

# HB 4401: Oregon's New COVID-19 Eviction Law Summary and FAQs, January 4, 2021

Note: Local governments may have additional restrictions. For example, until 2-1-21 [Multnomah County and the City of Portland](#) ordinances are still in effect. In those jurisdictions, the "Emergency Period" lasts until 1-8-21 even without a tenant declaration, QLR Termination notices other than for the sale of a property to an owner-occupant buyer are prohibited, and the content of notices related to Emergency Period nonpayment balances differ. Always check the rules in your local jurisdiction before issuing a termination notice and consult an attorney with local expertise if needed.

## 1. What are the primary provisions of HB 4401?

- Extends to December 31, 2020 the "Emergency Period" that began on April 1, 2020 and for which terminations, evictions and associated notices for nonpayment are prohibited until end of "Grace Period" (March 31, 2021).
- Prohibits late fees, credit reporting, and actions to recover Emergency Period balance during the Grace Period.
- Requires Landlords to provide tenant, along with any other nonpayment notice, a statutorily prescribed notice and declaration form that notifies tenant of tenant's right to declare a COVID-19 financial hardship and extend the Emergency Period and Grace Period through June 30, 2021.
- Extends Emergency and Grace Period through June 30, 2021 if tenant declares COVID-19 financial hardship OR if Landlord fails to properly provide statutory notice and declaration form.
- Extends ban on no-cause terminations, evictions and associated notices through June 30, 2021.
- Reinstates all [ORS 90.427\(5\)](#) Qualifying Landlord Reason terminations (see #4 below).
- Extends 72/144 hour notice periods for nonpayment of rent under to 10/13 day periods, respectively.
- Creates a \$150M landlord compensation fund whereby Landlord (upon accepted application) can be reimbursed for 80% of the rent owed to Landlord in exchange for forgiving the remaining 20% (see #11 below).

## 2. What is the new notice and declaration requirement?

Anytime a Landlord delivers a notice to a tenant relating to nonpayment the Landlord must also include a new notice that informs the tenant of their right to declare a COVID-19 financial hardship and extend eviction protections through June 30, 2021 along with a blank copy of the tenant declaration form. The notice and form must be as prescribed by statute (see attached samples). These forms are available in multiple languages through the [Oregon Courts](#).

When filing an eviction complaint, the Landlord must file with the complaint a declaration under penalty of perjury stating that the landlord has complied with the notice and declaration form requirement described above and that the landlord is not aware of any declaration signed or delivered by the tenant.

## 3. Must I include the new notice + declaration form if terminating for reasons other than nonpayment?

No. The new notice and declaration form are only required for notices and summons related to nonpayment.

## 4. What terminations, evictions and associated notices are allowed under HB 4401?

- For cause other than nonpayment and with notice in writing as specified in [ORS 86.782](#) (6)(c) (trustee sale), [90.380](#) (5) (declared unsafe/unlawful), [90.392](#) (for cause), [90.396](#) (24-hr terminations), [90.398](#) (drug/alcohol violations), [90.405](#) (unpermitted pets), [90.440](#) (group recovery home) or [90.445](#) (criminal act/physical violence).
- For a Qualifying Landlord Reason, with notice and in writing as described in [ORS 90.427](#) (5) and (6), including the demolition/conversion of the unit, major repairs/renovations when the unit is or will be unsafe to occupy, occupancy of the unit by Landlord/Landlord's family member, or sale of unit to an owner-occupant buyer.
- For nonpayment of rent or other charges that came due on or after January 1, 2021 IF landlord provides proper notice and the declaration form described above AND tenant does not deliver the signed declaration to the landlord before or during the first appearance before the court.

## 5. What terminations, evictions and associated notices are prohibited under HB 4401?

- No-cause (prohibited through June 30, 2021)
- For nonpayment of rent/other charges that came due April 1 - December 31 (the "Emergency Period"). Tenants have grace period through March 31, 2021 (or June 30, 2021 if they filled out declaration form) to pay this rent.
- For nonpayment of rent/other charges that came due January 1, 2021 or later IF Landlord fails to provide proper notice + copy of declaration form or if tenant delivers signed declaration to Landlord on/before first appearance.

