

# COVID-19 Information Affecting Landlords



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Landlords across Oregon are now subject to several different restrictions—as well as some relief—from various levels and branches of government. Below is a summary. We encourage you to visit [Multifamily NW](#) and the [Oregon Rental Housing Association](#) for additional information on developments affecting landlords and access to forms that may be helpful to landlords. [Also check out NAR's Coronavirus: Resources for Property Owners.](#)

### Federal CARES Act

#### ***Eviction Ban (Section 4024)***

The CARES Act (federal stimulus legislation enacted March 27<sup>th</sup>) bans landlords from initiating eviction proceedings or assessing fees, penalties, or other charges against a tenant for nonpayment of rent for 120 days from enactment in properties where landlords receive federal funds or have a federally-backed mortgage (120 days from March 27 is July 25). Tenants are not required to show COVID-19 related causes of nonpayment. The law also bans these same landlords from issuing notices to vacate for 120 days (this prohibition, while likely intended to apply only to notices to vacate **for nonpayment**, does not so specify and thus this could be a legally disputed issue). These protections do not absolve tenants of their legal responsibilities to pay rent. Tenants who do not pay rent during the eviction grace period may still face financial and legal liabilities, including eviction, after the moratorium ends (although landlords will still be limited by state and local laws). For more information on the CARES Act eviction ban [read this brief](#) from the Congressional Research Office.

#### ***Mortgage Forbearance and Foreclosure Ban (Sections 4022 and 4033)***

- Borrowers with mortgages on properties designed for 1-4 families can request 180 days forbearance from their mortgage servicer if they are unable to pay due to COVID-19, and up to an additional 180 days. Mortgage servicers are required to grant the request upon attestation of the borrower's hardship without additional documentation and with no fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract.
- Mortgage servicers of federally-backed mortgage loans on properties designed for 1-4 families are also prohibited from initiating judicial or non-judicial foreclosure proceedings for 60 days beginning March 18, 2020.
- Borrowers with federally-backed loans for multi-family properties (more than 4 units) can request (verbally or in writing) forbearance from their mortgage servicer for 30 days for COVID-19 related financial hardships. Servicers are required to document the hardship and provide the 30 day forbearance, along with up to two additional 30 day forbearances (for a total of 90 days) if the hardship persists and the requests are made at least 15 days prior to the expiration of the current forbearance period. To qualify, multifamily borrowers must comply with the eviction and notice moratorium described above (Section 4024).

- For additional information on mortgage forbearance and repayment options visit [this joint site of the Consumer Financial Protection Bureau, Federal Housing Finance Agency and Housing and Urban Development](#). The site was created at the urging of NAR and other advocates for homeowners.

## State Eviction Moratorium

Governor Brown has issued bans on residential and commercial evictions through June 30, 2020. Violation of the bans is a Class C misdemeanor.

### *Residential*

Governor Brown's [Executive Order 20-11](#) of March 22, as amended by her order of April 1, prevents law enforcement officials from delivering any notice or enforcing any eviction for "nonpayment" through 6-30.

Governor Brown's [Executive Order 20-13](#) of April 1 bans landlords from terminating, providing notice of termination, or pursuing eviction of a residential tenancy for "nonpayment" from April 1 through June 30 unless the Order is terminated or extended by the Governor. Under this order evictions for reasons other than nonpayment are allowed.

**The Governor's orders define "nonpayment" to mean "any termination without cause under ORS 90.427." ORS 90.427 is the statute that governs evictions without *tenant cause* and includes the provisions allowing landlords to terminate tenancies in the first year with a 30-day no cause notice and after the first year with a 90-day notice (and other requirements) for certain "qualified landlord reasons" such as the sale of the home to a person who intends to move in as a primary residence. Attorneys disagree about whether EO 20-13 prevents landlords from issuing 30-day no cause notices within the first year and 90-day notices for the sale of a home to an owner-occupant after the first year. Landlords should proceed very cautiously and talk to an attorney before taking any action, as criminal penalties are at stake. OAR has asked the Governor's office for clarification on this issue.**

Tenants are not required to show COVID-19 related causes of nonpayment. However, they are required to notify the landlord as soon as reasonably possible; and shall make partial rent payments to the extent the tenant is financially able to do so. The Order does not relieve tenants of their obligation to pay the rent, utilities and other charges owed, once the moratorium is lifted. However, landlords may not cause late charges or other penalties to accrue during the moratorium.

