

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 813
OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

FILED

10/22/2021 9:42 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Enact HB 2101 from the 81st Oregon Legislative Session into rule.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/30/2021 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Oregon Housing and Community Services
Salem, OR 97301

Filed By:
Jacqueline Ladewig
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/17/2021

TIME: 10:00 AM - 11:00 AM

OFFICER: Sheila Parkins

ADDRESS: ZOOM Virtual Hearing

725 Summer St NE Suite B

Salem, OR 97301

SPECIAL INSTRUCTIONS:

<https://us02web.zoom.us/join/9tZ0tc--trTwtGNTdh7csiNtWRFflspuTx4Cm>

NEED FOR THE RULE(S)

Enact HB 2101 from the 81st Oregon Legislative Session into rule. Eliminates the requirement for a small claims judgment and amends the timeline in which to apply to the Housing Choice Landlord Guarantee Program. Eliminates per-landlord limit and unpaid rent limit for reimbursements under the Rent Guarantee Program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Amendments mandated by HB 2010 of the 81st Oregon Legislative Session:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2101/Enrolled>

FISCAL AND ECONOMIC IMPACT:

There is no fiscal or economic impact estimated.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There is no expected cost to comply by state agencies, local government or public members.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

There is no expected costs to comply by small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A Rules Advisory Committee was not needed as the changes in rule were based on mandated Legislative changes from HB 2101 of the 81st Oregon Legislative Session.

HOUSING IMPACT STATEMENT:

These rules do not affect the cost of development of a 6000 square foot parcel and the construction of a 1200 square foot detached single-family dwelling on that parcel.

RULES PROPOSED:

813-360-0010, 813-360-0030, 813-365-0015, 813-365-0030

AMEND: 813-360-0010

RULE SUMMARY: House Bill 2101 Amends definitions to include a complete application in form and format prescribed by OHCS.

CHANGES TO RULE:

813-360-0010

Definitions ¶¶

Terms used throughout this division (OAR 813-360) may be defined in Oregon Revised Statute (ORS) or in the OHCS General Definitions (OAR 813-005-0005). Terms used within this division observe those definitions, except as defined. For the purposes of this division:¶¶

(1) "Application" means an completed application in the form and substance acceptable to format prescribed by OHCS submitted by a landlord for HCLGP assistance to reimburse the landlord for qualifying damages.¶¶

(2) "Housing Choice Landlord Guarantee Program" or "HCLGP" means the program administered by OHCS pursuant to this division and ORS 456.375 to 456.390.¶¶

(3) "Housing Choice Voucher Program" is as defined in ORS 456.375(1).¶¶

(4) "Landlord" is as defined in ORS 456.375(2).¶¶

(5) "Program assistance" or "HCLGP assistance" means eligible reimbursement funding to a landlord by OHCS from the Housing Choice Landlord Guarantee Program Fund in response to an complete application submitted to OHCS.¶¶

(6) "Tenant" is as defined in ORS 456.375(4).

Statutory/Other Authority: ORS 456.555

Statutes/Other Implemented: ORS 456.375 to 456.390

AMEND: 813-360-0030

RULE SUMMARY: House Bill 2101 eliminates requirement of a small claims judgment and amends the timeline in which to apply for the Housing Choice Landlord Guarantee Program.

CHANGES TO RULE:

