

Sheriff's department court  
services division

# **EVICTIION** **NOTICE**

Dear tenant,

The reason for this eviction notice is:  
In connection with the resulting rent debt, you must leave the  
living space within 30 days and not later than  
09/30. Otherwise, you will be evicted by the  
courts and police. Under the contract, you were obliged to  
make payment on the 1st of every month. The administration  
made concessions, but you violated all the terms.

Administration

## Changing the Game: Eliminating Inequities in Oklahoma's Rental Law

Prepared by students at the Terry West Civil Legal Clinic  
at the University of Tulsa College of Law

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## Contents

Introduction: Why Revise Oklahoma's Residential Landlord Tenant Act?.....	3
Fundamental Fairness in Legislation.....	3
Adverse Effects of Evictions .....	5
<i>Adverse Community Economic Consequences</i> .....	5
<i>Adverse Childhood Experiences</i> .....	6
Shortcomings in the Current Legislations.....	7
<i>Gaps, Ambiguities and Inequities in the ORLTA</i> .....	7
<i>Legislative Gaps</i> .....	8
<i>Legislative Ambiguities</i> .....	8
<i>Inequitable Provisions</i> .....	9
<i>Lack of Enforcement Mechanisms</i> .....	10
<i>Equitable Provisions have not Harmed Landlords in Other States</i> .....	11
<i>Reforms Bring Benefits and Reduce Costs</i> .....	12
Legislative Reform Benefits Local Landlords .....	12
Legislative Reform Benefits All Oklahomans.....	16
Conclusion.....	16

## **Introduction: Why Revise Oklahoma's Residential Landlord Tenant Act?**

The Oklahoma Residential Landlord Tenant Act (ORLTA) creates a rental landscape characterized by high eviction rates, a lack of safe and affordable housing stock, reliance on eviction as a profit-making mechanism, and exploitation of Oklahoma's lax rental laws by out-of-state businesses. This situation harms both landlords and tenants, but the effects are not limited to these parties alone. The detrimental consequences of our current housing landscape extend to children, businesses, taxpayers, and the local community.

This report outlines the need for legislative change, framing the discussion within the general principle of fundamental fairness. Section III briefly describes the adverse impacts the legislation has had in Oklahoma. Section IV identifies gaps, ambiguities and inequities in the current legislation, and points to more equitable provisions in neighboring states. The last section illustrates that the current situation affects local landlords and Oklahomans more broadly, describing how out-of-state landlords have exploited Oklahoma's permissive system at the expense of Oklahoma taxpayers. These effects reverberate throughout the state.

## **Fundamental Fairness in Legislation**

Due process, a cornerstone of our democracy, is based on the idea of fundamental fairness. It requires that legislation treat all sides impartially, providing equal access to protection and redress. Accordingly, legislation governing landlords and tenants should support the provision of safe and affordable housing while enabling landlords to earn reasonable profits. The legislation also should provide mechanisms to resolve conflicts between landlords and tenants in a fair and equitable manner. The ORLTA, however, contains provisions that treat landlords and tenants differently (see *Gaps, Ambiguities and Inequalities in the ORLTA* section).

The legislation also gives rise to inequities in the eviction process. Eviction courts exist to protect both the landlord's interest in their property and the tenant's interest in secure housing<sup>1</sup>. Yet, the imbalanced outcomes on the eviction docket underscore how inequities and a lack of alternative

**The detrimental consequences of our current housing landscape extend to children, businesses, taxpayers, and the local community.**

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<sup>1</sup> See Lauren A. Lindsey, *Protecting the Good-Faith Tenant*, 63 OKLA. L. REV. 101, 103 (2010).

remedies in the current legislation have incentivized evictions and disadvantaged tenants. In Tulsa, for example, of the 1,395 eviction cases during January 2020, only two tenants received judgments in their favor.<sup>2</sup>

In many parts of Oklahoma, eviction rates are well above the national average.<sup>3</sup> Many factors contribute to evictions. These include a lack of safe and affordable housing stock,<sup>4</sup> insufficient housing/rental regulations, high poverty rates, unstable employment opportunities, ease of eviction filings and a legal and economic landscape that allows the establishment of eviction mills that profit from evictions. The current legislation exacerbates these factors, incentivizing evictions while serving the interests of particular parties.