It is possible that the Governor could issue an updated Executive Order extending her ban beyond June 30<sup>th</sup> and modifying it to include provisions around timelines for the repayment of rent, although she has not done so yet.

## **Commercial**

Governor Brown's [Executive Order 20-13](#) bans landlords from terminating a commercial lease agreement or pursuing eviction for nonpayment, or any no cause eviction, from April 1 through June 30 unless the order is terminated or extended by the Governor.

Commercial tenants are required to provide the landlord, within 30 calendar days of unpaid rent being due, with documentation or other evidence that nonpayment is caused by, in whole or in part, directly or indirectly, the COVID-19 pandemic. Acceptable documentation or other evidence includes, without limitation, proof of loss of income due to any governmental restrictions imposed to mitigate the spread of COVID-19. Tenants must notify the landlord as soon as reasonably possible; and shall make partial rent payments to the extent the tenant is financially able to do so.

Commercial evictions for reasons other than nonpayment are not banned.

The Order does not relieve tenants of their obligation to pay the rent, utilities and other charges owed, once the moratorium is lifted. However, landlords may not cause late charges or other penalties to accrue during the moratorium.

## **Chief Justice's Orders**

The Chief Justice of the Oregon Supreme Court has ordered that FED (eviction) proceedings may not take place until July 1 and only if no applicable Governor's eviction moratorium is in place. The orders allows for a landlord to file an action for eviction for a reason other than that prohibited by the Governor's orders but the dispute will not be adjudicated until after July 1. Landlords can still request an order from the court that tenants pay rent. Also, local presiding judges can allow proceedings to happen before July 1 if they consult with the parties and determine that the proceeding can happen either remotely or with the proper social distancing measures in place. For more on the Chief Justices orders, visit <https://www.courts.oregon.gov/courts/Pages/coronavirus.aspx>.

## **Local Bans**

Multnomah County has issued its own residential [eviction ban](#) as have several other jurisdictions including but not limited to [Clackamas County](#), [Gresham](#), [Hillsboro](#), and Beaverton. **Check with your local jurisdictions to read what local bans are in place.** Most of these bans have been subsumed by the state ban, which is more protective of tenants. One area where the local bans tend to be more specific, and thus would control, is with respect to the timeframe for repayment of rent. For example Multnomah County gives tenants 6 months to repay rent. Landlords with federally-backed mortgages must also follow the federal ban, which lasts longer than the state and local bans. Separately from eviction bans, several local jurisdictions (including up and down the coast) have issued bans on short-term rentals although those have started to ease as counties enter re-opening. **Check with your local jurisdictions to read what bans are in place.**

## Showing Tenant Occupied Properties

In-person showings of a property occupied by tenants during the COVID-19 crisis is a difficult issue. Ideally it can be avoided. If it cannot be avoided, sellers/landlords should review their rental contract with tenants as well as [ORS 90.322](#) which deals with landlord access to the premises. Additionally, sellers/landlords should develop, and come to a separate written agreement with their tenants around, strict procedures for showing the property that comply with all social distancing, sanitation and health and safety guidelines of the Governor, the Oregon Health Authority and the Center for Disease Control. If sellers/landlords and tenants cannot come to a mutually acceptable agreement about showings and the health and safety procedures, sellers/landlords should drop the issue or seek advice from an attorney. While sellers/landlords have certain contractual and statutory rights to enter the property, tenants also have rights to refuse entry if doing so is not unreasonable. Also, Sellers/landlords should also be aware that conflicts over the issue of showing the property during COVID-19 could result in future retaliation claims (even if not valid) against the landlord if and when the landlord takes an action that the tenant is not pleased with. For these and other reasons, it is prudent to avoid the issue of showing tenant occupied homes during COVID-19 if possible.

**THIS DOCUMENT IS NOT LEGAL ADVICE. LANDLORDS SHOULD SEEK LEGAL ADVICE TO ENSURE COMPLIANCE WITH THE LAW**