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HOUSING MARKET

## The Challenge of Oregon's Rent Relief Programs

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As the global pandemic persists, much uncertainty remains regarding the financial fate of landlords and tenants. The urgency of controlling the virus, preventing eviction-related infections, and the contentious US political situation has left us with an awkward mismatch of programs for rental assistance. Over recent months, many newly-created relief funds, congressional actions, emergency declarations, and new laws at both the federal and state levels have been hastily established to provide economic security and avoid financial collapse.

Though several distinct funds apportioning hundreds of millions of dollars have since been established to specifically aid tenants and landlords in Oregon, the rapid and constant change in program requirements have left some participants confused and scrambling to meet deadlines. Complicated application portals and forms and a perceived shortage of available staff have challenged tenants from correctly submitting applications, slowing down the ability to get relief funds into the hands of those who need them. In response to the slowdown, the Oregon Housing and Community Services (OHCS) has added an additional 63 staff and introduced a third party vendor to reduce delays in the tri-county area.

This article will discuss the evolution of the various relief programs in the state of Oregon, including changes aimed to provide additional tenant protections and increase landlord access to assistance funds. Thus far, the slow distribution of these programs and the looming expiration of federal and state eviction moratoriums have created additional pressure for many tenants. On August 3, 2021 the Center For Disease Control (CDC) extended the existing federal moratorium through October 3, 2021, which should allow tenants additional breathing room for the time being. However, the most recent Multifamily NW Monthly Rent Survey (June 2021) found that 12% of households in Oregon were unable to pay their rent by the 15th of the month, an improvement from the 13.2% reported in May 2021, but alarming nonetheless.

## **OREGON'S RENT RELIEF PROGRAMS**

Oregon has two major funds for rent relief, with a combined total of more than \$400 million in funding. Under the CARES Act of March 2020, approximately \$204 million of Federal funds were made available to Oregon to help qualified renters meet their rent obligations. OHCS implemented this with the creation of the Oregon Emergency Rental Assistance Program (OERAP) overseen by OHCS. An additional amount of \$76 million was also allocated to the City of Portland, and several surrounding counties. The second major source of relief funding was established in December 2020 at the state level with the passing of House Bill 4401. This created the Landlord Compensation Fund (LCF) in the amount of \$150 million. The key difference in these programs is the party responsible for

submitting an application. For the Federal program, tenants must apply for assistance themselves, while the state program directs landlords to apply for themselves. The two programs cannot be used simultaneously in a manner that would overlap the funds received, and participants are recommended to choose just one program. Several smaller county-wide and additional local programs also exist, which we will discuss below.

### **OREGON EMERGENCY RENTAL ASSISTANCE PROGRAM (OERAP)**

The processing of applications to the federally funded OERAP has been very slow. As of August 4, 2021, OHCS reported that 25,000 households have requested \$183 million in funds, yet only 1,290 have actually been paid an amount just less than \$8 million – an abysmal 4.37% rate of distribution. When funds are distributed, OHCS makes a transfer to the landlord, who sends the approved tenants a notice regarding the rent paid on their behalf. If a landlord refuses to participate in the program, tenants are able to receive their rent directly (with some restrictions) in order to remedy their debt. The program itself is designed to provide up to 12 months of assistance for rental obligations from March 13, 2020 through the present, as well as a possibility of three months of future rent under certain conditions.

The official website for the OERAP states that the program is designed to serve renter households that have incomes less than 80% of the Area Median Income (which falls between roughly \$51,500 - \$77,350 for a family of four, depending on the county). Those households must meet the following conditions:

- Individuals in the household must have either qualified for unemployment benefits, experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due to the coronavirus outbreak; and
- Individuals in the household must demonstrate a risk of experiencing homelessness or housing instability evidenced by a past due utility or rent notice.

Although the ambiguity presented in these requirements is helpful for tenants, the unclear definition of “financial hardship” has left some landlords wondering whether or not their tenants are being completely honest about their ability to come up with rent payments when they know government assistance is available. This potential dynamic, combined with the lag in assistance payment delivery, is shifting the financial burden to some landlords. This result is even more unfair when tenants may actually have the means to catch themselves up on rent without the added assistance.

