

Tenant COVID Protections SB 282, SB 278 and the CDC Moratorium

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Timeline



On May 19th, the Governor signed [SB 282](#), the Tenant COVID Protection bill, extending the grace period for repayment of back-due rent after the eviction moratorium expires on June 30, 2021. Also on May 19th, Oregon Housing and Community Services (OHCS) launched the statewide Oregon Emergency Rent Assistance Program ([OERAP](#)).

On June 24th, the federal Centers for Disease Control and Prevention (CDC) extended the nationwide moratorium on nonpayment of rent evictions through July 31, 2021.

On June 25th, the Governor signed SB 278, the “safe harbor” bill, which allows for tenants to request a 60-day pause on eviction proceedings if the tenant has applied for rent assistance and is awaiting a determination. *On July 8th, Multnomah County extended the 60-day period to 90 days via Ordinance 1296.*

Key takeaways

Eviction Moratorium ended on June 30, 2021, meaning that tenants must pay their current month's rent or face eviction for nonpayment of rent.

Rent assistance is available. Tenants should apply asap. Note: OERAP portal pause.

Nonpayment owed after July 1, 2021:

- Safe Harbor: If a tenant shows their landlord documentation that they have applied for rent assistance, the landlord may not evict for nonpayment for 60 days (90 days in Multnomah County), to allow for processing of the rent assistance application.
- 10 Day notices: Nonpayment termination notices must be 10-day notices (not 72 hours) until 2/28/22.

Grace period for nonpayment owed before July 1, 2021. There is a grace period until February 28, 2022, for back rent owed from April 2020-June 2021. Tenants have until 2/28/22 to pay this back rent. Landlord can start evicting for back rent beginning March 2022. This grace period is automatic and applies to all tenants regardless of whether they ever filed a declaration.

Eviction Moratorium on NO-CAUSE terminations ended June 30, 2021

- Moratorium on No-Cause eviction ends June 30, 2021. Use of no-cause evictions is now subject only to SB 608 limitations.

Under SB 608, no-cause evictions (aka “no-fault evictions”) prohibited unless:

- Termination is in the first year of tenancy;

Note: Beginning on July 1, 2021, landlords can use 30-day no-cause notices to evict people within their first year of occupancy. Additionally, from July 1, 2021, to August 31, 2021, landlords may issue 30-day no-cause notices to any tenants who moved in on or after April 1, 2019. This extra time is given to landlords whose first years of occupancy expired during previous moratoria. Renters in the City of Portland must get 90 days’ notice of a no-cause termination and landlords must pay relocation assistance.

- The basis is one of 4 permitted “landlord-based” reasons; or

Note: Landlord-based reasons are 1) demolition or change of use, 2) repairs or renovation, 3) landlord or family-member move-in, or 4) new buyer move-in.

- The landlord lives on the same property as the tenant and there are 2 or fewer units

Eviction Moratorium on NONPAYMENT terminations ended June 30, 2021

- Beginning July 1, tenants must pay current rent for the month of July (and going forward), or face eviction.
- Until February 28, 2022, landlords must give a 10-day notice before terminating a tenancy for nonpayment. Starting March 1, 2022, landlords can go back to giving 72-hour notices for nonpayment of rent.

Note: Between July 1, 2021, and February 28, 2022, nonpayment termination notices must state that the renter has until February 28, 2022, to repay any nonpayment balance from April 1, 2020-June 30, 2021.

- Landlords cannot give the 10-day nonpayment notice until the 8th day of the rental period (the 8th of the month when rent is due on the 1st).

SB 278:
60-day Pause for Tenants who
Have Applied for Rent Assistance

- If a tenant applies for rent assistance and provides documentation of their application to their landlord, that tenant may not be evicted for nonpayment of rent for 60 days from the time they provide the landlord with documentation.
- Rent assistance providers will need to promptly provide a dated application receipt to each tenant who applies for assistance.
- The documentation the tenant provides to the landlord can be an email, screenshot, or other written or electronic documentation from the rent assistance provider verifying that the tenant has applied for rent assistance.
- *Note: In Multnomah County, this “pause” is for 90 days.*

When may tenants request the 60-day pause? (1/2)

Tenants should apply for rent assistance right away and give documentation of the application to their landlord when/if they get a nonpayment notice from their landlord. Tenants may submit to their landlord proof of their application for rent assistance at any time before or during the eviction process, up to and during the first appearance hearing in court.

- After landlord gives tenants a 10-day nonpayment notice: the tenant may provide documentation to the landlord of their application for rent assistance before the 10-day notice period is up. If the tenant provides the documentation to the landlord before an eviction case is filed, the landlord must not file an eviction case. If the rent is still unpaid by 60 days from when the documentation was provided, the landlord may serve a new termination notice for nonpayment. *In Multnomah County, the tenant has 90 days.*

When may tenants request the 60-day pause? (2/2)

- After landlord files an eviction case in court for nonpayment: If the tenant does not provide the landlord with documentation of rent assistance application before the 10-day termination notice expires, the landlord may file an eviction proceeding. If the tenant provides the landlord with documentation after an eviction case has been filed, at or before the first appearance date, the case must be set-over by the court for at least 60 days (90 days in Multnomah County).
 - If the amount owed is paid while the case is pending, the case must be dismissed.
 - If the landlord does not get paid what is owed within 60 days (90 days in Multnomah County), the landlord may move forward with the eviction.

