Evictions Info Packet
For Multnomah County
Updated 10/8/2020

This packet was assembled by Portland Tenants United (PTU). However, NONE of the content was created by PTU. If you have more questions, visit pdxtu.org or email evictions@pdxtu.org.

1. Multnomah County COVID-19 Eviction Moratorium Information
2. Multnomah County Ordinance 1287 (Eviction moratorium Oct 1 - Jan 8)
3. ORS 90.427 - Termination of Tenancy without Cause
4. Multi Family Northwest explains HB 4213 (statewide eviction moratorium)
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7. Excerpts from 2016 Legal Aid Services of Oregon Landlord - Tenant Law Booklet
   a. Rental agreements
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COVID-19 Eviction Moratorium Information

Updated September 24, 2020

The statewide eviction moratorium (HB 4213 (https://olis.oregonlegislature.gov/liz/2020S1/Measures/Overview/HB4213)) passed by the Oregon State Legislature on June 26, 2020, will expire on September 30, 2020. In order to ensure Multnomah County renters can continue relying on the same residential tenant protections as long as the COVID-19 pandemic persists, the Board of County Commissioners adopted Ordinance No. 1287 (https://multco.us/file/92212/download) on September 24, 2020. The ordinance preserves protections in the statewide eviction moratorium for Multnomah County renters through at least January 8, 2021.

Find more information about the moratorium below.

Can't pay rent?

If you are a tenant in Oregon unable to pay your rent, you can't be evicted for nonpayment during the moratorium. You do not have to provide proof that you can’t pay.

Tenants will have a six-month repayment grace period, which begins the day after the moratorium is lifted, to pay back rent from the moratorium period. During the repayment grace period, tenants will be required to pay their current rent as it comes due, in addition to any back rent they may owe.

If you rent your home

- The moratorium protects any renter unable to pay rent from being evicted until at least Jan. 8, 2021.
- The moratorium also protects any renter from being evicted without cause until at least Jan. 8, 2021.
- It does not protect residential tenants evicted for any other lawful purpose, but a landlord must inform their tenant of the reason for the eviction.

- If you are able to pay rent when it’s due, you should pay your rent.
• You **do not have to provide proof** of income loss to your landlord.
  
  • Save all documentation, however, so you can qualify for any possible state or federal rent assistance programs.

• The **repayment grace period** starts after the moratorium is lifted. You will have six months to pay back rent from the moratorium period.

• During the repayment grace period, you will be required to pay your current rent as it comes due, in addition to any back rent you may owe.

• Landlords who violate any part of the eviction moratorium law can be sued by the tenant for an amount up to three times the monthly rent.

• **Seek legal advice or support** from community resources like the Community Alliance of Tenants (https://www.oregoncat.org/) or Legal Aid Services of Oregon (https://lasoregon.org/) if your landlord threatens to evict you, applies late fees, or you need more guidance.

• Landlords and their residential tenants can enter into payment plans if both parties are willing. **There is no legal requirement to enter into a payment plan.**
BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1287

Repealing and Replacing Ordinance Nos. 1282 and 1284 to Provide Continued Renter Protections in Multnomah County in Response to COVID-19 and Declaring an Emergency.

The Multnomah County Board of Commissioners Finds:

A. On March 11, 2020, the Multnomah County Chair issued Executive Rule No. 388 declaring an emergency for the entire County to address the continued spread of the COVID-19 illness, loss of life, an extreme public health risk, and its significant economic impacts.

B. On March 17, 2020, an Addendum to Executive Rule No. 388 provided additional measures to address the emergency conditions.

C. On March 19, 2020, the Multnomah County Board of Commissioners (Board) ratified Executive Order 388 and its Addendum and adopted Ordinance No. 1282 to address the impacts of COVID-19 by creating a countywide residential eviction moratorium and six-month repayment grace period. The purpose of these measures was to promote housing stability during the COVID-19 pandemic to allow County residents to stay home, and to avoid a preventable increase in homelessness due to the economic effects of COVID-19.

D. On April 1, 2020, and following the Board’s action, the Governor of the State of Oregon issued a statewide moratorium on evictions with Executive Order 20-13.

E. On April 9, 2020, the Board adopted Resolution 2020-019 to continue the emergency declared in Executive Rule 388 and its Addendum until July 8, 2020.

F. On April 16, 2020, the Board adopted Ordinance 1284 to further address the impacts of COVID-19 and suspended enforcement of the County’s residential eviction moratorium established by Ordinance 1282 while a statewide residential eviction moratorium was in place.

G. On July 2, 2020, the Board adopted Resolution 2020-059 to continue the emergency declared in Executive Rule 388 and its Addendum until September 30, 2020.

H. On September 24, 2020, the Board adopted a Resolution 2020-080 to continue the emergency declared in Executive Rule 388 and its Addendum until January 8, 2021.
I. The State of Oregon provided statewide renter protections in HB 4213 (2020 First Special Session) with effective dates of April 1, 2020 to September 30, 2020. HB 4213 continued and refined the statewide residential eviction moratorium created by the Governor in Executive Order 20-13 and established a statewide six-month repayment grace period.

J. On September 4, 2020, the Center for Disease Control and Prevention (“CDC”), located within the U.S. Department of Health and Human Services, issued an Agency Order temporarily halting residential evictions to prevent the further spread of COVID-19 effective through December 31, 2020. See Federal Register, 85 FR 55292. The CDC Agency Order provides a lesser level of renter protections than HB 4213, Executive Order 20-13, and County ordinances. Under the CDC Agency Order’s terms, it does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in the Agency Order.

K. The County supports uniform implementation and enforcement of a residential eviction moratorium and a six-month repayment grace period, and the County therefore is enacting Section 3 of HB 4213 into County Code, with only those modifications necessary to adapt that provision to be County legislation. This action repeals and replaces Ordinance Numbers 1282 and 1284 to ensure continued renter protections to further address the COVID-19 public health emergency and address its significant and long lasting impacts.

L. The provisions of this Ordinance might affect the terms and conditions of certain contracts entered into in the County. Any such effects are not substantial because the provisions have a limited scope and duration and are necessary to protect the public health, safety and welfare. Therefore, this Ordinance does not undermine a contractual bargain, interfere with a party’s reasonable expectations, or prevent a party from safeguarding or reinstating the party’s rights. Even if it did, this action is appropriate and reasonable to carry out the significant and legitimate public purpose of responding to the declarations of emergency issued at the county, state and federal levels.

Multnomah County Ordains as Follows:

Section 1. Title

This Ordinance shall be known as the Multnomah County COVID-19 “Renter Protection Measures.”

Section 2. Purpose

The purpose of the COVID-19 Renter Protection Measures is to promote housing stability and to avoid a preventable increase in homelessness due to the ongoing impacts of COVID-19.
Section 3. Residential Eviction Moratorium and Repayment Grace Period

A. These measures apply unless local, state or federal regulations provide equal or greater protections to residential renters in Multnomah County.

B. As used in this section:

1. “Emergency period” means the period beginning October 1, 2020, and ending on January 8, 2021, or the first day the emergency declared in Executive Rule 388 and its Addendum, as extended by the Board, is no longer in effect, whichever is later.

2. “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.

3. “Nonpayment balance” includes all or a part of the net total amount of all items of nonpayment by a tenant, and all unpaid amounts that accrued by operation of ORS 90.220(9) during the six-month grace period described in subsection (G) of this section, provided that the tenant makes payment in an amount equal to or greater than the rent for the current rental period.

4. “Termination notice without cause” means a notice delivered by a landlord under ORS 90.427 (3)(b), (4)(b) or (c), (5)(a) to (c), or (8)(a)(B) or (b)(B).

C. During and after the emergency period and notwithstanding ORS Chapter 90 or ORS 105.105 to 105.168, a landlord may not, and may not threaten to:

1. Deliver a notice of termination of a rental agreement based on a tenant’s nonpayment balance;

2. 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 on or after October 1, 2020;

3. Take any action that would interfere with a tenant’s possession or use of a dwelling unit based on a tenant’s nonpayment balance;
4. Assess a late fee or any other penalty on a tenant’s nonpayment; or

5. Report a tenant’s nonpayment balance as delinquent to any consumer credit reporting agency

D. During the emergency period, a landlord may provide a written notice to a tenant stating that the tenant continues to owe any rent due. The notice must also include a statement that eviction for nonpayment is not allowed before the end of the emergency period.

E. During the emergency period, 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.

F. If the first year of occupancy would end during the emergency period, for the purposes of a termination notice without cause, the “first year of occupancy” is extended to mean a period lasting until 30 days following the emergency period.

G. Following the emergency period, a tenant with an outstanding nonpayment balance has a six-month grace period to pay the outstanding nonpayment balance.

H. Following the emergency period, a landlord may deliver a written notice to a tenant that substantially states:

1. The date that the emergency period ended;

2. That if rents and other payments that come due after the emergency period are not timely paid, the landlord may terminate the tenancy;

3. That the nonpayment balance that accrued during the emergency period is still due and must be paid;

4. That the tenant will not owe a late charge for the nonpayment balance;

5. That the tenant is entitled to a six-month grace period to repay the nonpayment balance following the emergency period;

6. That within a specified date stated in the notice given under this subsection that is no earlier than 14 days following the delivery of the notice, the tenant must pay the nonpayment balance or notify the landlord that the tenant intends to pay the nonpayment balance by the end of the six-month grace period described in subsection (G) of this section;
7. That failure of a tenant to give notice to the landlord of utilization of the grace period described in subsection (G) of this section may result in a penalty described in subsection (K) of this section; and

8. That rents and other charges or fees that come due after the emergency period must be paid as usual or the landlord may terminate the tenancy under ORS 90.392, 90.394 or 90.630.

I. 1. If a landlord gives a notice as described in subsection (H) of this section, a tenant who has an outstanding nonpayment balance as of the date listed on the landlord’s notice as described in subsection (H)(6) of this section must notify the landlord of the tenant’s intention to use the grace period described in subsection (G) of this section to pay the nonpayment balance."

