

Legislature scrambles to head off end of rent moratorium

If Gov. Kate Brown declares COVID-19 ‘catastrophic disaster,’ lawmakers could hold remote special session

By Gary A. Warner
Oregon Capital Bureau

SALEM — Oregon’s ban on evicting tenants from their homes expires at the end of the year unless the Legislature can go into special session amid a deadly pandemic.

A bipartisan bill extending the moratorium through June 2021 has been written. It also creates a \$100 million fund to reimburse landlords for some of their tenants’ back rent.

The Landlord-Based Assistance Program is a compromise hammered out between House Interim Housing Committee Chair Julie Fahey, D-Eugene, and Rep. Jack Zika, R-Redmond, with input from landlord and tenant advocates.

It’s ready to be fast-tracked in a December special session of the Legislature.

The main problem: No special session has been scheduled. The regular session of the Legislature does not start until Jan. 19.

Waiting would allow the eviction moratorium and other key unemployment and health care programs to expire with the New Year. When the current deadlines were set, many lawmakers thought COVID-19 would be under control if not cured. Instead, its growing at a faster rate than any time this year.

“We had no idea the pandemic would continue into 2021,” said Rep. Paul Holvey, D-Eugene.

With hoped-for federal aid never arriving, the only way to head off the chaos of a sudden end to programs is for the state to step in with a stop-gap fix.

Back rent could hit \$500 million by June

Gov. Kate Brown could call a special session, the third of 2020. Lawmakers have twice come to the Capitol despite risks of infection. But with case rates skyrocketing across Oregon, testing their luck a third time would be difficult and dangerous, not only for lawmakers, but for even a pared down version of the usual army of staffers and workers required when the Legislature meets.

Brown could take the unprecedented move of declaring COVID-19 a “catastrophic disaster,”



Claire Withycombe/Oregon Capital Bureau, File

State Sen. Bill Hansell, far left, speaks on the Senate floor on June 29, 2019. Oregon’s ban on evicting tenants from their homes expires at the end of the year unless the Legislature can go into special session — even a virtual one — amid the coronavirus pandemic.

“Just as we enter what is proving to be the most trying period of the pandemic so far, federal dollars quite literally dry up.”

— Gov. Kate Brown and U.S. Sens. Ron Wyden and Jeff Merkley, in a prepared statement

which could allow lawmakers to hold a remote session without coming to the Capitol.

House Speaker Tina Kotek, D-Portland, has said rent stabilization is a primary goal of any special session.

The state projects more than 82% of tenants have paid rent during the crisis. Nationally, the amount owed by the average renter is \$2,700.

Conservative estimates put the amount of back rent owed landlords in Oregon at more than \$250 million. As it now stands, rent would again be due Jan. 1, evictions would again be allowed and tenants would have to pay all back rent by March 31.

With the economy expected to be hobbled at least until spring, when a hoped-for vaccine will become available to a growing number of Oregonians, most Democrats and Republicans agreed on the need to push out the deadline until the end of June. Back rent would be due July 1. It would also extend

the timeline on notice of eviction from 72 hours to 15 days.

Zika said lawmakers know \$100 million will be gobbled up quickly. By June, back rent due could hit \$500 million or more.

“It’s a drop in the bucket,” Zika said.

But the proposed bill creates a system for repayment fair to renters and property owners, Zika said. The Legislature could add additional funds to the plan or come up with alternative rental assistance aid when it convenes in January.

Renters would declare financial hardships

The proposed June 30 rent moratorium deadline would coincide with the scheduled end of the Legislature’s 2021 session, allowing for any changes in programs to be made prior to final adjournment.

Under the plan, tenants would give their landlord a signed declaration that they could not pay their

rent each month due to financial hardships such as unemployment, medical bills, lack of child care and limited other reasons. Under the current moratorium, no such declaration is required. If the new plan is approved, tenants would not have to give any more information to landlords beyond the declaration.

The landlord would submit an application for benefits on behalf of their tenants to Oregon Department of Housing and Community Services. The landlord would be paid 80% of the rent due, while forgiving the tenant 20%. Tax credits for that portion might be possible, lawmakers said. The program is voluntary, but landlords choosing not to take part would still be under the eviction moratorium until the end of June.

Advocates for landlords said income from rental properties was all the cash flow that owners of a small number of units have to meet their family’s needs.

Without hope of getting rents soon, they will either sell their buildings or convert to other uses, which could take thousands of units off the already tight Oregon rental market.

While recognizing the strain on many landlords, advocates for tenants said that at least they had alternatives, such as selling the property. For those living in rental units, removing the moratorium would mean moving in with others, risking a higher chance of COVID-19 infection. Children could be in more precarious circumstances, or even homelessness.

