



## Access to Justice

# New Rules for Landlords

*It is important to realize that changes may occur in this area of law. This information is not intended to be legal advice regarding your particular problem, and it is not intended to replace the work of an attorney.*

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### Does SB 608 apply to my tenancy?

The provisions of SB 608 apply:

1. To any fixed-term tenancy entered into or renewed after February 27, 2019;
2. To the termination of any month-to-month tenancy; and
3. To all rent increase notices.

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### How do I send a termination notice to a tenant?

SB 608 did not change how termination notices are issued. Any termination notice must be in writing (paper, not email or text) and can be served by personal hand-to-hand delivery or first-class mail (add three additional days to any notice period if using first-class mail). Some rental agreements allow the use of “post and mail,” but only if certain necessary information is contained within the rental agreement and other conditions are met.

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### Can I terminate a month-to-month tenancy under SB 608?

In most jurisdictions, a landlord can issue a written 30-day “no cause” eviction to month-to-month tenants during the first year of occupancy. In other jurisdictions, including Portland and Milwaukie, 90 days notice are required instead of 30 days. “First year of occupancy” means the first year *of any tenant’s residency* at a rental property with a month-to-month rental agreement.

After the first year of occupancy, a landlord with month-to-month tenants can issue a 90-day termination notice if the landlord has a “qualifying landlord reason.” (*See below for a discussion of qualifying landlord reasons.*) If a landlord has a qualifying landlord reason justifying a 90-day termination notice, the landlord must:

1. Issue a termination notice that states the reason for the termination and supporting facts allowing termination;
2. State the rental agreement will terminate on a specified date at least 90 days later; and
3. Pay the tenant one month’s rent when the written termination notice is issued, UNLESS the landlord has an ownership interest in four or fewer residential dwelling units in Oregon. Ownership interest includes being sole owner of a premises, a co-owner of a premises, or an owner of an LLC that owns real property.



A landlord can also issue a “no cause” termination notice after the first year of occupancy if the landlord’s primary residence is in the same building or on the same premises as the tenant, and the building or premises only has one or two dwelling units. This could occur if a tenant lives in an ADU on the premises. In most jurisdictions this is a 60-day notice; in others, including Portland and Milwaukie, a 90-day notice is required.

Additionally, a landlord can issue a “no cause” termination notice after the first year of occupancy if:

1. The landlord’s primary residence is in the same building or on the same premises as the tenant;
2. The building or premises only has one or two dwelling units;
3. The landlord has accepted an offer to sell a dwelling unit separately from any other unit;
4. The buyer is a person who intends in good faith to occupy the unit as the buyer’s primary residence; and
5. Within 120 days after accepting the purchase offer, the landlord provides the tenant with written notice of termination with a specific termination date and written evidence of the offer to purchase the dwelling unit.

The time period for this type of notice is 30 days in most jurisdictions; it is 90 days in Milwaukie and Portland.

Finally, a landlord can issue a written “for cause” termination notice at any time during the tenancy. Reasons for terminating a tenancy “for cause” include, but are not limited to: material breach of the rental agreement or ORS 90.325 (ORS 90.392), failure to pay rent (ORS 90.394) and outrageous conduct by a tenant (ORS 90.396). Each of these “for cause” terminations has its own notice requirements.

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### Can I terminate a fixed-term tenancy under SB 608?

A landlord can issue a written “for cause” termination notice at any time during this type of tenancy for the same reasons as a month-to-month tenancy, including the statutory provisions mentioned in the last paragraph above.

For a fixed-term tenancy with an expiration date within the first year of occupancy, the landlord may terminate the tenancy at its expiration without cause by giving the tenant 30 days\* written notice. That means 30 days prior to the ending date of the fixed term, or 30 days prior to the date designated in the notice for the termination of the tenancy, whichever is later. (\*90 days written notice in certain jurisdictions, including Portland and Milwaukie)

For a fixed-term tenancy with an expiration date after the first year of occupancy, the fixed-term tenancy automatically becomes a month-to-month tenancy at its expiration unless:

1. The landlord and tenant agree to a new fixed-term tenancy;
2. The tenant gives 30-day written notice of termination; or
3. The landlord has a “qualifying landlord reason” to issue a 90-day termination notice.

A landlord may terminate a fixed-term tenancy at its expiration without cause by giving the tenant notice not less than 30 days prior to the expiration date for the fixed term, or 30 days prior to the date designated in the notice for the termination of the tenancy, whichever is later (90 days in Portland or Milwaukie), if:

1. The landlord resides in the same building or on the same premises as the tenant; and
2. The building or the property has one or two dwelling units.

“Three Strikes Rule” — During a fixed-term tenancy, a landlord can prevent a fixed-term tenancy from becoming a month-to-month tenancy if:

1. The tenant has committed three or more violations of the rental agreement within the preceding 12-month period;
2. The landlord has given the tenant a written warning notice at the time of each violation; and
3. The landlord issues written notice at least 90 days before the end date for the fixed term or 90 days before the termination date in the notice, whichever is later.

Each written warning notice must:

1. Specify the violation;

2. State that the landlord may terminate the tenancy at the end of the fixed term if there are three violations within a 12-month period during the fixed term; and
3. State that correcting the third or subsequent violation is not a defense to eviction.