813-360-0030

Landlord Eligibility

- (1) In order to be eligible for HCLGP assistance, a landlord must ~~first obtain a judgment w~~submit a monetary award against tenant(s) from a court in the county in which the tenant(s) or the property is located, and: ¶
(a) ~~The judgment must be from a circuit court, the small claims department of a circuit court, or a justice court;~~ ¶
(b) ~~The period for appeal of the judgment must have expired without appeal or the judgment must otherwise not be subject to further judicial review; and~~ ¶
(c) HCLGP assistance is limited to reimbursement for those items and amounts covered in the judgment. complete application, in form and format prescribed by OHCS. ¶
- (2) HCLGP assistance may be provided for reimbursement of qualifying damages, including, but not limited to the following: ¶
(a) Property damage; ¶
(b) Unpaid rent; ¶
(c) Attorney fees, court costs, and interest, but does not include eviction costs or fees; ¶
(d) Loss of rental income during the time required for repairs with respect to qualifying property damage; ¶
(e) Lease-break fees; and ¶
(f) Other costs related to lease violations by a tenant. ¶
- (3) In addition, for a claim of damages to qualify: ¶
(a) The damage amounts must be incurred from an eligible tenant occupancy that began after July 1, 2014; ¶
(b) The damage amounts must be caused by the tenant's occupancy, pursuant to a rental agreement under the Housing Choice Voucher Program, in effect at the time the damage was incurred; ¶
(c) Property damage amounts must exceed normal wear and tear; and ¶
(d) The total damage amounts must be in excess of \$500, but not more than \$5,000 per tenancy. ¶
- (4) A landlord may not seek, accept or retain HCLGP assistance from OHCS for amounts paid to the landlord for qualifying damages by the tenant or by a third party. ¶
- (5) If, after submitting an application for HCLGP assistance to OHCS, a landlord receives payment from a tenant or a third party for any damages identified in the application for assistance, the landlord must notify OHCS within 10 days of such payment. ¶
- (6) A landlord must provide restitution to OHCS for overpaid HCLGP assistance within 45 days. ¶
- (7) OHCS shall maintain a record of HCLGP assistance provided to a landlord to assist it in determining if there has been an overpayment of HCLGP assistance to that landlord. ¶
- (8) To receive HCLGP assistance, the landlord must submit an complete application, satisfactory to OHCS, along with supporting documentation as requested in the application. The HCLGP application shall be available on the OHCS website. ¶
- (9) A landlord must submit to OHCS an application for HCLGP assistance within one year ~~from following the date~~ of the expiration of the right to appeal a qualifying judgment against a tenant or the date after which the judgment is not subject date that; ¶
(a) The tenancy terminates; ¶
(b) The landlord obtains possession of the dwelling unit; or ¶
(c) Payments from the Housing Choice Voucher Program to further appeal; the landlord terminate. ¶
- (10) OHCS will review applications and make awards of HCLGP assistance for qualifying applications within 45 days of its receipt of all required information. OHCS may choose to require the submittal of additional or clarifying information. ¶
- (11) If a landlord obtained a small claims judgement from their local circuit court for any expenses claimed from the HCLGP, they must file a satisfaction of judgment in the amount of any HCLGP assistance received from OHCS in the court from which the judgment against the tenant was obtained. A copy of this filed satisfaction must be delivered to OHCS within 30 days of the claimant's receipt of HCLGP assistance.

Statutory/Other Authority: ORS 456.555

Statutes/Other Implemented: ORS 456.375 to 456.390

AMEND: 813-365-0015

RULE SUMMARY: House Bill 2101 eliminates per-landlord limit and unpaid rent limit for reimbursements under the Rent Guarantee Program and incorporates current procedures.

CHANGES TO RULE:

813-365-0015

Manual

The Rent Guarantee Program Operations Manual (RGP Manual) with the requirements and standards therein, dated ~~June~~January 1, 2020, is incorporated into and adopted as part of this division of administrative rules, by reference. The RGP Manual may be accessed online at the OHCS website.

Statutory/Other Authority: ORS 456.555

Statutes/Other Implemented: ORS 458.505

AMEND: 813-365-0030

RULE SUMMARY: House Bill 2101 eliminates per-landlord limit and unpaid rent limit for reimbursements under the Rent Guarantee Program.

CHANGES TO RULE:

813-365-0030

Eligibility

(1) In order to be eligible for RGP funds, a program provider must have an executed Program Provider-Landlord Agreement.¶

(2) Applications for qualifying damages are submitted after an eligible tenant's vacancy of an RGP-covered unit, either by voluntary move-out or by eviction. Landlords have 30 days in which to submit a request for funds to the program provider, from the date that the landlord takes possession of the unit.¶

(3) Qualifying damages that occurred within the first 12 months of an eligible tenant's occupancy may not exceed \$5,000 per eligible landlord request and include, but are not limited to:¶

(a) Unpaid rent (~~limited to a maximum of \$2,000 per eligible tenant~~);¶

(b) Property damages beyond normal wear and tear and caused by the tenant or the tenant's occupancy; and¶

(c) Eviction costs include court filing fees, attorney fees, and serving of notice.¶

(4) An eligible tenant is one that meets the requirements of ORS 456.608(2).¶

(5) Program providers must submit to OHCS an RGP application, in form, format and substance satisfactory to OHCS, within 10 days from the date that the landlord submits a request for funds to the program provider. ¶

(6) Program providers must certify that the application details and supporting documentation (i.e., final security deposit accounting, move-in and move-out inspection checklists, applicable receipt or proof of damages, documentation of non-payment of rent) have been received from the landlord and have been reviewed and verified by the program provider. Program providers must keep all application information within the tenant file. ¶

(7) The RGP application shall be available on the OHCS website.¶

(8) A submitted application is subject to approval, including as modified by OHCS, or disapproval by OHCS.

Statutory/Other Authority: ORS 456.555

Statutes/Other Implemented: ORS 458.505, 2017 Oregon Laws, Chapter 659, O.L. 2019 SB 278