2. The tenant’s notice under this subsection must be actual notice described in ORS 90.150 or notice given by electronic means, and must be given to the landlord by the date given in the landlord’s notice as described in subsection (H)(6) of this section.

J. The landlord’s notice described in subsection (H) of this section may offer an alternate voluntary payment plan for payment of the nonpayment balance, but the notice must state that the alternate payment plan is voluntary.

K. A tenant’s failure to give the notice required by subsection (I) of this section to a landlord entitles the landlord to recover damages equal to 50 percent of one month’s rent following the grace period.

L. If a landlord violates this section, a tenant may obtain injunctive relief to recover possession or address any other violation of this section and may recover from the landlord an amount up to three months’ periodic rent plus any actual damages.

M. ORS 90.412 does not apply to a landlord that accepts a partial rent payment.
Section 4. This Ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, an emergency is declared and this ordinance will take effect immediately upon being signed pursuant to Section 5.50 of the Multnomah County Home Rule Charter.

FIRST READING AND ADOPTION: September 24, 2020

BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By______________________________

Jenny M. Madkour, County Attorney

Submitted by: Deborah Kafoury, Chair
ORS 90.427¹
Termination of tenancy without tenant cause

* effect of termination notice

(1) As used in this section:

(a) “First year of occupancy” includes all periods in which any of the tenants has resided in the dwelling unit for one year or less.

(b) “Immediate family” means:

(A) An adult person related by blood, adoption, marriage or domestic partnership, as defined in ORS 106.310 (Definitions for ORS 106.300 to 106.340), or as defined or described in similar law in another jurisdiction;

(B) An unmarried parent of a joint child;

(C) A child, grandchild, foster child, ward or guardian; or

(D) A child, grandchild, foster child, ward or guardian of any person listed in subparagraph (A) or (B) of this paragraph.

(2) If a tenancy is a week-to-week tenancy, the landlord or the tenant may terminate the tenancy by a written notice given to the other at least 10 days before the termination date specified in the notice.

(3) If a tenancy is a month-to-month tenancy:

(a) At any time during the tenancy, the tenant may terminate the tenancy by giving the landlord notice in writing not less than 30 days prior to the date designated in the notice for the termination of the tenancy.

(b) At any time during the first year of occupancy, the landlord may terminate the tenancy by giving the tenant notice in writing not less than 30 days prior to the date designated in the notice for the termination of the tenancy.

(c) Except as provided in subsection (8) of this section, at any time after the first year of occupancy, the landlord may terminate the tenancy only:

(A) For a tenant cause and with notice in writing as specified in ORS 86.782 (Sale of property) (6)(c), 90.380 (Effect of rental of dwelling in violation of building or housing codes) (5), 90.392 (Termination of tenancy for cause), 90.394 (Termination of tenancy for failure to pay rent), 90.396 (Acts or omissions justifying termination 24
hours after notice), 90.398 (Termination of tenancy for drug or alcohol violations), 90.405 (Effect of tenant keeping unpermitted pet), 90.440 (Termination of tenancy in group recovery home) or 90.445 (Termination of tenant committing criminal act of physical violence); or

(B) For a qualifying landlord reason for termination and with notice in writing as described in subsections (5) and (6) of this section.

(4) If the tenancy is a fixed term tenancy:

(a) The landlord may terminate the tenancy during the fixed term only for cause and with notice as described in ORS 86.782 (Sale of property) (6)(c), 90.380 (Effect of rental of dwelling in violation of building or housing codes) (5), 90.392 (Termination of tenancy for cause), 90.394 (Termination of tenancy for failure to pay rent), 90.396 (Acts or omissions justifying termination 24 hours after notice), 90.398 (Termination of tenancy for drug or alcohol violations), 90.405 (Effect of tenant keeping unpermitted pet), 90.440 (Termination of tenancy in group recovery home) or 90.445 (Termination of tenant committing criminal act of physical violence).

(b) If the specified ending date for the fixed term falls within the first year of occupancy, the landlord may terminate the tenancy without cause by giving the tenant notice in writing not less than 30 days prior to the specified ending date for the fixed term, or 30 days prior to the date designated in the notice for the termination of the tenancy, whichever is later.

(c) Except as provided by subsection (8) of this section, if the specified ending date for the fixed term falls after the first year of occupancy, the fixed term tenancy becomes a month-to-month tenancy upon the expiration of the fixed term, unless:

(A) The landlord and tenant agree to a new fixed term tenancy;

(B) The tenant gives notice in writing not less than 30 days prior to the specified ending date for the fixed term or the date designated in the notice for the termination of the tenancy, whichever is later; or

(C) The landlord has a qualifying reason for termination and gives notice as specified in subsections (5) to (7) of this section.

(5) The landlord may terminate a month-to-month tenancy under subsection (3)(c)(B) of this section at any time, or may terminate a fixed term tenancy upon the expiration of the fixed term under subsection (4)(c) of this section, by giving the tenant notice in writing not less than 90 days prior to the date designated in the notice for the termination of the month-to-month tenancy or the specified ending date for the fixed term, whichever is later, if:

(a) The landlord intends to demolish the dwelling unit or convert the dwelling unit to a use other than residential use within a reasonable time;
The landlord intends to undertake repairs or renovations to the dwelling unit within a reasonable time and:

(A) The premises is unsafe or unfit for occupancy; or

(B) The dwelling unit will be unsafe or unfit for occupancy during the repairs or renovations;

The landlord intends for the landlord or a member of the landlord’s immediate family to occupy the dwelling unit as a primary residence and the landlord does not own a comparable unit in the same building that is available for occupancy at the same time that the tenant receives notice to terminate the tenancy; or

The landlord has:

(A) Accepted an offer to purchase the dwelling unit separately from any other dwelling unit from a person who intends in good faith to occupy the dwelling unit as the person’s primary residence; and

(B) Provided the notice and written evidence of the offer to purchase the dwelling unit, to the tenant not more than 120 days after accepting the offer to purchase.

A landlord that terminates a tenancy under subsection (5) of this section shall:

(A) Specify in the termination notice the reason for the termination and supporting facts;

(B) State that the rental agreement will terminate upon a designated date not less than 90 days after delivery of the notice; and

(C) At the time the landlord delivers the tenant the notice to terminate the tenancy, pay the tenant an amount equal to one month’s periodic rent.

The requirements of paragraph (a)(C) of this subsection do not apply to a landlord who has an ownership interest in four or fewer residential dwelling units subject to this chapter.

A fixed term tenancy does not become a month-to-month tenancy upon the expiration of the fixed term if the landlord gives the tenant notice in writing not less than 90 days prior to the specified ending date for the fixed term or 90 days prior to the date designated in the notice for the termination of the tenancy, whichever is later, and:

The tenant has committed three or more violations of the rental agreement within the preceding 12-month period and the landlord has given the tenant a written warning notice at the time of each violation;

Each written warning notice:

(A) Specifies the violation;

(B) States that the landlord may choose to terminate the tenancy at the end of the fixed term if there are three violations within a 12-month period preceding the end of the
(C) States that correcting the third or subsequent violation is not a defense to termination under this subsection; and

(c) The 90-day notice of termination:

(A) States that the rental agreement will terminate upon the specified ending date for the fixed term or upon a designated date not less than 90 days after delivery of the notice, whichever is later;

(B) Specifies the reason for the termination and supporting facts; and

(C) Is delivered to the tenant concurrent with or after the third or subsequent written warning notice.

If the tenancy is for occupancy in a dwelling unit that is located in the same building or on the same property as the landlord’s primary residence, and the building or the property contains not more than two dwelling units, the landlord may terminate the tenancy at any time after the first year of occupancy:

(a) For a month-to-month tenancy:

(A) For cause and with notice as described in ORS 86.782 (Sale of property) (6)(c), 90.380 (Effect of rental of dwelling in violation of building or housing codes) (5), 90.392 (Termination of tenancy for cause), 90.394 (Termination of tenancy for failure to pay rent), 90.396 (Acts or omissions justifying termination 24 hours after notice), 90.398 (Termination of tenancy for drug or alcohol violations), 90.405 (Effect of tenant keeping unpermitted pet), 90.440 (Termination of tenancy in group recovery home) or 90.445 (Termination of tenant committing criminal act of physical violence);

(B) Without cause by giving the tenant notice in writing not less than 60 days prior to the date designated in the notice for the termination of the tenancy; or

(C) Without cause by giving the tenant notice in writing not less than 30 days prior to the date designated in the notice for the termination of the tenancy if:

(i) The dwelling unit is purchased separately from any other dwelling unit;

(ii) The landlord has accepted an offer to purchase the dwelling unit from a person who intends in good faith to occupy the dwelling unit as the person’s primary residence; and

(iii) The landlord has provided the notice, and written evidence of the offer to purchase the dwelling unit, to the tenant not more than 120 days after accepting the offer to purchase.

(b) For a fixed term tenancy:

(A) During the term of the tenancy, only for cause and with notice as described in ORS 86.782 (Sale of property) (6)(c), 90.380 (Effect of rental of dwelling in violation of building or housing codes) (5), 90.392 (Termination of tenancy for cause), 90.394 (Termination of tenancy for failure to pay rent), 90.396 (Acts or omissions justifying termination 24 hours after notice), 90.398 (Termination of tenancy for drug or alcohol violations), 90.405 (Effect of tenant keeping unpermitted pet), 90.440 (Termination of tenancy in group recovery home) or 90.445 (Termination of tenant committing criminal act of physical violence);
building or housing codes) (5), 90.392 (Termination of tenancy for cause), 90.394 (Termination of tenancy for failure to pay rent), 90.396 (Acts or omissions justifying termination 24 hours after notice), 90.398 (Termination of tenancy for drug or alcohol violations), 90.405 (Effect of tenant keeping unpermitted pet), 90.440 (Termination of tenancy in group recovery home) or 90.445 (Termination of tenant committing criminal act of physical violence); or

(B) At any time during the fixed term, without cause by giving the tenant notice in writing not less than 30 days prior to the specified ending date for the fixed term, or 30 days prior to the date designated in the notice for the termination of the tenancy, whichever is later.

