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OLC Response to Questions Raised in Senate Housing and Development Committee

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Support for SB 799

Chair Jama, Vice-Chair Anderson, and members of the Committee:

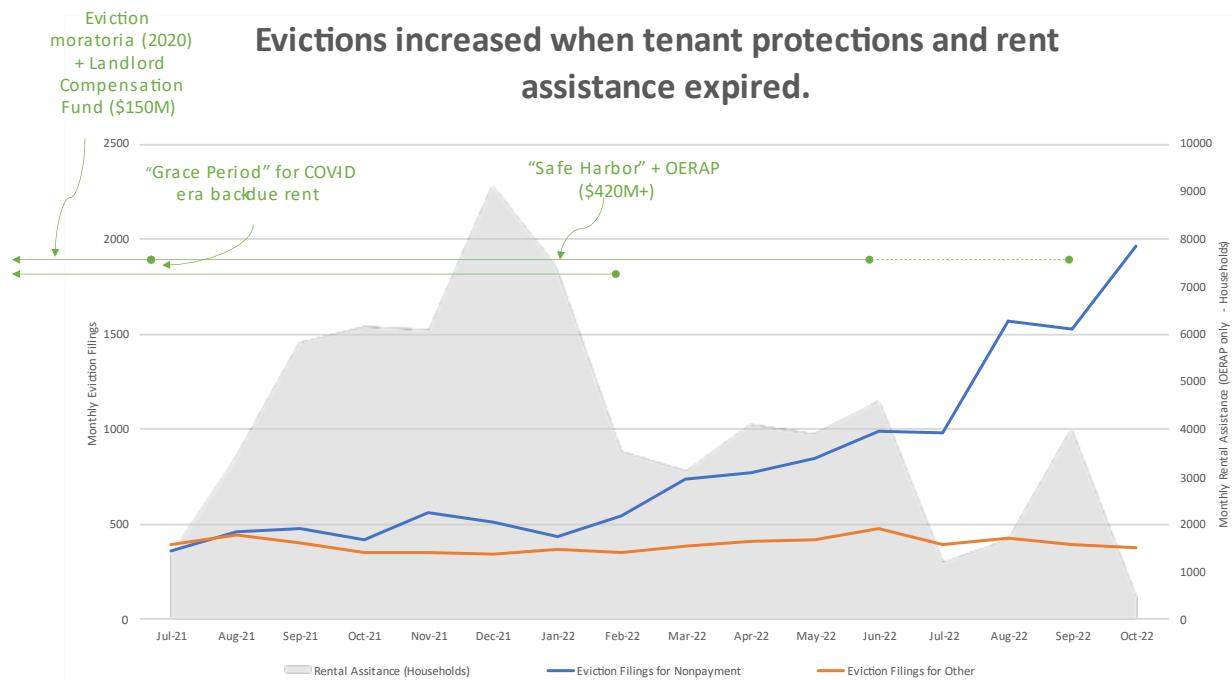
Below please find responses to questions raised in committee yesterday.

1) For the court-filed eviction cases per month presented, do you have additional data or resources about the reasons specified for evictions?

There is no official summary report of eviction data that is produced by any state agency. Since January of 2021, the Oregon Law Center's Eviction Defense Project has been tracking data by doing specific review of Oregon Judicial Department records.

OLC's data indicate that for the months of October, November, and December 2022, after expiration of the pandemic protections, there was a spike in court eviction filings, to an average of 2,155 filings per month. As detailed in our [powerpoint](#) on OLIS, this is a 43% increase over filing numbers pre-pandemic. In those months, our lawyers identified that 86% of the filings were for nonpayment. Other reasons for eviction included 1) lease violations other than nonpayment or 24-hour outrageous conduct (6%), 2) 24-hour termination for outrageous conduct (2%), no cause notice (2%), landlord-based business reason (1%) and tenant-initiated termination (0.5%).

OLC's data reflects that from July of 2021 through October of 2022, the number of eviction causes other than nonpayment remained relatively steady (reflected in the orange line in the graph below) while nonpayment cases spiked noticeably when rent assistance and eviction protections expired.



2) For the court-filed eviction cases per month presented today, do you have additional data or resources pointing to how many result in an eviction?

In answer to this question, it is important to note that eviction court filing numbers are just the tip of the iceberg in measuring tenant displacement. [Studies](#) indicate that approximately 2-5x the number of people who face formal court eviction filings are displaced through informal evictions, for example when they receive termination notices or warnings from their landlords, and move out due to fear of not being able to defend themselves and in an effort to avoid the negative consequences of a court filing on their record.