The \$100 million fund would be prioritized to go to landlords of smaller properties, with a higher percentage of total rent in arrears. The funds cannot be used to cover rent paid by the landlord’s immediate family.

The lawmakers said the plan has safeguards against false declarations and duplicate applications by tenants. It will also have penalties for intentional mismanagement of the application by landlords or putting in for payments for unoccupied units.

“We anticipate that there are bad actors on both sides — not a lot, but some,” said John Van-

Landingham of the Oregon Law Center, which helped shape the legislation. “Our goal here was not to be perfect, because we didn’t think we could achieve perfection.”

The funds also would be doled out so one region did not drain the fund all by itself.

Lawmakers said a separate plan to stop some residential foreclosures will be ready for review next week.

“We really want to keep people housed during this pandemic,” Holvey said. “Sometimes this isn’t just about renters, it’s about homeowners.”

More federal relief remains uncertain

Gov. Kate Brown and both of Oregon’s U.S. Senators, Ron Wyden and Jeff Merkley, issued a joint statement Monday, Nov. 23, calling for a “lame duck” session of Congress before the end of the year to replace the \$2.2 trillion CARES Act funds, which expire Dec. 31.

“Just as we enter what is proving to be the most trying period of the pandemic so far, federal dollars quite literally dry up,” the statement said.

The Democratic-controlled House has advocated for up to \$3 trillion in spending to cushion states struggling through a prolonged crisis. But Senate Republicans have balked at such a large infusion of cash to states.

On Friday, Senate Majority Leader Mitch McConnell, R-Kentucky, said he would be open to reassigning about \$566 billion in small business loans to be used for COVID-19 relief instead. President Donald Trump, who lost re-election on Nov. 3 to former Vice President Joe Biden, has not pushed for additional funds.

Adding to the uncertainty is a recent rash of COVID-19 infections at the U.S. Capitol that have forced a few senators and house members to quarantine.

Biden has promised a new aid package as soon as he is sworn in to office on Jan. 20. But the defeat of Trump and the end of the 2020 congressional session leaves a gap of several weeks before the new Congress is sworn in on Jan. 3 and Biden takes office 17 days later.

Judge denies restaurants’ lawsuit over COVID-19 limits

Associated Press

PORTLAND — A federal judge has rejected an effort from Oregon restaurants to stop the most recent COVID-19-related restrictions imposed by Gov. Kate Brown.

The lawsuit from the Oregon Restaurants and Lodging Association said restaurants were being

unfairly singled out.

The judge from the Oregon federal district court on Tuesday, Nov. 24, did not agree and said the freeze is within the state’s authority, KOIN-TV reported. Two restaurant industry groups filed the lawsuit against Brown last week in response to her executive order forcing

restaurants to move to takeout for two weeks, among other measures, as the state tries to lower a spike in cases.

At the time, representatives from the Oregon Restaurant & Lodging Association and the Restaurant Law Center said the action was taken to “prevent economic devastation.”

After the ruling, Jason Brandt with the association said their real focus is doing what they can to help people keep their jobs.

“We are not blind to the fact that face coverings have to come off in our industry when you are eating or drinking in a restaurant,” he said. “Our challenge is the inequity

having people gather in private spaces up to 6 people, two households, where people are moving around with their face coverings off.”

Brandt said the association has had several meetings with the governor’s office and that they want to keep working with the governor’s office.

The current restrictions are in place until Dec. 3.

“I am hopeful,” Brandt said, “come Dec. 3, at least some of our restaurants in some counties across the state will have the opportunity to have the freeze lifted and have the opportunity to make the revenue they desperately need for their business.”

Oregon fines gym \$90K for violating freeze order

Associated Press

SALEM — Oregon Occupational Safety and Health Administration officials have fined a fitness business \$90,000 for defying Gov. Kate Brown’s COVID-19 order and remaining open throughout a current two-week freeze.

The Statesman Journal reports officials with Oregon Occupational Safety and Health said the penalty is the result of citations against each of the four facilities operated by Courthouse Club Fitness. People at the business did not respond to request for comment Wednesday.

Before the statewide freeze went into effect on

Nov. 18, gym owner John Miller said in a statement that a second shutdown would push his business to the breaking point.

“As a result of the harm done to our business from the first shutdown, we will not survive another closure,” Miller said. “This is a horrible position I find myself in, and it leaves me with only one choice. Courthouse Club Fitness will remain open (Nov. 18) and the days to follow.”

On Wednesday, Nov. 25, Brown said 21 Oregon counties will continue to be under restrictions when a two-week “freeze” expires Dec. 3. Indoor gyms will remain closed.

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