



FAQ re SB 282 Dash Three

Tenant COVID Protections

3/16/2021

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Q: How does the Dash Three amendment differ from the Dash One amendment?

A: The Dash Three amendments make 2 significant changes to the initial proposal in the Dash One, as concessions to address landlord feedback:

- a) The provisions related to guests and occupants are amended, to ensure that landlords can screen guests for conduct if they stay longer than 15 days. The new provisions also specify that a landlord may require an extended guest to enter into a temporary occupancy agreement. There are a couple of other technical amendments to clarify issues for landlords and tenants.
- b) The presumption of retaliation for termination notices delivered to tenants who are protected by the grace period is removed.

Q: Does the bill extend the eviction moratorium?

A: No. The eviction moratorium for non-payment of current rent will expire on June 30th, 2021. Starting July 1, 2021, current month's rent will be due each month on an ongoing basis.

Q: Does the bill extend the grace period for payment of back-due rent?

A: Yes. The bill extends the grace period for payment of back-due rent that accrued during the moratorium period of April 2020-June 2021, until the end of February, 2022. This means that while tenants must resume on-going rent payments starting on July 1, they will have until the end of February to pay all the rent arrears that may have accumulated during the pandemic. This extra time will allow tenants to make payments or to apply for federal rent assistance payments to landlords. During the grace period, tenants may not be evicted for back-due rent.

Q: Can you summarize the timelines in the bill?

A: The moratorium on evictions (for nonpayment and no-cause notices) ends on June 30, 2021. The grace period for the back-due rent that accrued during the moratorium ends on February 28, 2022.

Q: When will tenants have to start paying current rent, or face eviction for non-payment?

A: Starting July 1, 2021.

Q: How long will tenants have to pay their back-due rent that accrued during the moratorium period of April 1, 2020 – June 30, 2021?

A: Until the end of February 2022.

Q: Does a tenant have to submit a hardship declaration to extend the grace period after July 1?

A: No. No declaration is required to extend the grace period.

Q: Without a declaration from the tenant, can a landlord still access rent assistance?

A: The Landlord Compensation Fund (LCF), based on landlord applications, does require that a landlord submit tenant declarations to receive assistance. Due to demand, and the funding source, that program will end before July 1st. A landlord can access rental assistance via the tenant-based applications without a declaration now. Community Action Agencies are administering rental assistance from the December Special Session now, and additional federal resources will come online in the coming months. There is no impact on, or barrier to, a landlord's ability to get rent assistance by not having a declaration from the tenant after July 1st.

Q: What notice period will tenants get for non-payment of current rent after July 1?

A: The bill temporarily extends the HB 4401 (the moratorium bill passed in December that expires at the end of June) 10-day notice of termination for non-payment, until the end of February, 2022. Prior to the pandemic, non-payment notices gave tenants only 72 hours to pay their rent in order to avoid eviction. The 10-day notice in this bill will give tenants more time, within which they may more successfully reach out for rent assistance to ensure payments to their landlord. This extended notice period expires at the end of February, 2022.

Q: Can a landlord sue to collect for back-due rent, or report back-due rent to a collection agency, before the end of the grace period?

A: No. The grace period provides until the end of February 2022 for tenants to pay back due rent. Before that date, a landlord may not sue for payment, and may not refer that debt to collections.

Q: Why does the grace period last until the end of February, 2022?

A: Because Oregon is currently at the beginning of administering \$200 million dollars in rent assistance payments to landlords. Another \$282 million dollars (Trump Administration) is expected to start going out to communities for payments to landlords starting approximately April 1. And another approximately \$300 million dollars (Biden Administration) is expected to arrive in Oregon sometime later this spring or early summer. It will take time for those dollars to get into communities and into payments to landlords. If we do not extend the grace period sufficiently, we will be letting those dollars - meant to help landlords and tenants - go to waste. Extension through the end of February will allow the legislature the opportunity to examine progress and the needs of landlords and tenants before the expiration of the grace period.

Q: How does the bill deal with FED eviction records from the pandemic period?

A: The bill provides that FED eviction records during the pandemic period, from April 1, 2020 through the end of February, 2022, may not be considered when screening applicants in future housing decisions. The bill also amends Oregon's current eviction sealing law to allow a tenant to request sealing of these records. The purpose of this protection is to address the concern that tenants who have not been able to pay and are protected from eviction for non-payment during the moratorium are getting evicted for minor violations. And once the moratorium ends, we are worried that many tenants who have not been able to catch up will face non-payment evictions. The impact of an eviction record can have lasting devastation on a person's access to credit, access to housing, and more. The bill will protect tenants from having pandemic-era FED eviction records automatically bar them from future housing, so that Oregon's low-income communities can get a fair shot to recover from the pandemic.

Q: Can a landlord still check references from the COVID pandemic period when considering new applicants?

A: Yes. A landlord can still check references and do background checks on housing applicants. The bill merely ensures that FED records from the pandemic period will not function as an automatic bar to future housing.

Q: How does the bill address credit history?

A: The bill recognizes the extreme financial insecurity caused by the pandemic, and prohibits credit history reports for rent debt that was protected during the moratorium and grace period. Landlords are also prohibited from screening tenants based on this debt. These protections are permanent, but only apply to rent debt that was protected by the moratorium and grace period. Other debt may still be reported and considered.

Q: Can a landlord sue for back-due rent after February, 2022?

Yes. Landlords can pursue tenants for back-due rent starting in March, 2022, if they have not received payments or rent assistance to cover the debt. Debt owing after that point may also be referred to credit reporting agencies and in screening decisions.

Q: How does the bill impact a landlord's ability to regulate guests?

A: As amended with the Dash 3, the bill provides that until February 28, 2022, landlords cannot impose a limit on the number of guests that is lower than any limit imposed by law or regulation. All local, state, or federal laws or regulations still apply. It is simply that the landlord may not enforce more restrictive policies. This provision of the bill is designed to address the growing concern that due to the pandemic and the wildfires, more people have had to double-up to save funds and/or to care for family members, only to suffer eviction for violation of landlord occupancy policies. The Dash Three amendment protects against eviction in these circumstances, but preserves a landlord's ability to manage the premises:

- If a guest stays longer than 15 days, landlords may screen the guest for conduct, and may require a temporary occupancy agreement. If the guest does not satisfy the landlord's otherwise permissible screening requirements, the guest may be prohibited.
- As under current law, landlords may still regulate conduct violations, and impose sanctions, including otherwise permissible fees and remedies, including eviction, on the tenant for any violations by guests.
- This section of the bill expires at the end of February, 2022.

Q: How does the bill address retaliation against tenants during the pandemic period?

A: The Dash Three amendment deletes the bill's proposed presumption of retaliation for evictions filed against tenants who owe back rent protected by the grace period. To address tenants' retaliation concerns and continue protection to tenants during this vulnerable time, HB 4401 (the moratorium bill passed in December that expires at the end of June) increased sanctions for violation of the retaliation statutes. SB 282-3 continues this provision until the end of February 2022. The damages provision sunsets in March of 2022. The Dash Three amendment makes no change to the retaliation standard.