The speed of the eviction process set up in the ORLTA and the ease of obtaining default judgments both disadvantage tenants. Oklahoma requires a five-day notice period for unpaid rent.<sup>5</sup> Evictions can happen as quickly as two weeks after this initial notice to the tenant. Tenants often get notified of their court hearing only a few days in advance, leaving many without adequate time to take off work or find childcare. Many tenants are forced to miss their hearing, which results in automatic judgment in favor of the landlord even where a valid basis for the eviction is lacking. Tenants have little time to obtain representation, prepare a defense, or, in the case of an eviction judgment, pack up their belongings. Evicted tenants face the added dual hardships of losing their possessions and their ability to find alternative safe and affordable housing.

**In many parts of Oklahoma, eviction rates are well above the national average.**

**The current legislation exacerbates these factors [contributing to evictions], incentivizing evictions while serving the interests of particular parties.**

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2 TERRY WEST CIVIL LEGAL CLINIC (Teiya Batién, Lauren Beatty, Quinn Fields, Christopher Stout, & Kaitlyn Sweatt), LEVELING THE PLAYING FIELD: LEGAL, ECONOMIC AND POLICY CONSIDERATIONS IN ESTABLISHING AN ACCESS TO COUNSEL PROGRAM FOR TULSA'S EVICTION DOCKET, 2 (June 13, 2021).

3 According to the Eviction Lab rankings of top eviction areas nationally, Oklahoma has four large cities in the top 100 (Tulsa, Oklahoma City, Norman and Broken Arrow), two mid-size cities in the top 65 (Del City and Midwest City) and one small city in the top 50 (Lake Aluma), <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en>

4 In Oklahoma, more than 40% of tenants are cost-burdened by housing, meaning they spend more than one-third of their income on housing. Mike W. Ray, *Landlords, Renters Both Hurt by Eviction*, SOUTHWEST LEDGER, Oct. 8, 2020, <https://www.southwestledger.news/news/landlords-renters-both-hurt-eviction>.

5 Okla. Stat. Ann. tit. 41 § 131(B) (2018).

## Adverse Effects of Evictions

Widespread housing displacement has a range of effects on Oklahomans. Beyond the direct harms to the displaced individuals, children and communities also suffer. Evictions affect physical and mental health, employment stability, and long-term well-being, with lasting fallout for children.<sup>6</sup> Displacement also fractures communities, undermining the benefits of community stability. All of these consequences lead to greater state expenditures.<sup>7</sup> These costs have been documented elsewhere.<sup>8</sup> Less well documented are the ways in which evictions impose costs on local landlords and local business owners.

## Adverse Community Economic Consequences

Evictions can impede economic development, generating both public and private costs to businesses that rely on a stable workforce. Public costs include emergency shelters, long-term housing assistance, inpatient medical care, emergency medical care, foster care, and juvenile delinquency.<sup>9</sup> These expenditures redirect funds from other publicly funded services, including health, transportation, education, and safety.<sup>10</sup>

Local business owners also suffer when their employees are evicted. Displacement impedes an individual's ability to hold consistent work hours, making it harder for businesses that rely on low-income workers to maintain a stable work force. While local businesses bear the costs of employee absences and high turnover stemming from evictions, out-of-state corporate landlords profit from evictions, as described in Section V. Moreover, businesses may be reluctant to invest in areas without a stable employee base, inhibiting economic investment and development in Oklahoma.

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6 For more information on these effects, see TERRY WEST CIVIL LEGAL CLINIC, *supra* note 2, at 8-10.

7 *See Id.* at 8.