**For informational purposes only. This is not legal advice. For legal advice, talk to an attorney.  
New required form and tenant declaration available on the [Oregon Courts](#) website.**

## **6. What happens if my tenant owes rent, fees or other charges from the Emergency Period (April 1 – December 30)?**

The Landlord cannot terminate the tenancy, evict the tenant or issue a related notice for nonpayment of rent/other charges that came due April 1 – December 30, 2020. The only notice that a Landlord can provide to the tenant related to nonpayment is an optional written notice that states that the tenant continues to owe any rent due but that eviction for nonpayment of rent, charges and fees accrued from April 1, 2020 to December 31, 2020 is not allowed before March 31, 2021 (or, June 30, 2021 if the Emergency Period has already been extended). If a Landlord sends this notice they must also include the new HB 4401 notice and declaration form described above. The Landlord may also include with this notice information regarding tenant resources and may offer a voluntary payment plan for the nonpayment balance. If the notice offers a voluntary payment plan, it must state that the payment plan is voluntary. The notice may include a request that the tenant contact the landlord to discuss the voluntary payment plan.

## **7. What happens if my tenant owes rent, fees or other charges from January 1, 2021 or later?**

For rent or other charges and fees accrued after January 1, 2021 the Landlord can proceed with notices and terminations for nonpayment under ORS 90.392, 90.394, and 90.630 except that the 72 and 144 hour notice periods under ORS 90.394 are now 10 and 13 day periods, respectively. **And the Landlord must provide the new HB 4401 notice and declaration form** along with any other notice they send the tenant regarding nonpayment. If the Landlord properly provides notices and the declaration form and if tenant does not deliver to landlord a signed declaration form on or before the first appearance in an eviction proceeding, then the eviction will proceed. If the Landlord fails to properly deliver notices and the declaration form to the tenant or if the tenant delivers the signed declaration form to the Landlord, the Emergency Period and Grace Period will be extended through June 30, 2021.

## **8. Is the order of payments provision of HB 4213 still in place?**

Yes. Landlords must apply payments first to the current rent, then to utility or service charges, then to late rent charges, and finally to fees or charges owed by the tenant under ORS 90.302 or related to claims against the tenant.

## **9. Can I terminate for no-cause after June 30 if the 1st year of occupancy ended during the moratorium?**

Yes. After the moratoria, no-cause terminations are allowed during the first year of occupancy. HB 4401 redefines “first year of occupancy” to last until August 31, 2021 if it would have ended between April 1, 2020 and August 31, 2021.

## **10. What are the penalties for failure to comply?**

If the Landlord violates any of the substantive prohibitions on notices of terminations and evictions; fails to deliver the new HB 4401 notice and declaration form; challenges the accuracy of a tenant’s declaration under an eviction proceeding; requires additional information from a tenant in the declaration; requires the delivery of more than one declaration per household or tenancy; prohibits the tenant from submitting the declaration in a language other than English; or prohibits the tenant from delivering the declaration in any manner, format or means available to the tenant (including by sending a copy or photograph of this form by electronic mail or text message), a tenant may obtain injunctive relief to recover possession or address any other violation and may recover from the Landlord an amount equal to three months’ periodic rent plus + actual damages and attorney’s fees (with some exceptions). HB 4401 also increases penalties for retaliation to up to three times monthly rent or three times actual damages, whichever is greater.

## **11. How does the landlord compensation fund work?**

The \$150M fund will be administered through the Oregon Department of Housing and Community Services (OHCS), by application. Interested landlords should visit [this site](#) and sign up for email updates to be notified when the application is available. Subject to available funds and an accepted application, qualifying landlords will receive from the fund 80% of the rent they are owed. To qualify landlords must have unpaid rents dating to April 1, 2020 or later, from tenants who have signed the declaration described above. The landlord must include with the application a copy of the tenants’ declarations and a description of the unpaid rent for all current tenants. Landlords must agree to forgive the remaining 20% of rent owed, to repay OHCS any amount that was forgiven by the Landlord but that they tenant nevertheless pays, and to not evict the tenant for no-cause or for nonpayment during the pendency of the application. Landlords who are members of the tenant’s immediate family do not qualify. OCHS will be prioritizing applications based on the number of units the landlord owns (higher priority to landlords with fewer units) and on the percentage of unpaid rents (higher percentage, higher priority).

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