(9) (a) If a landlord terminates a tenancy in violation of subsection (3)(c)(B), (4)(c), (5), (6) or (7) of this section:

(A) The landlord shall be liable to the tenant in an amount equal to three months’ rent in addition to actual damages sustained by the tenant as a result of the tenancy termination; and

(B) The tenant has a defense to an action for possession by the landlord.

(b) A tenant is entitled to recovery under paragraph (a) of this subsection if the tenant commences an action asserting the claim within one year after the tenant knew or should have known that the landlord terminated the tenancy in violation of this section.

(10) The tenancy shall terminate on the date designated and without regard to the expiration of the period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

(11) If the tenant remains in possession without the landlord’s consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession. In addition, the landlord may recover from the tenant any actual damages resulting from the tenant holding over, including the value of any rent accruing from the expiration or termination of the rental agreement until the landlord knows or should know that the tenant has relinquished possession to the landlord. If the landlord consents to the tenant’s continued occupancy, ORS 90.220 (Terms and conditions of rental agreement) (7) applies.

(12) (a) A notice given to terminate a tenancy under subsection (2), (3)(a) or (b), (8)(a)(B) or (C) or (8)(b) of this section need not state a reason for the termination.

(b) Notwithstanding paragraph (a) of this subsection, a landlord or tenant may include in a notice of termination given under subsection (2), (3)(a) or (b), (8)(a)(B) or (C) or (8)(b) of this section an explanation of the reason for the termination without having to prove the reason. An explanation does not give the person receiving the notice of termination a right to cure the reason if the notice states that:

(A) The notice is given without stated cause;
(B) The recipient of the notice does not have a right to cure the reason for the termination; and

(C) The person giving the notice need not prove the reason for the termination in a court action.

(13) Subsections (2) to (9) of this section do not apply to a month-to-month tenancy subject to ORS 90.429 (Termination of tenancy for certain rented spaces not covered by ORS 90.505 to 90.850) or other tenancy created by a rental agreement subject to ORS 90.505 (Definitions for ORS 90.505 to 90.850) to 90.850 (Owner affidavit certifying compliance with requirements for sale of facility). [Formerly 90.900; 1999 c.603 §29; 1999 c.676 §17; 2003 c.378 §15; 2009 c.127 §4; 2009 c.431 §1; 2011 c.42 §14; 2019 c.1 §1; 2019 c.641 §5]

Note: Section 11, chapter 1, Oregon Laws 2019, provides:

Sec. 11. The amendments to ORS 90.427 (Termination of tenancy without tenant cause) by section 1 of this 2019 Act apply to:

(1) Fixed term tenancies entered into or renewed on or after the effective date of this 2019 Act [February 28, 2019]; and

(2) Terminations of month-to-month tenancies occurring on or after the 30th day after the effective date of this 2019 Act. [2019 c.1 §11]

The Multifamily NW team is ready, willing and eager to serve you...remotely! Paper forms are being shipped out weekly on Thursdays and virtual opportunities are happening regularly. Also, RentalFormsCenter.com (https://www.rentalformscenter.com/) and TenantTech.com (https://www.tenanttech.com/) are open 24/7 for immediate access to the Multifamily NW Forms Collection. Visit the MFNW COVID-19 Resource Center (https://www.multifamilynw.org/news/covid-19-resources) for the latest news and updates.

ALERT: HB 4213 Passed by Oregon Legislature

June 29, 2020 – House Bill 4213

Dear Multifamily NW Members,

On June 26, 2020, the State of Oregon passed HB 4213 (https://olis.oregonlegislature.gov/liz/2020S1/Downloads/MeasureDocument/HB4213) which added new restrictions limiting Landlords’ ability to enforce the right to rent payments, among other things. The new laws became effective upon passage. Consequently, you need to familiarize yourself with them immediately and adjust any policies or procedures accordingly. This legal update addresses these changes as they relate to residential tenancies only.

I. General

a. Governed period of time

The law creates protections based upon three different time periods that are interrelated:

- April 1, 2020 through September 30, 2020 (the “Emergency Period”);
- October 1, 2020 through March 31, 2021 (the “Grace Period”); and
- April 1, 2020 through March 31, 2021 (the “Regulated Year”).

b. Defined terms

‘Nonpayment’ is defined as “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.” It seems to include any debt incurred during the emergency period (4/1 – 9/30).

‘Nonpayment Balance’ is defined to “include all or a part of the net total amount of all items of nonpayment by a Tenant.”

‘Termination Notice Without Cause’ is defined as “a notice delivered by a Landlord under ORS 90.427 (3)(b), (4)(b) or (c), (5)(a) to (c), or (8)(a)(B) or (b)(B).” This includes:
- Terminations without stated cause for month-to-month tenancies in the first year of occupancy.
- Non-renewals without stated cause of fixed term tenancies in the first year of occupancy.
- Terminations without cause by live-in Landlords at a property with two dwellings or less (e.g. duplexes or homes with ADUs).
- “Qualifying Landlord Reason” (QLR) termination notices. These include:
  - Termination for plans for demolition or conversion
  - Termination for plans to repair or renovate
  - Termination because Landlord or Landlord’s family intends to move in

Note: Termination notice without cause does not include the QLR termination notice allowing Landlords to terminate tenancy when they have accepted an offer from a buyer who intends to occupy the dwelling as their primary residence.

Note: Termination notice without cause does not apply to “3-strike” non-renewals so long as the underlying notices of violation are not based upon “nonpayment.” as described above.

II. Restrictions

a. Prohibited Conduct. The Regulated Year Restrictions (April 1, 2020 to March 31, 2021)

During the Regulated Year (April 1, 2020 to March 31, 2021), Landlords may not do or threaten (orally or in writing) to do any the following:

1. Deliver a termination notice for Nonpayment Balance (4/1/2020 – 9/30/2020 debts);
2. Initiate or continue an eviction action based upon a notice of termination for nonpayment delivered after April 1, 2020;
3. Take any action that would interfere with a Tenant's possession or use of a dwelling unit based on a Tenant's nonpayment balance;
4. Assess a late fee or any other penalty on a Tenant's nonpayment (4/1 – 9/30 debts); or
5. Report a Tenant's nonpayment balance as delinquent to any consumer credit reporting agency.

Practice Tip 1: Clients should inspect their forms to ensure language that threatens such action is removed during the applicable period.
Practice Tip 2: Ensure that your procedures or automated actions do not violate these restrictions. For example, if your software automatically sends cases to collections you should ensure that any agent, including a collection agency, is not reporting “nonpayment balances” to credit reporting bureaus.

b. Application of payments during Regulated Year (4/1/2020-3/31/2021)

Landlords shall apply payments in the following order, to:

1. Rent for the current rental period
2. Utility or service charges;
3. Late rent payment charges; and lastly to
4. 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.

c. Notices regarding balances during the Emergency Period (4/1/2020 – 9/30/2020)

During the Emergency Period, Landlord may give Tenants written notice stating that Tenants continue to owe any outstanding rent. However, if a Landlord elects to send such notice, it must include a statement that eviction for non-payment is not allowed before September 30, 2020.
d. Prohibition on delivery Termination Notice Without Cause during the Emergency Period (4/1/2020 – 9/30/2020)

During the Emergency Period, Landlords may not issue a Termination Notice Without Stated Cause or file an eviction action based upon one. For any tenancy in which the first year of occupancy has or will end during the Emergency Period, the law extends the first year occupancy for a period of 30 days after the Emergency Period (i.e. until October 30, 2020).

e. Prohibited Conduct during the Grace Period (October 1, 2020 to March 31, 2021)

Tenants have until March 31, 2021 to pay Landlord any outstanding Nonpayment Balance.

On or after October 1, 2020, Landlords may give written notice to Tenants that substantially states:

The date the Emergency Period ended (Sept 30, 2020);
1. That if rents and other payments that come due after the emergency period are not timely paid, the Landlord may terminate the tenancy;
2. That the nonpayment balance that accrued during the emergency period is still due and must be paid;
3. That the Tenant will not owe a late charge for the nonpayment balance;
4. That the Tenant is entitled to a six-month grace period to repay the nonpayment balance ending on March 31, 2021;
5. That within a specified date stated in the notice given under this subsection that is no earlier than 14 days following the delivery of the notice, the Tenant must pay the nonpayment balance or notify the Landlord that the Tenant intends to pay the nonpayment balance by the end of the six-month grace period described in HB 4213 Section 3, subsection (6);
6. That failure of a Tenant to give notice to the Landlord of utilization of the grace period described in HB 4213 Section 3, subsection (6) may result in a penalty described in subsection HB 4213 Section 3, subsection (10); and
7. That rents and other charges or fees that come due after the emergency period must be paid as usual or the Landlord may terminate the tenancy under ORS 90.392, 90.394 or 90.630.

Landlord's letter may also offer an alternate voluntary payment plan for the Nonpayment Balance. If the Landlord chooses to do so, the notice must state that the alternate payment plan is voluntary.

If Landlord delivers the notice described above, the Tenant must notify the Landlord by actual notice of their intent to use the Grace Period to pay the Nonpayment Balance by the deadline in the notice. “Actual notice” means communicating the request verbally, by leaving a voicemail, by written notice given personally, left at the rental office, by fax, posted to the Landlord’s residence, or by first class mail, by electronic means, or any other method permitted in the lease.

Tenant’s failure to timely give the required notificed entitles Landlord to receive 50% of one month's rent following the Grace Period (i.e. on April 1, 2021).

f. Landlord penalties

If Landlord violates any of the provisions of the law, including those summarized herein, Tenants may obtain injunctive relief to recover possession or address any other violation. In addition, Tenants may cover up to three month's periodic rent plus any actual damages.

g. Waiver not applicable to acceptance of partial payments

The new law limits the application of waiver by acceptance of partial payments. Specifically, “ORS 90.412 does not apply to a Landlord that accepts a partial rent payment.”