8 *Id.*

9 DAN THREET ET AL., NAT'L LOW INCOME HOUS. COAL. & UNIV. OF ARIZ. COLL. OF LAW, COSTS OF COVID-19 EVICTIONS 4 (Nov. 19, 2020) <https://nlihc.org/sites/default/files/costs-of-covid19-evictions.pdf>

10 STEPHEN AVERILL SHERMAN AND CARLOS VILLEGAS, KINDER INST. FOR URBAN RESEARCH, *UPDATE: EVICTIONS COST HARRIS COUNTY OVER \$240 MILLION A YEAR—THAT WAS BEFORE COVID-19*, (September 16, 2020), <https://kinder.rice.edu/urbanedge/2020/09/16/evictions-cost-harris-county-over-315-million-each-year-housing-crisis-COVID-19>.

## Adverse Childhood Experiences

The permissive eviction environment set up by the ORLTA is likely to increase existing trends in which families with children are at greater risk for eviction.<sup>11</sup> In 2019, 208,000 children in Oklahoma, more than one in five, lived in low-income households that spent more than 30% of their monthly income on housing.<sup>12</sup> These cost-burdened households are more likely to struggle to pay rent and to incur late fees, which the ORLTA does not adequately regulate. Housing insecurity, exacerbated by high late fees, force parents to reallocate money from food and other essential items to additional housing costs. Additionally, housing insecurity may inhibit individuals from requesting needed repairs for fear of facing retaliatory evictions, increasing the likelihood that families with children will live in substandard housing.

Low-quality housing often comes with additional health risks, including insufficient protection from the elements, exposure to lead and other chemicals, mold, pest infestations, and unsafe structures.<sup>13</sup> These conditions affect a child's health, development and ability to focus in school. As described in Section IV, the ORLTA does not provide sufficient protections for children living in non-habitable conditions.

Evictions and inadequate housing conditions make children more susceptible to the foster care and juvenile justice systems, requiring additional state funds. In 2019, 25,658 children nationally were removed from their homes because their families did not have suitable housing.<sup>14</sup> In the 2017 fiscal year, Oklahoma's Department of Human Services verified

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11 Matthew Desmond, Weihua An, Richelle Winkler & Thomas Ferriss, *Evicting Children*, 92 SOC. FORCES 303 (2013).

12 THE ANNIE E. CASEY FOUNDATION, KIDS COUNT DATA CENTER, CHILDREN IN LOW-INCOME HOUSEHOLDS WITH A HIGH HOUSING COST BURDEN (2020), <https://datacenter.kidscount.org/data/tables/71-children-in-low-income-households-with-a-high-housing-cost-burden?loc=1&loc=2#detailed/2/38/false/1729/any/376,377>.

13 CHANGELAB SOLUTIONS, HEALTH EFFECTS OF UNSAFE, UNSTABLE, AND UNAFFORDABLE HOUSING (2018), [https://www.changelabsolutions.org/sites/default/files/HealthHousingStarterKit-HealthEffects-FINAL-20180531\\_updated\\_20181130.pdf](https://www.changelabsolutions.org/sites/default/files/HealthHousingStarterKit-HealthEffects-FINAL-20180531_updated_20181130.pdf).

14 Ruth White, *Use Federal Child Welfare Funds to Prevent Family Housing Crises*, THE IMPRINT, Mar. 2, 2021, <https://imprintnews.org/child-welfare-2/use-family-first-act-prevent-family-housing-crises/52373>.

26,896 reports of child neglect.<sup>15</sup> Of those, 5%—a portion affecting almost 1500 children—were due to inadequate or dangerous housing.<sup>16</sup>

Displaced children are also more likely to enter the juvenile justice system.<sup>17</sup> Fifty percent of homeless youth have been subject to the juvenile justice system.<sup>18</sup> In Oklahoma, approximately 25,623 public school students experienced homelessness during the 2017-18 school year.<sup>19</sup> Taxpayers bear the costs of the increased burdens on the foster care and juvenile justice systems stemming from evictions.

## Shortcomings in the Current Legislation

Oklahoma's housing landscape and the adverse effects described above are tied to the current state of the legislation. The ORLTA fails to adequately regulate rental property in the state, allowing substandard housing to flourish. The legislation also provides tenants with little recourse in the case of a violation. While landlords may pursue evictions against tenants who violate the lease, there are few enforcement mechanisms against landlords who violate the law.