The 90-day notice of termination for a “Three Strikes Rule” termination must be in writing and:

1. State that the rental agreement will terminate upon the ending date for the fixed term or upon a designated date at least 90 days after delivery of the notice, whichever is later;
2. Specify the reason for the termination and supporting facts; and
3. Be served to the tenant concurrent with or after the third (or final) written warning notice.

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### What are the “qualifying landlord reasons” under SB 608 when a landlord can issue a 90-day termination notice?

The “qualifying landlord reasons” for termination are:

1. The landlord intends to demolish the dwelling unit within a reasonable time;
2. The landlord intends to convert the unit to a use other than residential use within a reasonable time;
3. The landlord intends to undertake repairs or renovations to the dwelling unit within a reasonable time and:
  - a. The premises is currently unsafe or unfit for occupancy; or
  - b. The dwelling unit will be unsafe or unfit for occupancy during the repairs or renovations;
4. The landlord has accepted an offer to sell a dwelling unit separately from any other unit and:
  - a. The buyer is a person who intends in good faith to occupy the unit as the buyer’s primary residence; and
  - b. Within 120 days after accepting the purchase offer, the landlord provides the tenant with written notice of termination with a specific termination date and written evidence of the offer to purchase the dwelling unit.
5. The landlord intends:
  - a. For the landlord or a member of the landlord’s immediate family to occupy the unit as a primary residence; and
  - b. The landlord does not own a unit in the same building that is available for occupancy at the same time that the tenant receives notice to terminate the tenancy.

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### How can I increase the rent under SB 608?

During any 12-month rolling period, most landlords may not increase the existing rent by more than 7 percent plus the Consumer Price Index (CPI). The Oregon Department of Administrative Services will publish the maximum annual rent increase allowed. The maximum rent increase for 2023 is 14.6 %.

A landlord is not subject to this limitation on rent increases if:

1. The first certificate of occupancy for the dwelling unit was issued less than 15 years before the rent increase notice; or
2. The dwelling unit is regulated or certified as affordable housing by a federal, state or local government and the change in rent:
  - a. Does not increase the tenant’s portion of the rent; or
  - b. Is required by program eligibility requirements or by a change in the tenant’s income.

A rent increase notice must be in writing and state:

1. The amount of the rent increase;
2. The amount of the new rent;
3. The date on which the increase becomes effective; and

4. If the increase is more than 7 percent + CPI, the facts supporting why the landlord is not subject to the rent increase limitation.

A landlord who terminates a tenancy with a “no cause” termination notice during the first year of occupancy may not increase rent for the next tenancy by more than the maximum annual rent increase, which is 14.6 % for 2023. This applies with a “no cause” termination notice under ORS 90.427 (3) (termination of month-to-month tenancy during first year) or ORS 90.427 (4) (termination of fixed-term tenancy to prevent it from becoming month-to-month).

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## How does HB 2001 impact my tenancy and terminations of that tenancy?

HB 2001 was enacted on March 29, 2023, and became immediately effective on passage.

HB 2001 redefines the statutory meaning of nonpayment, extends the time given for nonpayment termination notices (back to 10/13 days as during COVID protections), requires additional information and disclosures in nonpayment termination notices and summons, and also extends the eviction timelines, which will delay resolution of FEDs (evictions). There is no repeal date included within HB 2001.

Specifically, HB 2001 does the following:

1. Eliminates 72-hour nonpayment of rent termination notices, and changes the timeline to 10 days. It also eliminates 144-hour nonpayment of rent termination notices, and changes that timeline to 13 days. This does not include 3 additional days for first class mailing.
2. Requires a landlord to deliver the attached NOTICE RE: EVICTION FOR NONPAYMENT OF RENT. This notice must be included with a 10-day nonpayment of rent termination notice, 13-day nonpayment of rent termination notice, or 30-day for-cause termination notice for nonpayment. An FED is subject to court dismissal if landlord fails to deliver this Notice.
3. Requires the Court to dismiss any FED if (a) a tenant tenders rental assistance or payment (or causes rental assistance or payment to be tendered by a 3rd party) that covers the nonpayment amount owed under the termination notice anytime prior to an FED Stipulated Agreement or FED judgment, or (b) the landlord causes the tenant to not tender rent, including as a result of the landlord’s failure to reasonably participate with a rental assistance program. A landlord must allow a tenant to make payment during the FED.
4. Changes the definition of ‘nonpayment’ to mean the nonpayment of a payment that is due to a landlord for rent, late charges, utility or service charges, or any other charge or fee as described in the rental agreement or ORS 90.140. However, “nonpayment” does not include payments owed by a tenant for damages to the premises.
5. Extends scheduling FED first appearance dates and trial dates for nonpayment FEDs.
6. Requires a landlord to attest (via a Declaration or Affidavit) that the landlord does not have knowledge that the tenant has relinquished possession of the premises to landlord, and that landlord reasonably believes that the tenant remains in possession of the premises. Landlords who do not provide this testimony cannot get a default judgment against tenants who fail to appear at a first appearance hearing.



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