## LANDLORD COMPENSATION FUND (LCF)

The creation of the \$150 million Landlord Compensation Fund (LCF) through House Bill 4401 at the end of 2020 was designed to avoid some of the administrative pitfalls suffered by the OERAP fund. Landlords can initiate the application process directly. However, the LCF program is not without its complexities. First, in order to qualify, a landlord must receive a signed declaration of hardship from each tenant affected. In the months since its initial funding, the LCF has seen multiple iterations and changes. In the earliest round of application and distribution, OHCS (who also ultimately oversees this fund) reported that only \$40 million of the expected \$50 million was claimed.

Under the initial version of the law, landlords were to receive repayment for 80% of the outstanding unpaid rent by tenants accrued between April 1, 2020 and June 30, 2021 - the day the statewide eviction moratorium was slated to end. The remaining 20% was to be forgiven and uncollectable from tenants, even in the case that they could indeed produce the rent after the fact. Landlord applications, which are approved by OHCS based on number of units (less units being favored) and percentage of unpaid debt, are then sent to the corresponding local Public Housing Authority (PHA), who is charged with distributing the funds directly to landlords, and notifying tenants of the rent paid on their behalf.

During the second round of funding, an additional \$45 million was requested by landlords for a total of \$85 million in relief funds. In partial response to the sluggish disbursement of statewide funds, the legislature passed Senate Bill 278 in June, 2021. This legislation added incentives to help increase the amount of funds that could be distributed. Under this revised law, landlords' reimbursement amount was increased from 80% to 100% of unpaid rent during the accrual period mentioned above, with a retrospective and automatic refund of the additional 20% to each landlord who previously applied under the initial rules.

Additionally, the bill expanded the collectability of unpaid rents to include pet rent and garage rent, and removed the requirement for OHCS to "score" each landlord before sending them to a local PHA. In addition, a new source of grant money was created to reward landlords who have not proceeded with an allowed eviction process. This new fund was designed to incentivize landlords to bear the burden just a while longer in order to prevent tenants from ending up on the street. To further speed things up, the monthly rounds for distribution were also reduced to a "weekly-rolling basis". Landlord applications to round three for the LCF closed June 23, 2021, with a potential \$65 million dollars remaining to be allocated.

## **OREGON SENATE BILL 282**

In addition to Senate Bill 278, another bill – Senate Bill 282 – was passed in May, 2021, to provide an extension of the eviction process grace period for renters who owe past-due rent through February 28, 2022. This extension became effective July 1, 2021 for all renters regardless of whether they submitted a declaration of financial hardship, and protects them from negative scrutiny regarding rent accrued between April 1, 2020 and June 30, 2021.

Commencing July 1, 2021, current rent is now due and payable for all renters as required in their lease agreements. The extension granted by the bill only applies to those who have the prior unpaid rent. This bill was also intended to protect tenants' credit from being negatively affected if they have unpaid rent from that accrual period. Landlords are now lawfully required to disregard any unpaid balances from the accrual period when accepting new rental applications, and current landlords cannot charge late fees on the unpaid rent unless it still remains after the February 28, 2022 expiration. Tenants are not being forgiven of any rent due, and the purpose of the bill is to allow them time to gather funds through the various relief programs, and potentially find new housing without running into additional credit issues.

## **ADDITIONAL COUNTY AND LOCAL RELIEF PROGRAMS**

At the municipal level, several additional programs provide rental assistance in the Portland Metropolitan Area. The City of Portland was allocated funds under the CARES Act, and subsequently created the Portland COVID-19 Household Assistance Program (CVHAP) which issued one-time preloaded \$500 bank cards to qualifying applicants in the early stages of the pandemic. Additionally, the Portland Housing Bureau, the Joint Office of Homeless Services, Multnomah County's Department of County Human Services, and Home Forward (Multnomah County's public housing authority) teamed up to provide \$25 million of rent assistance through the COVID-19 Rent Relief Program (CVRRP).