## Gaps, Ambiguities and Inequities in the ORLTA

The ORLTA contains several gaps, ambiguities, and unbalanced provisions that create confusion, provide opportunities for abuse, and disadvantage one party. Areas of concern include retaliation, fees, habitability, repairs, and time periods for addressing complaints.

In the 2017 fiscal year, Oklahoma's Department of Human Services verified 26,896 reports of child neglect. Of those, 5%—a portion affecting almost 1,500 children—were due to inadequate or dangerous housing.

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15 OKLAHOMA DEPARTMENT OF HUMAN SERVICES, CHILD ABUSE AND NEGLECT STATISTICS STATE FISCAL YEAR 2017 10 (2018), [https://oklahoma.gov/content/dam/ok/en/okdhs/documents/okdhs-report-library/s17032\\_childabuseandneglectstatisticsfy2017july2016\\_june2017\\_cwsopoa\\_03262018.pdf](https://oklahoma.gov/content/dam/ok/en/okdhs/documents/okdhs-report-library/s17032_childabuseandneglectstatisticsfy2017july2016_june2017_cwsopoa_03262018.pdf).

16 *Id.* at 11.

17 Threet, *supra* note 9 at 6.

18 NATIONAL CONFERENCE OF STATE LEGISLATURES, YOUTH HOMELESSNESS OVERVIEW: CAUSES AND CONSEQUENCES (2021) <https://www.ncsl.org/research/human-services/homeless-and-runaway-youth.aspx>

19 UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS, OKLAHOMA HOMELESSNESS STATISTICS (n.d.) <https://www.usich.gov/homelessness-statistics/ok/>.

## Legislative Gaps

### Retaliatory Actions

In contrast to legislation in other states, the ORLTA does not protect against retaliatory actions from landlords. Tenants who complain to the landlord, to a regulatory agency, or to a court may face retaliation. Retaliatory measures include increased rent, imposition of different rules on a tenant, harassment through unannounced and frequent visits, and unfounded eviction actions. Clear guidelines laying out the actions a landlord is entitled to take and when also could protect landlords from unfounded claims of retaliation.

### Late Fees

The ORLTA's failure to regulate late fees raises multiple issues, including:

1. *Conditions for late fees:* The legislation does not set out when late fees can be imposed.
2. *Reasonable amounts:* The legislation provides no guidance on what late fees are considered reasonable. When late fees are challenged in court, reasonableness is left to judicial discretion.
3. *Collection of late fees and allocation of payments:* The ORLTA provides no clarity on the ability of landlords to apply tenant payments to rent or to late fees. This is important because a landlord may only initiate eviction proceedings for unpaid rent, not for unpaid late fees. Similarly, the Act provides no guidance on whether late fees can be deducted from the security deposit.

### Application fees and tenant selection criteria

Landlords are not required to disclose their selection criteria for tenants. Transparency around selection criteria, particularly with respect to financial qualifications, would prevent tenants from paying an application fee unnecessarily, limit potentially discriminatory exclusions, and streamline the application process for landlords.

## Legislative Ambiguities

Several provisions contain ambiguous language that makes it difficult for a landlord or tenant to know when a provision is being violated.

### Fit and Habitable

The landlord has a duty to keep the premises in a "fit and habitable

condition.”<sup>20</sup> The ORLTA provides a tenant with options when a landlord “willfully or negligently fails to supply heat, running water, hot water, electric, gas or other essential service,” provided the tenant gives the landlord written notice.<sup>21</sup> Beyond these services, the ORLTA does not define habitability, provide recourse, or contain guidance on factors that may render a property non-habitable. Such factors could include pest infestations, mold, or damaged roofs, walls, doors, locks, and windows.

### **Noncompliance that materially affects health or safety**

The ORLTA sets apart the essential services listed above from other situations in which a landlord’s noncompliance “materially affects health or safety.”<sup>22</sup> This standard is not defined, making it difficult to determine when a housing issue materially affects health or safety and when a tenant is entitled to take action. The legislation requires greater specificity defining a landlord’s obligations to maintain a property, and a tenant’s recourse when the landlord fails to do so.

## **Inequitable Provisions**

Several provisions in the ORLTA treat landlords and tenants differently in terms of time allowed for repairs, ability to terminate a lease, and compensation amounts for repairs.

