be extended through] June 30, 2021[, under section 7 (1) of this 2020 third special session Act].

(b) "End of the grace period" means [March 31, 2021, unless the period is extended through June 30, 2021, under section 7 (1) of this 2020 third special session Act] **February 28, 2022.**

(c) "Nonpayment" means the nonpayment of a payment that becomes due during the emergency period to a landlord, including a payment of rent, late charges, utility or service charges or any other charge or fee as described in the rental agreement or ORS 90.140, 90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.

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

(e) "Termination notice without cause" means a notice delivered by a landlord under ORS 90.427 (3)(b), (4)(b) or (c), or (8)(a)(B) or (b)(B).

(2) Before the end of the grace period, notwithstanding this chapter or ORS 105.105 to 105.168, a landlord may not, and may not threaten to:

(a) Deliver a notice of termination of a rental agreement based on a tenant's nonpayment balance;

(b) Initiate or continue an action under ORS 105.110 to take possession of a dwelling unit based on a notice of termination for nonpayment delivered during the emergency period;

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

(d) Assess a late fee or any other penalty on a tenant's nonpayment; **or**

[e] Report a tenant's nonpayment balance as delinquent to any consumer credit reporting agency; or]

[f] (e) File an action to recover the nonpayment balance.

(3) Notwithstanding ORS 90.220 (9), before applying payments received from a tenant or on behalf of a tenant to a tenant's nonpayment balance, a landlord shall first apply the payments, in the following order, to:

(a) Rent for the current rental period;

(b) Utility or service charges;

(c) Late rent payment charges; and

(d) Fees or charges owed by the tenant under ORS 90.302 or other fees or charges related to damage claims or other claims against the tenant.

[4(a) Before June 30, 2021, a landlord may not deliver a termination notice without cause and may not file an action under ORS 105.110 based on a termination notice without cause.]

[b] (4) If the first year of occupancy would end after April 1, 2020, and before August 31, 2021, for the purposes of a termination notice without cause, the "first year of occupancy" is extended to mean a period lasting until August 31, 2021.

(5)(a) A landlord may deliver a written notice to a tenant before the end of the grace period stating that the tenant continues to owe any rent [due.] **that accrued from April 1, 2020, through June 30, 2021, but**

[b] If the emergency period is extended under section 7 (1) of this 2020 third special session Act,] the notice must also include a statement that eviction for nonpayment of rent, charges and fees accrued from April 1, 2020, to June 30, 2021, is not allowed before [June 30, 2021] **February 28, 2022.**

[c] If the emergency period is not extended under section 7 (1) of this 2020 third special session Act, the notice must also include:]

[A] A statement that eviction for nonpayment of rent, charges and fees accrued from April 1, 2020, to December 31, 2020, is not allowed before March 31, 2021; and]

[B] A copy of both the notice and declaration form described in section 7 (3) of this 2020 third special session Act.]

[d] (b) The notice may also include information regarding tenant resources and may offer a voluntary payment plan for the nonpayment balance. If the notice offers a voluntary payment plan, the notice must state that the payment plan is voluntary. The notice may include a request that the tenant contact the landlord to discuss the voluntary payment plan.

(6)(a) If a tenancy terminates before the end of the grace period, a landlord may claim from the security deposit or last month's rent deposit to repay the unpaid rent balance that accrued during the emergency period under ORS 90.300 (7) or (9).

(b) Prior to the end of the grace period, a tenant with an unpaid rent balance that accrued during the emergency period is not considered to be in default in rent under ORS 90.385 (4)(c) or 90.390 (2).

(c) A landlord's acceptance of a partial payment of rent before the end of the grace period does not constitute a waiver of a landlord's right to terminate the tenancy for:

(A) A violation of the rental agreement, notwithstanding ORS 90.412 (2); or

(B) Nonpayment of the rent balance owed under ORS 90.394 after the end of the grace period, notwithstanding ORS 90.417 (4).

(7) A termination notice given under ORS 90.394 must substantially state that:

(a) Eviction for nonpayment of rent, charges and fees that accrued on and after April 1, 2020, and before June 30, 2021, is not allowed before February 28, 2022; and

(b) Information regarding tenant resources is available at www.211info.org.