Some terms that are useful to distinguish:

- **Nonpayment termination/eviction notice:** Sometimes this is referred to as a termination notice and sometimes this is referred to as an eviction notice. The tenants who receive these notices think of them as eviction notices. This is the written notice that a landlord gives to a tenant alleging that the tenant is behind on rent, and informing the tenant that they need to pay an amount within 72 hours, or vacate the unit within 72 hours, otherwise the landlord will file a court eviction proceeding. There is no record of how many of these notices are delivered to tenants, because they are not formally tracked or recorded anywhere.
- **Informal eviction:** This is a term used to describe displacements that happen outside the formal court process. Often, tenants panic upon receipt of termination notices, due to inability to access support or information within the notice timeline, and some tenants move out or “self-evict” in a desperate effort to avoid a court proceeding on their record.
- **Eviction court filing/FED:** The formal name for an eviction court filing is a filing for “Forcible Entry and Detainer” sometimes referred to as an “FED” proceeding. Most people refer to these proceedings as eviction proceedings. This is the formal court proceeding that can be initiated by the landlord immediately after the expiration of the termination notice.

OLC has tracked data about outcomes for tenants of court nonpayment eviction filings. Below is a sample month, December 2022, showing a minimum of 43% of nonpayment eviction court filings end in tenant displacement, with a probable displacement rate of 51%. The chart below reflects 43% displacement using the hard numbers available for the month of December, and projects probable rates by applying our numbers showing that approximately 30-40% of recorded payment stipulations (shaded in grey in the chart) end in a noncompliance court judgment due to the tenant’s inability to meet the demands of unrealistic payment plans. For these reasons, we calculate that approximately 35% of stipulated agreements (or, 8% of the total) result in additional displacements.

DECEMBER 2022 Results for Nonpayment Cases		As of 1/29
In December, there were 2036 Eviction Filings, 1745 (86%) of which were for nonpayment		
% Dismissal – case against T dismissed		28%
% Awaiting first appearance		2%
% Agreement of some sort, but detail not in case file		0.3%
% Stipulated agreement to payment plan or conduct		24%
% Set for trial		3%
% Judgment for T at trial		0.5%
% Judgment for LL at trial		2%
% Stipulated agreement to move out		20%
% Default judgment against T		21%
MINIMUM TOTAL Displacement		43%
PROJECTED TOTAL Displacement* is 51%, calculated by adding 8% to minimum total to account for anticipated judgments against tenants who cannot comply with their payment plan.		

3) What are the timelines for nonpayment court evictions under current law?

Day	Current nonpayment eviction timeline
1	Rent Due
5	Late fees (ORS 90.260) If Tenant hasn't paid by the 4 th , late fees can be assessed on the 5 th
8	72 Hour Termination Notice for unpaid rent (ORS 90.394) Gives T 72 hours to pay, or move out. Otherwise, LL can file court eviction. If T hasn't paid by end of the notice period, T has no further legal defense to case and LL can refuse to accept payment even if T offers all amounts owed. No requirement that the notice include information about legal assistance or rent assistance, no language accessibility. <i>Note: 72 hours is a virtually impossible deadline to meet, and many tenants start to move in a panic at this point, in hopes of avoiding an eviction filing on their record.</i>
12	Court filing and FED Summons Served on Tenant
20	First Court Appearance (ORS 105.135) If T misses this date, a default judgment is entered against the T.
35	Trial no later than 15 days from 1 st Appearance (ORS 105.137) If Tenant fails to appear or loses at trial, must move in 4 days or be locked out by the sheriff (ORS 105.151)

Conclusions: The court filing data above shows us trends, and those trends show that eviction filing numbers have spiked well over pre-pandemic levels. Over the last three years, it has been clear that a combination of tenant protections and rent assistance substantially reduced eviction filings, preventing thousands of Oregonians from the risk of homelessness.

Court filings signify the start of a fast, intimidating, and unforgiving process for tenants. Over 20% of tenants in court proceedings end up with a default judgment against them right away, without any opportunity to negotiate with the landlord or to find help, due to extremely short timelines and lack of information or assistance.

A 2018 study by the National Law Center on Homelessness and Poverty found that “Evictions, whether through formal court proceedings or other methods of involuntary displacement from housing, are a direct cause of homelessness—either immediately or after social safety networks are exhausted.” The study references multiple surveys in various states that found that evictions have a significant impact on the likelihood of homelessness.¹

As we struggle with one of the highest rates of unsheltered homelessness in the nation, at a time of record low vacancy rates and rising rents, we must do all we can to stabilize housing for the 40% of Oregon households across the state who rent their homes. Senate Bill 799 will modify our eviction process so that tenants have the time needed to get help, so that landlords get paid and tenants stay housed.

I hope this answers the questions presented in yesterday's hearing. Thank you for your time and attention, and don't hesitate to contact me with further questions.

Sincerely,
Sybil Hebb

¹ https://homelesslaw.org/wp-content/uploads/2019/09/NLC_Annual2018_P9.pdf