### **Time for repairs**

The landlord has 14 days to make a repair that affects a resident’s health,<sup>23</sup> while the tenant is required to fix damages at the landlord’s request within 10 days.<sup>24</sup>

### **Time before termination of lease where repairs are not completed**

In the event that a landlord does not make the required repairs in fourteen days, the tenant must wait 30 days from the date of notice before terminating the lease, or an additional 16 days.<sup>25</sup> The landlord, by contrast,

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20 Okla. Stat. Ann. tit. 41 § 118(A)(2) (2018).

21 *Id.* §41-121(C).

22 *Id.* §41-121.

23 *Id.*

24 *Id.* §41-132.

25 *Id.* §41-121(A).

must only wait 15 days from the original notice if the repairs are not done within 10 days, or an additional 5 days following the shorter period to cure the noncompliance.<sup>26</sup>

### Cap on repair amount

Where a landlord fails to make a necessary repair within 14 days, the tenant may initiate the repair but can only recoup \$100.<sup>27</sup> In the event that a tenant fails to make a required repair, there is no similar cap on the amount the landlord can charge a tenant for the repair, provided the amount is “reasonable.”<sup>28</sup> No explanation is provided for this disparity.

### Legislation defaults to landlord keeping the security deposit

The ORLTA defaults to letting the landlord keep the security deposit, placing the burden on the tenant to request the deposit within 6 months of the termination of the tenancy.<sup>29</sup> This diverges from the practice in the majority of states, where it is the duty of the landlord to return the security deposit to the tenant (usually within 30 days from the termination of the tenancy).<sup>30</sup> Equity demands that the burden be on the landlord to give a valid reason for withholding any or all of the security deposit. If the landlord cannot show grounds for withholding these funds, the tenant should be entitled to the return of the deposit without having to make a written request.

## Lack of Enforcement Mechanisms

Tenants have little recourse to hold accountable landlords who violate the ORLTA, short of moving out. But in most cases, the ORLTA still requires that tenants provide proper notice, forcing them to continue residing in a situation that may materially affect their health and safety for 30 days, without a rent accommodation. Tenants are unlikely to have the time or resources to sue a landlord for housing violations, nor is this an efficient outcome.

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26 *Id.* §41-132(B).

27 *Id.* §41-121(B).

28 *Id.* §41-132(A).

29 *Id.* §41-115(B).

30 See PRACTICAL LAW, SECURITY DEPOSIT LAWS (RESIDENTIAL LEASE): STATE COMPARISON CHART, <https://www.akerman.com/images/content/6/5/v2/65441/Security-Deposit-Laws-Residential-Lease-State-Comparison-Chart.pdf>.

Some city ordinances provide penalties for housing code violations, but civil fines have not been very effective. Housing code violators often ignore civil citations because of lax enforcement.<sup>31</sup> While a city can sue for outstanding civil fines, it is not cost efficient to bring actions against every violating landlord, “[s]o landlords go unchecked as their properties become more dilapidated and health harming.”<sup>32</sup>

In Tulsa, the Health Department handles complaints for a prescribed set of circumstances, but many of these conditions are not addressed in the ORLTA, are not known and understood by tenants, and may vary across localities. Tenants will not know what repairs they can request, when a landlord is in violation, where to lodge a complaint, or when they can terminate a lease for habitability issues. Landlords also will have differing interpretations of what they are required to repair. The space for competing interpretations increases the prospects that a dispute will go to court, that a tenant who lacks the resources to go to court will be forced to tolerate non-habitable conditions, or that a tenant who complains will risk retaliatory eviction.