SECTION 2. The amendments to section 3, chapter 13, Oregon Laws 2020 (first special session), by section 1 of this 2021 Act become operative on July 1, 2021.

SECTION 3. Section 4, chapter 13, Oregon Laws 2020 (first special session), as amended by section 24, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

Sec. 4. Section 3, chapter 13, Oregon Laws 2020 (first special session), as amended by section 8 [of this 2020 third special session Act], **chapter 3, Oregon Laws 2020 (third special session), and section 1 of this 2021 Act**, is repealed on [September 1, 2021] **March 1, 2022**.

SECTION 4. Section 22, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

Sec. 22. (1) The amendments to ORS [90.385, 90.394,] 105.113 [and 105.124 by sections 18 to 21 of this 2020 third special session Act] **by section 20, chapter 3, Oregon Laws 2020 (third special session)**, become operative on July 1, 2021.

(2) The amendments to ORS 90.385, 90.394 and 105.124 by sections 18, 19 and 21, chapter 3, Oregon Laws 2020 (third special session), become operative on March 1, 2022.

SECTION 5. Section 7, chapter 13, Oregon Laws 2020 (first special session), as amended by section 17, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

Sec. 7. Notwithstanding ORS 12.125, the period of limitation is tolled until [July 1, 2021] **March 1, 2022**, for claims by a landlord based on a tenant's nonpayment or nonpayment balance, both as defined in section 3, chapter 13, Oregon Laws 2020 (first special session).

TENANT REPORTING AND SCREENING

SECTION 6. Section 7 of this 2021 Act is added to and made a part of ORS chapter 90.

SECTION 7. A landlord may not report to any consumer credit reporting agency a tenant's nonpayment of rent, charges or fees that accrued on or after April 1, 2020, and before July 1, 2021.

SECTION 8. ORS 90.303 is amended to read:

90.303. (1) When evaluating an applicant, a landlord may not consider an action to recover possession pursuant to ORS 105.105 to 105.168 if the action:

(a) Was dismissed or resulted in a general judgment for the applicant before the applicant submits the application.

(b) Resulted in a general judgment against the applicant that was:

(A) Entered five or more years before the applicant submits the application[.]; or

(B) Entered on claims that arose on or after April 1, 2020, and before March 1, 2022.

(2) When evaluating the applicant, a landlord may not consider a previous arrest of the applicant if the arrest did not result in a conviction. This subsection does not apply if the arrest has resulted in charges for criminal behavior as described in subsection (3) of this section that have not been dismissed at the time the applicant submits the application.

(3) When evaluating the applicant, the landlord may not consider criminal conviction and charging history unless the conviction or pending charge is for conduct that is:

(a) A drug-related crime, but not including convictions based solely on the use or possession of marijuana;

(b) A person crime;

(c) A sex offense;

(d) A crime involving financial fraud, including identity theft and forgery; or

(e) Any other crime if the conduct for which the applicant was convicted or charged is of a nature that would adversely affect:

(A) Property of the landlord or a tenant; or

(B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord or the landlord's agent.

(4) When evaluating an applicant, a landlord may not consider the possession of a medical marijuana card or status as a medical marijuana patient.

(5) When evaluating an applicant, a landlord may not consider an applicant's unpaid rent, including rent reflected in judgments or referrals of debt to a collection agency, that accrued on or after April 1, 2020, and before March 1, 2022.

SECTION 9. ORS 105.163 is amended to read:

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

(a) The judgment was a judgment of restitution entered against the applicant, [a period of at least five years has passed from the date of entry of the

judgment and] the applicant has satisfied any money award included in the judgment[;] **and:**

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

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

(b) The judgment was a judgment by stipulation of the parties under ORS 105.145 (2) and the applicant has complied with the terms of the stipulated agreement and satisfied any money award included in the judgment; or

(c) The judgment was a judgment or judgment of dismissal entered in the applicant's favor.

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

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

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

SECTION 10. ORS 90.303, as amended by section 8 of this 2021 Act, is amended to read:

90.303. (1) When evaluating an applicant, a landlord may not consider an action to recover possession pursuant to ORS 105.105 to 105.168 if the action:

(a) Was dismissed or resulted in a general judgment for the applicant before the applicant submits the application.