With any notice of termination for nonpayment, landlords must include notice of protections:

- Information about the Grace Period for back-due rent: Notices must include a statement that eviction for nonpayment that accrued on and after April 1, 2020, and before June 30, 2021, is not allowed before February 28, 2022; and
- Information about the Safe Harbor from eviction for nonpayment of rent accruing after July 1, 2021: Notices must include information about where to find rent assistance and resources, and a statement that looks substantially like this:

Until February 28, 2022, if you give your landlord documentation that you have applied for rental assistance at or before your first appearance in court, you may be temporarily protected from eviction for nonpayment. Documentation may be made by any reasonable method, including by sending a copy or photograph of the documentation by electronic mail or text message. “Documentation” includes electronic mail, a screenshot or other written or electronic documentation verifying the submission of an application for rental assistance.

Courts must throw out pending evictions if:

- The landlord didn't notify the tenant of the right to a 60-day pause (90 days in Multnomah County),
- The reason for the nonpayment is because the landlord refused to participate in a rent assistance program,
- The landlord receives the rent assistance covering the amount owed, or
- The tenant requested the 60-day pause from the landlord before the landlord filed in court (90 days in Multnomah County)

Grace period for back rent to Feb 28

- Beginning on July 1, 2021, landlords will not be allowed to terminate tenancies for nonpayment of rent or other housing costs that came due between April 1, 2020, and June 30, 2021, until March 1, 2022.
- Landlords also cannot sue for the back rent or send this debt to collections during this time.
- This protection is automatic, and no declaration, income eligibility, or other criteria is necessary to qualify for this protection.

Example: If a renter did not pay rent from May 2020, through July 2021, the landlord would be able to issue a termination notice for nonpayment of rent in July – but only based on the July rent. The renter could cure the notice by paying only the July rent within the 10-day notice period. The landlord would not be able to issue a termination notice based on the May and June rent until March 1, 2022.

What should tenants do if they receive a 10-day notice for nonpayment?

- If after July 1: Check the dates for which rent is being sought in the notice. Landlords cannot give termination notices for rent that came due April 2020-June 2021 until after February 28, 2022. Landlords can only give nonpayment of rent notices for rent that comes due in July 2021 and after.
- Apply for emergency rent assistance, if you haven't already. Call 2-1-1 for the agency serving your area or go to www.oregonrentalassistance.org
- Provide documentation to the landlord of the application for rent assistance to get the 60-day pause (90 days in Multnomah County). If given within the 10-day notice period, landlord cannot file an eviction case in court. If after the court filing but before or during first appearance, court will reset the court date 60/90 days out.
- Call the Community Alliance of Tenants (503-288-0130) or Springfield Eugene Tenant Association (541-972-3715) Hotlines with questions or your local legal aid office if you think you have legal claims (www.oregonlawhelp.org).

Penalty for violation

- If a landlord violates the grace period protections or other provisions of SB 282, or if a landlord does not honor the 60 day pause period after receiving documentation of a rent assistance application, the tenant may have a **defense to the eviction** and has the right to a **court order allowing return to the home**.
- If a landlord evicts a tenant in violation of the law, locks out a tenant, or turns off the utilities to force a tenant out, tenants can also get a court order forcing the landlord to allow them back into their home.



Additional Protections in SB 282



Landlords cannot report back-due nonpayment to credit agencies

- Landlords may not report debts from April 1, 2020, to June 30, 2021, to credit reporting companies.
- Landlords may not sue the tenant for the back-due rent until the end of the grace period (March 2022).



When screening prospective tenant-applicants, landlords cannot:

- Consider unpaid rent from debt April 1, 2020, to June 30, 2021, during the application process. This protection ends January 2028.
- Consider eviction judgments from April 1, 2020, to March 1, 2022. This protection includes all types of eviction, not just nonpayment, and does not expire.



Covid-era evictions can now be expunged

New! In SB 282:

Evictions eligible for expungement (ORS 105.163):

- Older than 4 years and any money awarded in the court order has been paid;
- **The basis for the eviction arose between April 1, 2020-February 28, 2022, and any money awarded in the court order has been paid. Includes all bases for eviction, not just nonpayment;**
- Cases where landlord and tenant agreed on a settlement and tenant complied with all the terms of the settlement; or
- The case was dismissed in tenant's favor.



Protections for non-tenant guests

Until March 1, 2022:

- Landlords may not assess fees or terminate tenancies based on guests staying in the rental.
- However, a renter may not allow more people to live in the rental than is allowed by occupancy guidelines required by federal, state, or local law or regulation.
- If a renter's guest resides in the dwelling unit for more than 15 days in any 12-month period, the landlord may:
 - Require that the guest be screened for criteria ordinarily considered by the landlord, except that the landlord isn't allowed to screen guests for credit or income, and
 - Require a 15-day guest to enter into a temporary occupancy agreement, but may not restrict that agreement to end before February 28, 2022.

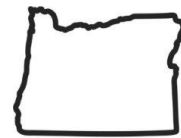
Increased penalties for retaliation

- Landlords are not allowed to limit services or retaliate against renters who haven't paid rent, or who otherwise assert their rights under the law.
- The penalty for retaliation is up to 3 months' rent or 3 times actual damages. Retaliation is a defense to eviction.
- Penalty increases expire and revert back to 2x rent on March 1, 2022.

Legal help resources

You can find contact information for a legal aid office near you at <https://oregonlawhelp.org/find-legal-help>.

For tenants with an eviction court filing against them, call OLC's Eviction Defense Project: 888-585-9638.



**Legal Aid
Services of Oregon**



**Oregon
Law Center**

Or, contact:

Oregon State Bar
Lawyer Referral Service
(800) 452-7636

Questions