## ***Equitable Provisions have not Harmed Landlords in Other States***

Landlords have not borne excessive costs in states that have adopted more equitable practices. Even among politically similar states, several provide longer notice periods before eviction proceedings can be initiated: Nebraska (7 days),<sup>33</sup> Kentucky (7 days),<sup>34</sup> Kansas (10 days),<sup>35</sup> and Tennessee (14 days).<sup>36</sup> Some states allow tenants to repair and deduct with fewer restrictions.<sup>37</sup> Many state statutes also contain explicit provisions protecting tenants against retaliation.<sup>38</sup>

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31 PRESTON BRASCH, COURTNEY NELBACH & MIKE SHOUSE, LOBECK TAYLOR CMTY. ADVOCACY CLINIC, A HOUSING STRATEGY FOR TULSA: UNDERSTANDING THE COST OF HARMFUL HOMES 20-21 (2016), <https://45e2ly1gtqp9jmqme2f7w751-wpengine.netdna-ssl.com/wp-content/uploads/sites/3/2015/01/Housing-Strategy-for-Tulsa-CAC-12.19.16.pdf>.

32 *Id.* at 21.

33 Neb. Rev. Stat. § 76-1431 (2020).

34 Ky. Rev. Stat. Ann. § 383.660 (2020).

35 Kan. Stat. Ann. § 58-2507 (2019).

36 Tenn. Code Ann. § 66-7-109 (2019).

37 Kentucky allows repairs up to \$100 or an amount equal to half the monthly rental, whichever is greater. Ky. Rev. Stat. Ann. § 383.635 (2020).

38 Tenn. Code Ann. § 66-28-514 (2019); Kan. Stat. Ann. § 58-2572 (2019); Ky. Rev. Stat. Ann. § 383.690 (2020); Neb. Rev. Stat. § 76-1439 (2020).

## Reforms Bring Benefits and Reduce Costs

Reforms introducing more equitable provisions would not unduly interfere with a landlord's ability to profit from their rental units and maintain control of their properties. To the contrary, legislative reform would benefit local landlords. Additionally, reform would make the state and its citizens better off.

## Legislative Reform Benefits Local Landlords

The current version of the ORLTA gives large out-of-state landlords an unfair advantage in the housing rental market. These landlords pass their costs onto the state while harming local “mom and pop” landlords who are directly invested in their community. Even as most small local landlords turn to evictions as a last resort,<sup>39</sup> out-of-state corporate landlords rely on the permissive environment set up by the ORLTA, leveraging economies of scale to profit from serial evictions.

Nationally, almost 80% of landlords are small “mom and pop” operations with four or fewer units.<sup>40</sup> Within this group, 34% are retirees whose sole income comes from their rental properties.<sup>41</sup> Evictions are costly for these small local landlords because they cannot benefit from economies of scale. Eviction costs can include legal and court fees, property damage, and forfeiture of missed rental payments.

Yet, Oklahoma's eviction rates remain staggeringly high, with Tulsa and Oklahoma City taking the 11th and 20th positions for top evicting cities in 2016, respectively.<sup>42</sup> In 2019, landlords in Oklahoma filed 44,600

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39 Michael Overall, *Tenants and Landlords Agree that Oklahoma Needs Eviction Reform*, TULSA WORLD, Oct. 2, 2020, [https://tulsaworld.com/news/local/tenants-and-landlords-agree-that-oklahoma-needs-eviction-reforms/article\\_2f0b0cce-0404-11eb-b90a-bb478809aaee.html](https://tulsaworld.com/news/local/tenants-and-landlords-agree-that-oklahoma-needs-eviction-reforms/article_2f0b0cce-0404-11eb-b90a-bb478809aaee.html).

40 Natalie Campisi, *What Mom-And-Pop Landlords Can Do to Relieve Eviction Ban Pressure*, FORBES, Feb. 15, 2021, <https://www.forbes.com/advisor/mortgages/what-mom-and-pop-landlords-can-do-to-relieve-eviction-ban-pressure>.