III. Sunset Clause

The laws described above are automatically repealed on March 31, 2021.
IV. Tolling of Statute of Limitations

The new law tolls Landlords’ claims for Nonpayment or Nonpayment Balance until March 31, 2021. Normally, residential Landlords only have 1 year to commence an action from the date of lease violation. Exactly how much time a Landlord has after March 31, 2021 to file a claim will depend on the underlying facts of the claim and the interpretation of when HB 4312’s tolling date commences.

NOTE: This is not intended as legal advice. Please obtain advice of an attorney for any policy change or decisions regarding residential and commercial Landlord-Tenant matters, as well as laws that impact your local jurisdictions.
ORS 90.392¹
Termination of tenancy for cause

- tenant right to cure violation

(1) Except as provided in this chapter, after delivery of written notice a landlord may terminate the rental agreement for cause and take possession as provided in ORS 105.105 (Entry to be lawful and peaceable only) to 105.168 (Minor as party in proceedings pertaining to residential dwellings), unless the tenant cures the violation as provided in this section.

(2) Causes for termination under this section are:

(a) Material violation by the tenant of the rental agreement. For purposes of this paragraph, material violation of the rental agreement includes, but is not limited to, the nonpayment of a late charge under ORS 90.260 (Late rent payment charge or fee) or a utility or service charge under ORS 90.315 (Utility or service payments).

(b) Material violation by the tenant of ORS 90.325 (Tenant duties).

(c) Failure by the tenant to pay rent.

(3) The notice must:

(a) Specify the acts and omissions constituting the violation;

(b) Except as provided in subsection (5)(a) of this section, state that the rental agreement will terminate upon a designated date not less than 30 days after delivery of the notice; and

(c) If the tenant can cure the violation as provided in subsection (4) of this section, state that the violation can be cured, describe at least one possible remedy to cure the violation and designate the date by which the tenant must cure the violation.

(4) If the violation described in the notice can be cured by the tenant by a change in conduct, repairs, payment of money or otherwise, the rental agreement does not terminate if the tenant cures the violation by the designated date. The designated date must be:

(A) At least 14 days after delivery of the notice; or

(B) If the violation is conduct that was a separate and distinct act or omission and is not ongoing, no earlier than the date of delivery of the notice as provided in ORS 90.155 (Service or delivery of written notice). For purposes of this paragraph, conduct is ongoing if the conduct is constant or persistent or has been sufficiently repetitive over time that a reasonable person would consider the conduct to be ongoing.
If the tenant does not cure the violation, the rental agreement terminates as provided in the notice.

(5) (a) If the cause of a written notice delivered under subsection (1) of this section is substantially the same act or omission that constituted a prior violation for which notice was given under this section within the previous six months, the designated termination date stated in the notice must be not less than 10 days after delivery of the notice and no earlier than the designated termination date stated in the previously given notice. The tenant does not have a right to cure this subsequent violation.

(b) A landlord may not terminate a rental agreement under this subsection if the only violation is a failure to pay the current month’s rent.

(6) When a tenancy is a week-to-week tenancy, the notice period in:

(a) Subsection (3)(b) of this section changes from 30 days to seven days;

(b) Subsection (4)(a)(A) of this section changes from 14 days to four days; and

(c) Subsection (5)(a) of this section changes from 10 days to four days.

(7) The termination of a tenancy for a manufactured dwelling or floating home space in a facility under ORS 90.505 (Definitions for ORS 90.505 to 90.850) to 90.850 (Owner affidavit certifying compliance with requirements for sale of facility) is governed by ORS 90.630 (Termination by landlord) and not by this section. [2005 c.391 §7]

ORS 90.396¹
Acts or omissions justifying termination 24 hours after notice

(1) Except as provided in subsection (2) of this section, after at least 24 hours' written notice specifying the acts and omissions constituting the cause and specifying the date and time of the termination, the landlord may terminate the rental agreement and take possession as provided in ORS 105.105 (Entry to be lawful and peaceable only) to 105.168 (Minor as party in proceedings pertaining to residential dwellings), if:

(a) The tenant, someone in the tenant's control or the tenant's pet seriously threatens to inflict substantial personal injury, or inflicts any substantial personal injury, upon a person on the premises other than the tenant;

(b) The tenant or someone in the tenant's control recklessly endangers a person on the premises other than the tenant by creating a serious risk of substantial personal injury;

(c) The tenant, someone in the tenant's control or the tenant's pet inflicts any substantial personal injury upon a neighbor living in the immediate vicinity of the premises;

(d) The tenant or someone in the tenant's control intentionally inflicts any substantial damage to the premises or the tenant's pet inflicts substantial damage to the premises on more than one occasion;

(e) (A) The tenant intentionally provided substantial false information on the application for the tenancy within the past year;

(B) The false information was with regard to a criminal conviction of the tenant that would have been material to the landlord's acceptance of the application; and

(C) The landlord terminates the rental agreement within 30 days after discovering the falsity of the information; or

(f) The tenant, someone in the tenant's control or the tenant's pet commits any act that is outrageous in the extreme, on the premises or in the immediate vicinity of the premises. For purposes of this paragraph, an act is outrageous in the extreme if the act is not described in paragraphs (a) to (e) of this subsection, but is similar in degree and is one that a reasonable person in that community would consider to be so offensive as to warrant termination of the tenancy within 24 hours, considering the seriousness of the act or the risk to others. An act that is outrageous in the extreme is more extreme or serious than an act that warrants a 30-day termination under ORS 90.392 (Termination of tenancy

https://www.oregonlaws.org/ors/90.396
for cause). Acts that are “outrageous in the extreme” include, but are not limited to, the following acts by a person:

(A) Prostitution, commercial sexual solicitation or promoting prostitution, as described in ORS 167.007 (Prostitution), 167.008 (Commercial sexual solicitation) and 167.012 (Promoting prostitution);

(B) Unlawful manufacture, delivery or possession of a controlled substance, as defined in ORS 475.005 (Definitions for ORS 475.005 to 475.285 and 475.752 to 475.980);

(C) Manufacture of a cannabinoid extract, as defined in ORS 475B.015 (Definitions for ORS 475B.010 to 475B.545), unless the person manufacturing the cannabinoid extract holds a license issued under ORS 475B.090 (Processor license) or is registered under ORS 475B.840 (Marijuana processing site registration system);

(D) A bias crime, as described in ORS 166.155 (Bias crime in the second degree) and 166.165 (Bias crime in the first degree); or

(E) Burglary as described in ORS 164.215 (Burglary in the second degree) and 164.225 (Burglary in the first degree).

(2) If the cause for a termination notice given pursuant to subsection (1) of this section is based upon the acts of the tenant’s pet, the tenant may cure the cause and avoid termination of the tenancy by removing the pet from the premises prior to the end of the notice period. The notice must describe the right of the tenant to cure the cause. If the tenant returns the pet to the premises at any time after having cured the violation, the landlord, after at least 24 hours’ written notice specifying the subsequent presence of the offending pet, may terminate the rental agreement and take possession as provided in ORS 105.105 (Entry to be lawful and peaceable only) to 105.168 (Minor as party in proceedings pertaining to residential dwellings). The tenant does not have a right to cure this subsequent violation.

(3) For purposes of subsection (1) of this section, someone is in the tenant’s control if that person enters or remains on the premises with the tenant’s permission or consent after the tenant reasonably knows or should know of that person’s act or likelihood to commit any act of the type described in subsection (1) of this section.

(4) An act can be proven to be outrageous in the extreme even if the act is one that does not violate a criminal statute. Notwithstanding the references to criminal statutes in subsection (1)(f) of this section, the landlord’s burden of proof in an action for possession under subsection (1) of this section is the civil standard of proof by a preponderance of the evidence.

(5) If a good faith effort by a landlord to terminate the tenancy under subsection (1)(f) of this section and to recover possession of the rental unit under ORS 105.105 (Entry to be lawful and peaceable only) to 105.168 (Minor as party in proceedings pertaining to residential dwellings) fails by decision of the court, the landlord may not be found in violation of any state statute or local ordinance requiring the landlord to remove that tenant upon threat of fine,
abatement or forfeiture as long as the landlord continues to make a good faith effort to terminate the tenancy. [2005 c.391 §9; 2007 c.71 §23; 2011 c.151 §5; 2015 c.98 §3; 2016 c.24 §54; 2017 c.21 §33; 2019 c.553 §11]

15. What should I do before I rent a place?

Make sure that: the place meets your needs; you can afford the rent; you clearly understand who will pay for electricity, heat, water, and garbage pick-up; and you inspect the place and note in writing any problems.

You can use the “Inventory and Condition Report” on Page 33 when you inspect the place. Ask the landlord to be there. Ask the landlord to sign your notes, or send a copy of your notes to the landlord afterwards. Take pictures and have friends look at any problems so you can later prove in court that the problem was there before you moved in.

If you find out after you move in that a building inspector told the landlord not to rent the place until repairs were made, but the repairs were not made, contact a lawyer. See the Resource Section at the back of this booklet for contact information.

16. What is a rental agreement?

It is all oral (spoken) or written agreements between a landlord and tenant that describes the terms and conditions of a tenant’s use of the rental unit. A rental agreement also includes all valid laws and regulations that apply to the landlord’s and the tenant’s rights and obligations. This typically includes the amount of rent, the date rent is due, where to pay rent, and any other rules that apply to using the rental unit.

ORS 90.100(38).

Having a written rental agreement that is signed by both you and your landlord can help you to prove in court that your landlord agreed to certain provisions that the law wouldn’t otherwise provide for automatically. If you decide to enter into a written rental agreement, your landlord is required to provide you with a copy of the written rental agreement when you sign it and to make a copy available later at a cost of not more than 25 cents per page (or the actual copying costs). ORS 90.305. See Question 18 for more information on written agreements for a fixed-term tenancy.

17. Should I keep receipts, copies of letters I send to my landlord, and other documentation of agreements that I made with my landlord?