(b) Resulted in a general judgment against the applicant that was[;]

[(A)] entered five or more years before the applicant submits the application[; or].

[(B) Entered on claims that arose after April 1, 2020, and before March 1, 2022.]

(2) When evaluating the applicant, a landlord may not consider a previous arrest of the applicant if the arrest did not result in a conviction. This subsection does not apply if the arrest has resulted in charges for criminal behavior as described in subsection (4) of this section that have not been dismissed at the time the applicant submits the application.

(3) When evaluating the applicant, the landlord may not consider criminal conviction and charging history unless the conviction or pending charge is for conduct that is:

(a) A drug-related crime, but not including convictions based solely on the use or possession of marijuana;

(b) A person crime;

(c) A sex offense;

(d) A crime involving financial fraud, including identity theft and forgery; or

(e) Any other crime if the conduct for which the applicant was convicted or charged is of a nature that would adversely affect:

(A) Property of the landlord or a tenant; or

(B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord or the landlord's agent.

(4) When evaluating an applicant, a landlord may not consider the possession of a medical marijuana card or status as a medical marijuana patient.

[(5) When evaluating an applicant, a landlord may not consider an applicant's unpaid rent, including rent reflected in judgments or referrals of debt to a collection agency, that accrued on or after April 1, 2020, and before March 1, 2022.]

SECTION 11. ORS 105.163, as amended by section 9 of this 2021 Act, is amended to read:

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

(a) The judgment was a judgment of restitution entered against the applicant, the applicant has satisfied any money award included in the judgment and[;]

[(A)] at least five years have passed from the date of the judgment; [or]

[(B) Judgments based on claims that arose on or after April 1, 2020, and before March 1, 2022;]

(b) The judgment was a judgment by stipulation of the parties under ORS 105.145 (2) and the applicant has complied with the terms of the stipulated agreement and satisfied any money award included in the judgment; or

(c) The judgment was a judgment or judgment of dismissal entered in the applicant's favor.

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

(3) If, under subsection (2) of this section, no objection is filed or after a hearing the court determines that the applicant is eligible for relief under subsection (1) of this section, the court shall enter an appropriate order setting aside the judgment and sealing the official records of the action pertaining to the applicant. Upon entry of the order, the judgment that is the subject of the motion shall be deemed not to have been entered, and the applicant

may answer accordingly any questions relating to its occurrence.

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

SECTION 12. The amendments to ORS 90.303 and 105.163 by sections 10 and 11 of this 2021 Act become operative on January 2, 2028.

NONTENANT GUESTS

SECTION 13. Section 14 of this 2021 Act is added to and made a part of ORS chapter 90.

SECTION 14. (1) Notwithstanding ORS 90.262 (3) or 90.510 (7), a landlord may not enforce a restriction by any means including assessing a fee or terminating the tenancy, if the restriction is based on:

(a) A maximum occupancy guideline for the number of tenants or guests lower than an amount required by federal, state or local law or regulation.

(b) The maximum duration of a guest's stay in the tenancy.

(2) If a tenant's guest resides in the dwelling unit more than 15 days in any 12-month period, a landlord may require that:

(a) The tenant's guest satisfy the screening or admissions criteria ordinarily considered by the landlord for tenants, except that the landlord may not use criteria related to credit reports, credit references or income; and

(b) The tenant and the guest enter into a temporary occupancy agreement as provided in ORS 90.275, except that the landlord may not require that the agreement have an ending date earlier than February 28, 2022.

(3) This section does not prohibit a landlord from assessing a fee allowed by ORS 90.302 or terminating a tenancy based upon the conduct of a tenant's guest or based on the tenant's guest's failure to comply with subsection (2) of this section.

(4) Notwithstanding ORS 90.403 or 90.412, acceptance of a payment by a landlord from the tenant or guest does not make the guest a tenant under this chapter.

(5) As used in this section, "guest" means an individual who is staying temporarily, including overnight, within the dwelling unit at the invitation of the tenant.

SECTION 15. Section 14 of this 2021 Act is repealed on March 1, 2022.

UNIT CAPTIONS

SECTION 16. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EMERGENCY CLAUSE

SECTION 17. 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 on its passage.

Approved by the Governor May 19, 2021
 Filed in the office of Secretary of State May 27, 2021
 Effective date May 19, 2021