41 *Id.*

42 EVICTION LAB, EVICTION RANKINGS: TOP EVICTING LARGE CITIES IN THE UNITED STATES, (2016), <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en>.

evictions.<sup>43</sup> These eviction filers were concentrated among 5% of landlords, who accounted for 60% of eviction filings within the state over a nearly two-year period.<sup>44</sup> Many of these serial evictors filed repeat evictions against the same tenant without removal.<sup>45</sup> These chronic filers are composed mostly of out-of-state, corporate property owners.<sup>46</sup> In Tulsa, for example less than 2% of eviction plaintiffs account for 40% of evictions filings. Seven of the top 10 evictors are out-of-state landlords.<sup>47</sup> Many serial evictors rely on business models that profit from evictions.<sup>48</sup>

Absentee landlords often specifically target poor, dilapidated neighborhoods and drive up demand and prices for properties in these neighborhoods, contributing to the city's poverty rate.<sup>49</sup> Lower average incomes within a city result in increased demand for welfare services and higher policing costs, services that are subsidized by the taxpayer.<sup>50</sup> Landlords in these areas also frequently fail to keep their properties up to code. In Tulsa, the Health Department has identified a small group of landlords who account for at least 75% of its health complaints.<sup>51</sup> In Oklahoma, 75% of low-income tenants live in substandard housing with at least one issue that constitutes a "housing problem" under the

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43 Mike W. Ray, *Landlords, renters both hurt by eviction*, SOUTHWEST LEDGER, Oct. 8, 2020, <https://www.southwestledger.news/news/landlords-renters-both-hurt-eviction>.

44 Overall, *supra* note 39.

45 Ray, *supra* note 43.

46 Michael Overall, *supra* note 39.

47 RYAN GENTZLER, OPEN JUSTICE OKLAHOMA, RESEARCH BRIEF: HIGH-VOLUME EVICTION FILERS IN TULSA COUNTY (Mar, 11 2021), <https://openjustice.okpolicy.org/wp-content/uploads/sites/4/2021/03/2021-03-10-tulsa-filers-brief.pdf?x67581>; See also DEVIN RUTAN & MATTHEW DESMOND, EVICTION LAB, TOP EVICTING LANDLORDS DRIVE U.S. EVICTION CRISIS (Apr. 5, 2021), <https://evictionlab.org/top-evicting-landlords-drive-us-eviction-crisis>.

48 See Michael Overall, *Pandemic May Have Slowed Evictions in South Tulsa, but New Wave May be Coming*, TULSA WORLD, Nov. 16, 2020, [https://tulsaworld.com/news/local/pandemic-may-have-slowed-evictions-in-south-tulsa-but-new-wave-may-be-coming/article\\_b39b8280-253c-11eb-ae37-6f6b23a44117.html](https://tulsaworld.com/news/local/pandemic-may-have-slowed-evictions-in-south-tulsa-but-new-wave-may-be-coming/article_b39b8280-253c-11eb-ae37-6f6b23a44117.html); Brenda Wintrode, *Tulsa Landlords Offered Rent to Not Evict, Few Took the Deal*, HOWARD CENTER FOR INVESTIGATIVE JOURNALISM, Sept. 2, 2020, <https://homeless.cnsmaryland.org/2020/09/02/tulsa-landlordswere-offered-rent-if-they-didnt-evict-few-took-the-deal/>.

49 Jorge O. Elorza, *Absentee Landlords, Rent Control and Healthy Gentrification: A Policy Proposal to Deconcentrate the Poor in Urban America*, 17 CORNELL J.L. & PUB. POL'Y 1, 23-24 (2007).

50 *Id.* at 24.

51 Brasch, *supra* note 31 at 21.

federal standard.<sup>52</sup> Many of these properties are owned by out-of-state landlords.<sup>53</sup>

The ORLTA's failure to regulate these landlords enables them to engage in these practices at the expense of Oklahoma's taxpayers. As noted, the majority of eviction filings in the state are filed by out-of-state landlords. These landlords rely on eviction filings as a form of wealth extraction from vulnerable Oklahomans in multiple ways. First, these evictions are often filed as a method to get tenants to pay and are later withdrawn when accounts are settled.<sup>54</sup>

Second, these filings enable landlords to obtain the excessive late fees and legal fees tacked onto unpaid rent, forcing tenants into an endless debt cycle that far exceeds the amount of rent owed. Many of these debts are subjective or arbitrary, allowing landlords to charge exorbitant late fees or property damage fees so they can make a profit.<sup>55</sup> In Tulsa, Restore Hope reported that around 10% of the \$325,000 it provided in rental assistance in 2019 went towards late fees and fines.<sup>56</sup> Finally, these landlords use the threat of eviction as a way to avoid repairs or deny services.<sup>57</sup>

A number of evictions brought by serial evictors would fail if challenged in court, either because the out-of-state landlord has failed to keep their limited liability company (LLC) status in good standing, or because there

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52 Preston Brasch, *Common Sense Reforms Needed to Protect Oklahoma Tenants*, OK POLICY BLOG, May 9, 2017 (updated May 2, 2019), <https://okpolicy.org/common-sense-reforms-needed-protect-oklahoma-tenants/>.