Yes. You should get and keep written documentation of anything you may need to prove at some later date. For example, if you want to be able to prove that you paid rent on time, you should get a receipt to show complete and timely payment of rent (a landlord is required to give you a receipt for any payment if you request one (ORS 90.140)). If you want to be able to prove that you requested repairs, you should ask for repairs in writing and keep copies of your letters. If you want to be able to prove that you sent something to your landlord on a certain date, you should get a certificate of mailing from the post office (different than certified mail). Keeping a signed copy of your rental agreement will help you to prove in court what it is that you and your landlord agreed to.

18. What is a lease?

Most people use the word “lease” to describe a written rental agreement that is for a set period of time, such as a year, with a fixed amount of rent. But some leases permit an increase of rent after a 30-day notice. The lease will state how the tenant and landlord can end the lease early.

If you have a lease with a fixed amount of rent, the landlord cannot raise the rent during the fixed term. However, with this type of lease, if you end the lease early you may have to either continue to pay rent until the landlord rents to another tenant or pay a lease break fee, if such a fee is described in your written rental agreement. Whenever a tenant terminates a lease early, the landlord has an obligation to try to rent the unit to someone else; this is known as the obligation to “mitigate damages.”
19. Can the rental agreement waive or take away a tenant’s rights under Oregon’s Residential Landlord Tenant Act?

No. The landlord and tenant cannot agree to waive or take away the rights given to tenants under Oregon law. ORS 90.245.

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Application Fees, Deposits, Rent Increases, Late Charges, Utility Bills

Under state and federal laws there are time limits for taking action to enforce your rights. Most lawsuits related to the rental agreement and the Oregon Residential Landlord and Tenant Act must be filed (started in court) within one year of the incident. There may be other — shorter — time limits that apply in other cases. Ask a lawyer about the time limits that could apply in your situation.

20. What is the difference between a fee and a security deposit?

A “fee” is a non-refundable payment. To be enforceable, a fee must be described in a written rental agreement. A landlord may only charge you a fee in the following instances: if you are late on your rent (see Question 27); if you bounce a check to the landlord; if you tamper with your smoke detectors; if you violate pet rules; if you break your lease early; if you are late paying for a utility (see Question 28); if you fail to clean up after your pet; if you smoke in clearly designated non-smoking areas; or if you violate parking or driving rules. All other fees are illegal. ORS 90.302. A tenant can be charged a late fee each month that the rent is paid late. ORS 90.100(16).

21. When I find a place that I want to rent, can the landlord make me pay in order to apply?

You cannot be charged a fee just to have your name placed on a waiting list, but you can be charged other costs associated with applying to housing. These costs include an applicant screening charge and a deposit to hold.

An applicant screening charge is a payment that covers the costs of screening tenants, such as reference checks and credit reports. These charges can be collected only if there is a unit for rent (or that will be soon), unless you agree otherwise in writing. The landlord must give you a receipt for the payment. You must be given a written notice before you pay an applicant screening charge of:

- the amount of the charge;
- the factors the landlord will consider in deciding on your application (the admission or screening criteria);
- the process the landlord will use in screening, including whether the landlord uses a tenant screening company; and
- that you have the right to send a statement to any screening company or credit reporting agency used by the landlord if you think the information the landlord gets is wrong.

Before accepting the applicant screening charge, the landlord must also give you an estimate of the number of other applicants who are ahead of you in applying for the unit or units of the size you want. This information can help you decide whether it’s worth applying.
Under state and federal laws there are time limits for taking action to enforce your rights. Most lawsuits related to the rental agreement and the Oregon Residential Landlord and Tenant Act must be filed (started in court) within one year of the incident. There may be other — shorter — time limits that apply in other cases. Ask a lawyer about the time limits that could apply in your situation. In either case, **YOU SHOULD NOT WITHHOLD RENT UNLESS ADVISED TO DO SO BY A LAWYER WHO HAS AGREED TO REPRESENT YOU IN COURT!** See the Resource Section located at the end of this booklet.

If your landlord has caused or attempted to deny you an “essential service,” which can include services such as heat and water, you may have additional or different rights. See Question 34 for details.

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### Right of Entry, Retaliation

**TIME LIMIT WARNING**

Under state and federal laws there are time limits for taking action to enforce your rights. Most lawsuits related to the rental agreement and the Oregon Residential Landlord and Tenant Act must be filed (started in court) within one year of the incident. There may be other — shorter — time limits that apply in other cases. Ask a lawyer about the time limits that could apply in your situation.

### 30. Does my landlord have a right to enter the rented space?

Yes, at reasonable times and with reasonable frequency. But the landlord must have a reasonable purpose, such as to inspect the rental unit or to supply necessary or agreed upon services, and must give you a 24-hour verbal or written notice before entering, with a few exceptions. A landlord does not need to give a 24-hour notice to enter your dwelling or your yard if the landlord is:

- Posting a legally permissible or required notice on your door (the landlord may enter only your yard for this reason, not your home);
- Doing yard work that the written rental agreement requires the landlord to do (the landlord may only enter your yard for this reason, not your home);
- Entering with your permission, in the case of a specific entry;
- Responding to your written request for repairs and either entering during reasonable times or, if you specified allowable and reasonable times for entry in the written request, entering within those specified times. However, the landlord must start the repairs within 7 days of the written request in order to enter without giving notice, and may continue to enter without giving notice in order to complete those repairs, as long as the landlord is making a reasonable effort to complete the repairs in a timely manner;
- Responding to an emergency, which includes a repair problem that may cause serious damage to the premises if not fixed immediately (the landlord must notify you that the entry was made within 24 hours after the entry);
- Entering with your permission, in the case of an emergency entry;

In either case, **YOU SHOULD NOT WITHHOLD RENT UNLESS ADVISED TO DO SO BY A LAWYER WHO HAS AGREED TO REPRESENT YOU IN COURT!** See the Resource Section located at the end of this booklet.

If your landlord has caused or attempted to deny you an “essential service,” which can include services such as heat and water, you may have additional or different rights. See Question 34 for details.

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If your landlord has caused or attempted to deny you an “essential service,” which can include services such as heat and water, you may have additional or different rights. See Question 34 for details.

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In either case, **YOU SHOULD NOT WITHHOLD RENT UNLESS ADVISED TO DO SO BY A LAWYER WHO HAS AGREED TO REPRESENT YOU IN COURT!** See the Resource Section located at the end of this booklet.

If your landlord has caused or attempted to deny you an “essential service,” which can include services such as heat and water, you may have additional or different rights. See Question 34 for details.
• Showing the property to a prospective buyer at reasonable times, but only if the landlord and tenant have signed a written agreement to allow this that is separate from the rental agreement and that went into effect while the landlord was actively trying to sell the property; or

• Entering your property in cases involving a court order, a requirement from a government agency, or your abandonment of the property.

You have the right to deny entry to the landlord for good reasons; you must tell the landlord the reasons before the time the landlord intends to enter. Tenants can be evicted for unreasonably denying entry.

If a landlord enters the property without following these rules, you can sue and ask for damages caused by the entry or one month’s rent (one week’s rent for weekly renters), whichever is more. ORS 90.322. See the Time Limit Warning at the beginning of this booklet section.

31. Can a landlord retaliate against me after I complain about the need for repairs or other protected activity?

Your landlord may not retaliate by increasing rent, decreasing services, serving an eviction notice, threatening eviction, or filing an eviction case after you:

1) Have made any good faith complaint to the landlord about the tenancy (such as the need for repair or a violation of the rental agreement);

2) Complain to certain code enforcement agencies;

3) Join or organize a tenants’ union;

4) Testify against the landlord in court;

5) Win in an eviction court case against your landlord within the last six months, unless the win was based on a technicality; or

6) Do something or say that you will do something to assert your rights as a tenant under any law.

You may sue for retaliation and ask for twice the actual damages or up to two months’ rent, whichever is more. You may also raise retaliation as a defense to an eviction based on a 30 or 60 day no cause notice if you can prove the notice was given in retaliation. However, retaliation is either not an available defense or unlikely to be a winning defense if you owed rent when the notice was given, if any code violations were caused by you or your guests, if you made repeated harassing complaints to the landlord, or when repairs needed cannot be made without forcing you to move out. Contact a lawyer before using retaliation as a defense in an eviction case or as a claim for money damages. ORS 90.385. See the Time Limit Warning at the beginning of this booklet section.
32. Does the landlord have to make repairs?

Yes. The landlord must keep your place and the common areas in good repair at all times. This means that the unit must not substantially lack the following:

1) Effective waterproofing and weather protection;

2) A proper and functioning plumbing system;

3) A water supply, under the control of the tenant, that is capable of producing hot and cold running water, furnished to appropriate fixtures, connected to a proper sewage system, and, to the extent that landlord can control this, maintained so as to be in good working order and to provide safe drinking water;

4) Adequate heating facilities;

5) Electrical lighting and wiring;

6) Smoke detectors installed and working when you move in (but tenants must test the detectors every 6 months, replace batteries when needed, and give the landlord written notice if the detectors are broken);

7) Safety from fire hazards;

8) Appliances and facilities (air conditioning, ventilating) in working order if they are provided by the landlord;

9) Working keys, locks, and window latches;

10) No garbage, rodents, or vermin in your place when you move in or in common areas around the building throughout the tenancy;

11) Garbage containers and garbage service, unless you agree otherwise in writing or unless there is a local ordinance that doesn’t require this;

12) Adequate plumbing, heating, and electrical equipment kept in good working order;

13) Walls, floors, ceilings, stairways, and railings in good repair;

14) The place must be clean and in good repair when you move in; and

15) The areas under the control of the landlord must be safe for normal and expected use.

The landlord and tenant can agree in writing that the tenant will fix certain things if the agreement is not an attempt by the landlord to avoid the duty to repair. The written agreement must state the amount of the payment for repair and it must be a fair amount. ORS 90.320.