In Washington County, all CARES funds have been exhausted as of August 2021. However, additional funding in the amount of \$116 million is being made available from the American Rescue Plan Act (ARPA) passed by Congress in March, 2021, which can be used for relief through 2024. Distribution details are unclear at this time, but additional funding through ARPA will also be allocated to the state and other neighboring counties.

## **EVICITION MORATORIUMS**

Included within Senate Bill 278 is an extension of the statewide eviction moratoriums for tenants who complete an application for

rent relief funds. The extension will begin once the landlord receives the documentation, not necessarily the disbursement of funds. Specifically in Multnomah County, Ordinance 1296 was passed July 8, 2021 to extend this 60-day grace period to 90-days for those who live within the county. As mentioned previously, the federal CDC-mandated moratorium was recently extended to October 3, 2021.

## **CURRENT ISSUES AND DYNAMICS**

The pandemic hasn't spared anyone - be it landlord, tenant, lender, or political leader. Through the quick passage of rent relief programs, it seems that we've avoided the worst outcomes. The sheer number of programs, requirements, applications, online portals, and amended laws isn't easy to keep up with, but they reflect the continuous adjustment to new circumstances.

Perhaps the worst aspect of the current system or rental relief payments is the strange dynamic that's been created between landlords and tenants. In order to safely navigate existing tenant privacy laws regarding health status, federally-funded programs in Oregon direct each tenant to apply individually, which can become an additional burden to an already struggling household. Those who require rental assistance likely also receive a combination of unemployment, SNAP benefits, TANF benefits, utility assistance and other benefits – each of which has its own distinct application rules, legal requirements, and application portals. In the age of COVID, local agency offices are often shuttered, forcing people to seek help via phone or online, navigating a maze of legal jargon and outdated documents.

The passage of Senate Bill 282 should help tenants avoid the fear of credit damage related to their unpaid rent, which even further discourages them from completing a rental assistance application. However, we've created a dilemma where a tenant's initiative is necessary to provide assistance their landlord. For those landlords who do manage to convince their tenants to apply - assuming they correctly fill out the application - the extremely slow processing and approval of applications forces landlords to finance unpaid rent for months at a time. For those who own many buildings and units, this cost differential could easily reach the millions of dollars – a tough pill to swallow for even the most well-capitalized landlords. As we continue to move towards the tail end of the pandemic, many landlords are holding their breath, just hoping to survive.

## RESOURCES

1. [https://www.thechronicleonline.com/news/speeding-up-the-process-state-hiring-more-workers-for-rental-assistance-program/article\\_457f837c-f571-11eb-a75e-d769b84a0c9a.html](https://www.thechronicleonline.com/news/speeding-up-the-process-state-hiring-more-workers-for-rental-assistance-program/article_457f837c-f571-11eb-a75e-d769b84a0c9a.html)
2. <https://www.multifamilynw.org/news/cdc-moratorium-extension--october-3-2021>
3. <https://www.multifamilynw.org/news/june-2021-monthly-rent-survey-results>
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5. <https://public.tableau.com/app/profile/oregon.housing.and.community.services/viz/OregonERAWeeklyReportDashboard/LandingDash>
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7. <https://www.oregon.gov/ohcs/housing-assistance/Pages/emergency-rental-assistance.aspx>
8. <https://www.oregon.gov/ohcs/housing-assistance/Pages/landlord-compensation-fund.aspx>
9. <https://www.oregon.gov/ohcs/housing-assistance/Documents/LCF/Factsheet-Landlord-Compensation-Fund.pdf>
10. <https://www.oregon.gov/ohcs/housing-assistance/Documents/LCF/06-10-2021-LCF-FAQ.pdf>
11. <https://www.portland.gov/phb/rental-services/helpdesk/oregon-eviction-moratorium-faq#toc-what-protections-have-been-passed-related-to-covid-19-housing-protections>
12. <https://lcf.oregon.gov/lcf>
13. <https://www.portland.gov/phb/housing-assistance-programs>