33. What can I do if my landlord will not repair my place?

Ask your landlord to make repairs. If this does not work, write a letter to your landlord asking for repairs. See Sample Letter 1. Keep a copy of the letter.
If this does not work, call a lawyer to ask for advice on what to do next, such as calling a city building inspector (if available where you live), health inspectors, fire inspectors or neighborhood mediation. In an emergency, like a broken pipe or no heat, call a lawyer right away.

You can sue a landlord for a court order to force repairs. If you have given the landlord notice of the need for repair and if the problem was not caused by you or someone else (besides the landlord), you may sue the landlord for damages to compensate you for reduced rental value and destroyed property. However, you cannot get an order for repairs in small claims court. When you sue the landlord for money, be sure to ask for all the money that you think you should get. You may sue for money because the landlord failed to make repairs, and because your landlord damaged or destroyed your clothing or furniture.

You may sue for money because your home was worth less each month because of the need for repairs. For example, if you could not use two rooms in a four-room apartment because of a bad leak in the roof, you might say that there was a 50% reduced rental value. (Because you could use half the apartment, you could argue that you should only pay half the rent during that time.) You may also sue for lost work time, medical expenses, higher heat bills, and other expenses caused by the landlord’s failure to make repairs. ORS 90.360. It is best to have a lawyer in order to file this kind of case. If you are unable to find a lawyer willing to represent you, you can sue your landlord for money in small claims court. See Question 13 and the Time Limit Warning at the beginning of this booklet section.

If you have written your landlord multiple times to ask for repairs and your landlord refuses to make the necessary repairs, you may terminate a fixed term tenancy early and move out. In order to do this, you must give your landlord a written notice describing the needed repairs and explaining that you will move out on a date not less than 30 days (or 33 days if the notice is mailed). If you have a week-to-week tenancy, the notice must explain that you will move out on a date not less than 7 days later (or 10 days if the notice is mailed) if the repairs are not completed. If your landlord completes the requested repairs within the amount of time provided in your notice, you do not have legal grounds to terminate your tenancy. However, if the same repair is needed again within six months of your written notice, you may give the landlord another written notice describing the same needed repair and explaining that you will move out on a date no less than 14 days (17 days if the notice is mailed) from the date of the notice. You do not need to give the landlord the opportunity to fix the problem before moving out with this second notice. ORS 90.360(1).

34. What can I do if my landlord fails to provide an “essential service”?

An “essential service” means heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior doors, latches for windows, and any cooking appliance or refrigerator supplied or required to be supplied by the landlord. An “essential service” also includes any habitability requirements (see Question 32) or service under the rental agreement, the lack of which creates a serious threat to your health, safety, or property, or makes the unfit to live in.

ORS 90.100(13).

If the landlord fails to provide an “essential service,” you have several options:

- Seek Substitute Services: You can get the essential service during the time that the landlord fails to supply the service and deduct the cost from the rent; (YOU SHOULD NOT WITHHOLD RENT UNLESS ADVISED TO DO SO BY A LAWYER WHO HAS AGREED TO REPRESENT YOU IN COURT!)

- Seek Reduction in Rent: You can get compensation for the damage caused by the failure to provide an essential service, based on how much less the rental unit was worth at the time of the landlord’s violation; or
Seek Substitute Housing: If the failure to supply an essential service makes your rental unit unsafe or unfit to live in, and you have given your landlord written notice of the problems and you stay in alternate housing while the problem is being repaired, you are not obligated to pay rent for the time period the landlord failed to supply this essential service. You may also seek compensation from the landlord for the fair cost of comparable housing above your rent amount.

In order to do one of the three things listed above, you must first give your landlord a written notice describing the lack of substitute service and stating that you may do one of the three things above if your landlord fails to fix the problem within a reasonable amount of time. You should give your landlord a specific date to fix the problem by. ORS 90.365(1).

If you have a lease for a fixed term, your landlord’s failure to supply an essential service may give you legal grounds to terminate your tenancy. How to terminate your tenancy depends on how serious the failure to supply the essentials service is. If the landlord’s failure to supply the essential service poses an “imminent and serious threat” to your health, safety, or property, you have the right to end your tenancy and move out. To do this, you must give the landlord a written notice that says that you are moving out in no less than 48 hours (or 5 days if the notice is mailed) unless the problem is fixed in that time. See Sample Letter 6. ORS 90.365

In all other cases, upon the landlord’s failure to supply the essential service you may give your landlord a written notice describing the lack of essential services and explaining that you will move out on a date not less than 7 days from the date of the notice (or 10 days if the notice is mailed to your landlord) if the essential service is not restored within 7 days (or 10 days if the notice is mailed). If your landlord restores the essential service within the amount of time provided in your notice you do not have legal grounds to terminate your rental agreement for a fixed term. However, if the same essential service is lacking again within six months of your written notice, you may give the landlord a written notice describing the same lacking essential service and explaining that you will move out on a date no less than 14 days (17 days if the notice is mailed) from the date of the notice. ORS 90.360(1).

Also, it is illegal for a landlord to intentionally diminish an essential service to your unit, to seriously attempt to cause an interruption of an essential service, or to seriously threaten to do so. If the landlord does any of these things, you have a right to terminate your rental agreement. Regardless of whether or not you terminate your rental agreement, you also have a right to get a court order requiring the landlord to restore the essential service and you have a right to sue for damages in the amount of two months’ rent or twice the amount of the actual damages caused by the shut off of the essential service, whichever is more. If you terminate the rental agreement, the landlord is required to give you back all prepaid rent and security deposits. ORS 90.375.

35. If I am a victim of domestic violence, dating violence, stalking, or sexual assault, may I have my locks changed?

Yes. You are responsible for the cost of the lock change. You are not required to provide any evidence that you are a victim of domestic abuse, dating violence, sexual assault, or stalking. If the landlord fails to act promptly, you may change the locks without the landlord’s permission and give a key to the landlord. If your abuser is your co-tenant, you must give your landlord a copy of a restraining order signed by a judge before the landlord can change your locks. An abuser who was a co-tenant is jointly liable with any other tenants for any rent owing or damage caused to the unit before the abuser was excluded from the unit. ORS 90.459.
36. May I withhold rent if repairs aren’t made?

First, follow the steps listed under Question 33, including making a demand for repairs, writing a letter to the landlord, and calling an inspector, if available where you live. If this does not work, it is legal for a tenant to withhold all or part of the rent to force legally required repairs when there is serious need for repairs and the landlord refuses to make repairs. **YOU SHOULD NOT WITHHOLD RENT UNLESS ADVISED TO DO SO BY A LAWYER WHO HAS AGREED TO REPRESENT YOU IN COURT!** See the Resource Section at the end of this booklet.

If you decide to withhold rent, you should probably withhold less than the full amount of rent. Think about what is a fair amount to withhold because of the need for repairs.

**IF YOU WITHHOLD RENT, DO NOT SPEND IT. PAY IT TO YOUR LAWYER’S TRUST ACCOUNT OR OPEN A SEPARATE BANK ACCOUNT. KEEP THE MONEY.**

If you withhold rent, your landlord will likely give you a 72-hour or 144-hour notice of nonpayment of rent and will file an eviction court case against you if you do not pay rent within the notice period. If your landlord files an eviction case against you, this may appear on your credit record whether you win or lose the case. (You have a right to dispute the accuracy of your credit report). During the eviction case, the court may order you to pay the withheld rent into court, into a lawyer's trust account, or into a separate bank account. During the eviction case, you must be ready to continue paying rent into court or a separate account as rent becomes due, to file an Answer describing the serious need for repairs, and then prove that there were serious problems that the landlord was aware of and failed to fix. **YOU SHOULD NOT WITHHOLD RENT UNLESS ADVISED TO DO SO BY A LAWYER WHO HAS AGREED TO REPRESENT YOU IN COURT.**

Sometimes tenants lose in court after withholding rent.

If you decide to withhold rent, you or a lawyer should to send a demand letter like Sample Letter 5.

5. **A TENANT SHOULD NOTIFY THE LANDLORD OF THE REASONS FOR WITHHOLDING RENT BEFORE THE LANDLORD FILES THE EVICTION CASE IN COURT.**

ORS 90.370.

37. May I hire a repair person to do the repairs and deduct the costs of repairs from the next month’s rent?

Yes, if the repairs can be done for less than $300. You should make the demand for repairs as described under Question 33.

**IT IS USUALLY NOT A GOOD IDEA FOR PEOPLE TO USE THE REPAIR AND DEDUCT SECTION UNLESS YOUR LANDLORD AGREES IN ADVANCE TO LET YOU USE REPAIR AND DEDUCT OR YOU HAVE BEEN ADVISED BY A LAWYER TO USE THE REPAIR AND DEDUCT SECTION.**

If you decide to repair and deduct, you must follow these rules:

1) You must notify the landlord in writing of the need for the repair and that if the landlord does not make the repair within at least 7 days (or 10 days if mailing the notice) you will have the repair made and deduct the cost from your rent. See Sample Letter 2. After sending the letter to your landlord, call the landlord and try to get the landlord to agree to make the repair or to agree to your having it done. **As always, keep copies of all letters!**

2) The total costs of the repairs must not be more than $300.

3) The problem that needs to be repaired must not have been caused by you, your family, or guests.

4) The work must be done in a professional manner and at the lowest possible cost. If
the person you hired to do repairs causes damage to the property, the landlord may argue that you must pay. The landlord may specify the person you must use to do the repairs. ORS 90.368.

38. Are there any risks if I use the repair and deduct section?

Yes. You must follow all the rules listed under Question 37. The landlord might try to evict you for not paying the full rent and might sue you to recover the rent not paid if you do not follow all the rules. If the landlord files an eviction case, the filing may appear on your credit record even if you win the case in court. (You have the right to dispute the accuracy of your credit record.)

39. If I call the building inspector, can I be evicted?

Your landlord cannot legally evict you in retaliation for your calling a building inspector. But you may have to go to court to prove that this was the reason for the eviction. ORS 90.385.

The building inspector could force you to move if the unit is very dangerous, but this doesn’t happen often. If it does, contact a lawyer.

40. Can my landlord bill me for repairs?

Yes, if you, your family, or your guests cause damage to the premises that is beyond normal wear and tear.

41. If I am a victim of domestic violence, dating violence, stalking, or sexual assault, do I have to pay for repairs done by my abuser?

No. Your landlord can not charge you for damage to the unit that was caused by your abuser so long as you can verify that you are a victim of domestic violence, dating violence, stalking, or sexual assault. The “verification” of your having been the victim of abuse can be a valid court order requiring the abuser to stay away from you (such as a restraining order signed by a judge), a court order of conviction or a police report regarding an act domestic violence, dating violence, stalking, or sexual assault, or a statement signed by a qualified third party (law enforcement officer, attorney, licensed health care professional, or victims’ advocate at a victims service provider) law enforcement officer saying that you have been a victim of abuse within the past 90 days. ORS 90.325(3).
48. Can my landlord force me to leave the rental unit?

The landlord must go to court and get a court order to force you to leave. ORS 105.105. The landlord cannot legally change the locks, shut off the utilities, remove your property, threaten any of these actions, or take any other action to force you to move without first getting a court order.

There are only three ways that a landlord can get a rented place back legally:

1) The tenant can move and return the keys to the landlord;

2) The tenant can move away, abandoning the unit without telling anyone of plans to come back; or

3) The landlord can go to court and get an order, with notice to the tenant to have the sheriff force the tenant to move out. Only the sheriff, with a court order, has authority to physically remove you.

49. What can I do if I am locked out or my utilities are shut off by my landlord?

The only legal way to force you out of your home is for the landlord to go to court and get an order that requires you to leave. If the landlord locks you out, tell the landlord that it is illegal and ask to be let back into your home. If this doesn’t work, see if you can get in through a window or another door. If the landlord refuses to let you back in and you cannot get in on your own, you can call the police. They will sometimes help. They may say that it is a civil dispute and that they will not help you. If so, contact a lawyer.

If your landlord unlawfully changes the locks, shuts off the power or other utilities, makes serious threats or attempts to shut off your utilities, or takes other out-of-court action to force you to move, you may file a lawsuit to get an order so that you can return to your home. You can also sue for damages in the amount of two months’ rent or twice your actual damages, whichever is more; and for another month’s rent or actual damages if the landlord entered your home illegally (for example, to change the locks). This lawsuit can include damages for emotional distress causing loss of sleep, inability to eat, and other interference with your ability to use the rental unit. ORS 90.375. See the Time Limit Warning at the beginning of this booklet section.

See Question 29 for information about additional rights that you have if the landlord doesn’t pay utility bills that the landlord is supposed to pay.

50. What does a landlord have to do to evict me?

A landlord must first give you a termination notice, unless you had an agreement that expired on a certain date. If you do not move by the date listed in the termination notice, the landlord may take you to court. If your landlord takes you to court, you will be given legal papers, including a Summons and Complaint telling you when to go to court for First Appearance. The landlord must go to court and get a court order that says you must leave. See Questions 57 and 58 for information on what happens in court.
51. **How does a landlord give a termination notice?**

There is only three ways that a landlord can legally serve you with a termination notice. The landlord must hand-deliver the termination notice, mail it to your address by first class mail, or put the notice on your door and mail you a copy (if your rental agreement allows this). If the notice is handed to you, the notice period starts to run immediately. If it is only mailed to you, the landlord must add 3 days to the length of notice. If it is posted and mailed, the notice starts to run either when the landlord mails the notice or on the day the landlord posts and mails the notice. Any other way that the landlord gives you a notice of termination (such as email, orally, or by certified mail) is not legal and may give you a defense in any eviction action based on that notice.

**All termination notices must be in writing.**
ORS 90.155, 90.160.

52. **What kinds of termination notices can a landlord give me?**

Note: If you live in federally-subsidized housing you have additional rights to the ones included in the following rules. See Question 11 and 12.

**No-Cause**

If you rent month-to-month, your landlord can give you a notice to move without giving you a reason why. If you have lived there less than one year, your landlord may give you a 30-day no-cause notice (33 days if mailed and not posted). If you have lived there a year or more, your landlord must give you a 60-day no-cause notice (63 days if mailed and not posted). This 60-day notice period does not apply when your home is sold to a person who plans to live in it as their primary residence. Your landlord has to give you proof of the purchase when giving you a 30-day notice under these circumstances.

If you live in the City of Portland, your landlord must give you a 90-day no-cause notice (93 days if mailed and not posted) no matter how long you have lived there.

If you rent week-to-week, your landlord can give you a 10-day no-cause notice (13 days if mailed and not posted).

In all cases, a landlord cannot retaliate or discriminate against you by giving you a no-cause notice, as explained in Questions 5, 7, 8, 9, and 31. If you live in a mobile home park or some kinds of federally-subsidized housing, the landlord may not be able to use a no-cause notice. ORS 90.427.

**For-Cause**

If you rental agreement is for a fixed term, your landlord may give you a 30-day for-cause notice (33 days if mailed and not posted) with the opportunity to fix the problem within the term of the agreement. The notice must describe a material violation of the rental agreement done by you, your household members or your guest. If the problem in the notice is “ongoing” (an unauthorized roommate, for example), you are entitled to at least 14 days to fix the problem. If the problem is “not ongoing” (a loud party, for example), your landlord may require you to immediately fix the problem.

If you cause the same problem within six months after receiving a 30-day for-cause notice, the landlord may give a 10-day notice (13 days if mailed and not posted) without allowing you any time to fix the problem.

If you rent week-to-week, your landlord may give you a 7-day for-cause notice (10 days if mailed and not posted), with an opportunity to fix the problem in 4 days. If you cause the same problem within six months, the landlord may give you a 4-day notice without allowing you to fix the problem.

ORS 90.392.

**Pets**

If you are keeping a pet in violation of the rental agreement, your landlord may give you a 10-day...
Your landlord may give you a 24-hour notice (add 3 days if mailed and not posted) if you, your pet, or someone in your control: 1) inflicts substantial personal injury upon others on the premises; 2) seriously threatens to inflict substantial personal injury to someone on the premises; 3) causes major damage to the unit; or 4) commits an act that is outrageous in the extreme on, or very near, the premises. This notice must describe the incident and tell you that if you remove the pet from the premises before the end of the 24-hour notice period you can stay in the unit. If you do this but then return the pet to the unit at any later time, the landlord can give a new 24-hour notice (add 3 days if mailed and not posted) to move, without giving you another chance to remove the pet.

ORS 90.396.

**Late Rent**

The landlord can give you a 72-hour notice to pay rent or move after your rent is more than 7 days overdue. If your written rental agreement allows, your landlord may also give you a 144-hour notice to pay rent or move after your rent is more than 4 days overdue. The 144-hour notice can be given sooner but must give you longer to pay, so the date you must pay or move works out to be the same as with a 72-hour notice. (If you rent week-to-week, a 72-hour notice can be given if your rent is more than 4 days late). The landlord must give three more days for you to pay or move if the notice is mailed. If you pay, your money is due by 11:59 p.m. of the third day for a 72-hour notice or 11:59 p.m. of the sixth day for a 144-hour notice.

ORS 90.394.

The landlord must accept your full payment of rent during the notice period. The landlord does not have to accept a partial payment of rent during the notice period. Also, the landlord does not have to accept any payments offered after the notice period. (If the landlord accepts partial payment of rent, the landlord cannot evict you for non-payment of rent unless the partial payment plan is in writing

ORS 90.417.)

Usually you can mail the late rent within the time periods. BUT if the nonpayment of rent notice was personally delivered to you or posted on your door and then mailed AND if your written rental agreement and the nonpayment of rent notice require this, you must bring (not mail) the rent to the place listed on the notice. (The place for paying rent must be either on the premises or where you always pay rent, and it must be available throughout the notice period).

ORS 90.394.

**Personal Injury, Threats, Substantial Damage, and Extremely Outrageous Acts**

Your landlord may give you a 24-hour notice (add 3 days if mailed and not posted) if you, your pet, or someone in your control: 1) inflicts substantial personal injury upon others on the premises; 2) seriously threatens to inflict personal injury or recklessly endangers a person on the premises; 3) causes major damage to the unit; or 4) commits an act that is outrageous in the extreme on, or very near, the premises.

ORS 90.396.

“Someone in your control” means a person that you permit to come to or stay in your place when you know or should know that he or she is committing (or is likely to commit) an “outrageous act,” personal injury, substantial damage, or seriously threatening injury or damage. “Outrageous acts” include (but aren’t limited to) drug manufacturing or delivery, gambling, prostitution activity, burglary, or intimidation. The act must be extreme or very serious. If not, the landlord must use a 30-day or a 10-day notice and not a 24-hour notice to evict a tenant.

**Domestic Violence**

If you are victim of domestic violence, dating violence, stalking, or sexual assault, your landlord is generally not allowed to try to evict you because you are victim of abuse in the past or the present, because of incident of abuse, or because of criminal activity or police contact related to the abuse where
you were the victim. However, your landlord is allowed to evict you due to the abuse if the landlord has given you a written warning regarding the conduct of the abuser who is not a tenant and either (1) you permit the abuser to remain on the premises, and the abuser is an actual and imminent threat to the safety of others on the premises, OR (2) you consent to the abuser living with you without the landlord's permission. ORS 90.453.

Your landlord may also terminate you if you have committed a criminal act of physical violence related to domestic violence, sexual assault or stalking against a household member who is a tenant, by giving you a 24 hour written notice specifying the criminal act and when you must move out. The landlord may give this notice to only the abuser and may not terminate the other tenants living in the unit. ORS 90.445.

**Drug- and Alcohol-Free Housing**

If you live in “drug and alcohol-free housing” (see definition below) and have lived there less than 2 years, your landlord may give you a 48-hour notice for consuming, possessing or sharing drugs or alcohol on or off the premises. The notice must tell you what you did wrong and give you 24 hours to fix the problem. If you correct the problem within 24 hours, then you may stay. ORS 90.398.

If you possess or use drugs or alcohol again within 6 months after receiving a 48-hour notice with a 24-hour opportunity to fix the problem, the landlord may give you a 24-hour notice to move without any chance to fix the problem.

ORS 90.398.

To qualify as “drug- and alcohol-free housing” one tenant in each designated dwelling must be a recovering alcoholic or drug addict participating in an addiction recovery program, such as Alcoholics Anonymous or Narcotics Anonymous. The landlord must be a nonprofit corporation or a housing authority, must provide a drug- and alcohol-free environment, and must provide various forms of support for the tenants’ recovery. There must also be a written rental agreement that states that the housing is alcohol- and drug-free, that the tenant must participate in a program of recovery and in urinalysis testing, and that the tenant may be evicted for not following these rules. ORS 90.243.

If you live in a group recovery home (such as Oxford Houses) and have used or possessed alcohol or drugs within the past week, the home may have a police officer remove you from your housing with 24-hours’ notice if there is proof of relapse. The landlord is required to give you written notice explaining the reasons for removal, the deadline for move-out (which must be at least 24 hours after the notice is served). The home must allow you to follow any emergency departure plan previously agreed to at the time of your admission to the group recovery home. A tenant who has been removed in this way has a right to challenge the removal. If a court finds that the group recovery home misused the removal process, the tenant is entitled to damages in the amount of 3 months’ rent and the right to move back in.

ORS 90.440.

The group recovery home’s landlords are required to send copies of all notices of removal to the Oregon Department of Human Services in order to keep a file available to those who may wish to monitor the process. ORS 90.243.

**Unlawful Occupant**

If the original tenant has moved and you are subleasing in violation of a written rental agreement that prohibits subleasing, and the landlord has not knowingly accepted rent from you, the landlord may give you a 24-hour notice (add 3 days if mailed and not posted).

ORS 90.403.

**Dwelling Posted for Code Violations**

If a government inspector posts your dwelling as unsafe and unlawful to occupy, the landlord may give you a 24-hour notice unless the problems were caused by the landlord.

ORS 90.380.

**Employee Termination**

If you live in a place because of your employment in or around the rental building (for example, a
resident manager), you can be given a written notice of at least 24 hours terminating your employment. If you have not moved out when the time in the notice has expired, your former employer can file an eviction case against you but cannot lock you out or call the police for trespass. ORS 91.120.

Note: Farmworkers who work in fields, and not in and around the rental buildings, may not be evicted with this kind of 24-hour notice.

53. What notice do I get if my landlord converts my dwelling into a condo?

Before a landlord can convert your unit into a condominium, the landlord must provide you with a 120-day notice of termination. This notice must tell you about rent increase restrictions, financial assistance that may be available to you in buying the unit, the prohibition on termination without cause within the 120-day notice period, and must include an offer to sell the unit to you. During the 120-day notice period, the landlord is not allowed to evict you without cause or to enact unscheduled rent increases (over cost-of-living increases). You may recover damages of up to 6 times the monthly rent if your landlord violates these provisions. There is also a limit on the rehabilitation of common areas during the 120-day period. ORS 90.493, 100.305.

54. Can I be evicted for nonpayment if I paid part of the rent this month?

If the landlord accepts part of the rent, the landlord may not evict you during the same month for nonpayment of rent, unless you agreed to pay the balance on a certain day and then did not pay. If your landlord accepted part of the rent after serving a 72-hour or 144-hour eviction notice, it is harder for your landlord to evict you. Contact a lawyer if your landlord files for eviction. But your landlord does not “accept” the partial rent payment if the landlord refunds the rent within 10 days of receiving it. The refund may be by personal delivery or first class mail (mailed within the 10 days). The refund may be in any form of check or money—the landlord doesn’t have to return your check. If you are a Section 8 tenant, a landlord can accept the Section 8 rent assistance payment and still evict you if you don’t pay your portion of the rent. ORS 90.412, 90.414.

55. Can I be evicted if I have paid my rent?

Even if you paid your rent, you can be evicted for other reasons. See Question 52 for the other types of termination notices your landlord might be able to give you.

If you have been given a 30-day no-cause eviction notice and the landlord accepts a rent payment that covers more than the 30 days, you can still be evicted if the landlord returns the extra rent to you within 10 days of receiving it. (Example: The landlord gives you a 30-day notice on July 15th and accepts a full month’s rent payment from you on August 1st. On August 7th the landlord returns the rent that you paid that covers the time from August 16th to August 30th. You can be evicted after August 15th). ORS 90.412, 90.414

56. What happens if I don’t move out after getting a termination notice?

The landlord must go to court to legally force you to move. The landlord will file an eviction court case against you called an FED, forcible entry and detainer. The sheriff or someone serving the court papers (Summons and Complaint) will hand them to whoever answers the door at your home or will tape them to the door and mail a copy later. The papers will tell you when and where to appear for court for what is called First Appearance. The date will be about 7 days from the date your landlord filed the case in court in most counties. It is a good idea to get legal advice as soon as you get the papers.

57. What happens at the First Appearance in court? What happens if I don’t go?

When you go to court on the date on the Summons, this is called “First Appearance.” The process varies from county to county. In most counties in Oregon, tenants may:
1) Ask the judge to dismiss the case if the landlord does not show up;

2) Tell the judge about any agreements you made with the landlord either before court or that day in court. If you and the landlord reached an agreement before court, both you and the landlord should go to First Appearance and tell the judge the terms of the agreement;

3) Ask the judge for a little time to move and have a good reason; or

4) Ask the judge for a trial and a fee waiver or deferral if you have a defense. See Page 34 for information about defenses.

The judge may ask you to try to work the problems out with your landlord by going through a mediation, before a trial is scheduled.

If you and your landlord have reached an agreement, you will likely need to sign a “Stipulated Agreement.” “Stipulated” means that both you and the landlord agree to the terms of the paper that you sign. The Stipulated Agreement will sometimes say that you can stay in your place if you pay all of the back rent and other costs by a certain date and it can also require you to stay current on your rent for the next 3 months after you make the agreement. If you do not follow what the Stipulated Agreement says, the landlord can go back to court and get an eviction judgment against you that will require you to move out in four days. Once you are served with the eviction judgment, you have the right to ask for a hearing on whether you lived up to the agreement or not before the sheriff moves you out. You should carefully read any papers the landlord gives you before signing. ORS 105.146.

If you ask for a trial and you do not have a lawyer, you must fill out a form Answer and file it on the same day that you first go to court. Most courthouses have form Answers you can use to describe your defenses. See “How to Use a Form Answer in an Eviction” on Page 34. There will be a filing fee to file your Answer in court. If you cannot afford the filing fee, the court will have paperwork to fill out to ask the court for a fee waiver or deferral. Get a trial date from the clerk when you file the Answer. It is a good idea to talk to a lawyer before asking for a trial, even if you are going to represent yourself.

When you go to court, you should get there on time and be neatly dressed. Look at the judge while speaking, stay calm, and be polite.

If you do not show up in court at the date and time set for First Appearance, your landlord wins automatically. The landlord will get a court order directing you to move and may have the sheriff or process server post a four-day notice. See Question 60.

58. What happens at an eviction trial?

When you file your Answer and ask for a trial, the court clerk will give you a date for your trial. Prepare for your case before you go to court. See Page 36.

At the trial you will need to prove the defenses listed in your Answer. Bring photos of the condition of your place, copies of letters from and to your landlord, and other papers (receipts, rental agreements) that prove your case. Take witnesses who will help you prove your defenses. Get to court on time and dress neatly. Stay calm and be polite to the judge and the landlord.

If you win, the judge should order the landlord to pay your court costs and, if you have a lawyer, your attorney fees. If the landlord has a lawyer and you ask for a trial and lose, the judge will order you to pay for the landlord’s attorney fees and court costs. The judge may also require the losing side to pay the winning side additional costs called a “prevailing party fee.” If you do not have much income or property, state law may protect you against this order. See Question 65.
59. **Can I go to eviction court without a lawyer?**

Yes, but you should try to talk to a lawyer before going to First Appearance. Many tenants and landlords go to the First Appearance without a lawyer. Most courts have form Answers that you can fill out describing your defenses. See Page 34 for information on how to use the form Answer.

It is helpful to have a lawyer if there is a trial in your case. At the trial you will need to prove the defenses that you listed in your Answer. See Question 58 for information about trials.

60. **Can I be forced to leave my home if the landlord gets a court order that requires me to move?**

Yes. The landlord may get a court order if: 1) you don’t show up for court; 2) you enter into a Stipulated Agreement (See Question 57) and you don’t live up to the Agreement; or 3) you go to trial and lose. If you lose at trial, the judge will tell order you to move out by a certain date.

If you do not move by the date listed on the court Order, the landlord can have the sheriff or process server post a 4 day notice on your door. If you don’t move out by the time and date listed on the notice, the sheriff will come back and require you to leave while the landlord changes the locks. After that, you risk criminal charges if you return without permission.

61. **If there is a trial in my eviction case and the landlord wins, do I have to pay back rent and legal costs?**

In most cases, the landlord must sue you in a separate court case to get rent that is owed. If you ask for a trial and lose, you may be ordered to pay your landlord’s attorney fees and court costs.

If you have signed a “Stipulated Agreement” and don’t pay the money that you agreed to pay, the landlord will have a judgment against you for the rent if the Agreement provides for this. See Question 57 for more information about Stipulated Agreements.

Even if the landlord wins a judgment for back rent or for attorney fees and costs, your income might be exempt from certain forms of collection, and the landlord could not take it until your income increased. You should speak a lawyer about this. See Question 65.

62. **What can I do if I have children and I am facing eviction?**

It is illegal to discriminate against families because they have children. See Question 7. However, it is not illegal to evict a family for non-payment of rent or other legal reasons. You can call the state welfare agency, social service agencies, churches or other resources where you live to see if you can get an emergency grant to help pay your rent or for moving.