53 *Id.*

54 Lillian Leung, Peter Hepburn & Matthew Desmond, Eviction Lab, *Serial Eviction Filings: How Landlords Use the Courts to Collect Rent*, Sept. 15, 2020, <https://evictionlab.org/serial-eviction-filings>; Leah Binkovitz, *Understanding Serial Eviction Filers*, URBAN EDGE, KINDER INSTITUTE FOR URBAN RESEARCH, Jul. 16, 2019, <https://kinder.rice.edu/urbanedge/2019/07/16/understanding-serial-eviction-filers-atlanta>.

55 *Id.*, MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY*, 102 (2016).

56 Amy Scott, *In Tulsa, Evictions Were a Crisis Even Before the Pandemic*, MARKETPLACE, Jun. 19, 2020, <https://www.marketplace.org/2020/06/19/tulsa-evictions-were-crisis-before-pandemic/>.

57 *See, e.g.* MATTHEW DESMOND, UNIV. OF WIS.-MADISON INST. FOR RESEARCH ON POVERTY, *FAST FOCUS, UNAFFORDABLE AMERICA: POVERTY, HOUSING AND EVICTION* 4 (2015); DESMOND, *EVICTED*, *supra* note 51 at 64-79; Carly Stern & Molly Bryant, *How Landlords Dodge Eviction Bans*, BIG IF TRUE, Apr. 29, 2021, <https://www.bigiftrue.org/2021/04/29/how-landlords-dodge-eviction-bans/>.

is no valid basis for the eviction.<sup>58</sup> The large number of default judgments allows these evictions to go through unchallenged. Moreover, some corporate landlords operate under numerous LLCs, making them difficult to track and allowing them to wait out legal proceedings while still collecting rental fees.<sup>59</sup> This lack of accountability enables resources to be diverted out of the state and into the hands of these corporate entities.

Out-of-state landlords use Oklahoma's court system as a debt collection agency,<sup>60</sup> contributing to an over-burdened eviction court and harming local "mom and pop" landlords. Serial evictions paradoxically enhance tenant retention as an eviction filing on a tenant's record makes it harder for that tenant to be accepted by other landlords.<sup>61</sup> This perpetuates a cycle of repeat eviction filings that undercuts local landlords while ensuring a continued tenant base with few options but to rent substandard housing. One landlord filed an eviction against the same tenant 20 times. The tenant was able to pay the rent but incurred late fees of almost \$4000.<sup>62</sup>

States like Oklahoma with lower costs and barriers associated with filing for eviction have a higher rate of serial eviction filings than those with higher associated costs.<sup>63</sup> Legislation regulating the ease and convenience of eviction filings represents an opportunity to change the calculus of serial evictors. Out-of-state corporate landlords have successfully externalized the costs of evictions onto the state of Oklahoma and its citizens by utilizing Oklahoma's low-barrier eviction process and relying on economies of scale, which increases eviction numbers.

The ORLTA gives corporate, out-of-state landlords an unfair advantage in the housing rental market. Encouraging the business of local landlords could reduce Oklahoma's eviction crisis, as local landlords who deal directly with their tenants and are directly invested in their communities are more likely than out-of-state, corporate landlords to employ alternatives such as mediation before turning to evictions. Rather than

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58 See, e.g. TERRY WEST CIVIL LEGAL CLINIC (Joel Auringer, Sage Martin, Joshua McCann, Alex Myers, Vic Wiener), ADVANCING HOUSING JUSTICE IN TULSA: AN EXAMINATION OF THE FED DOCKET, 4-6 (June 8, 2020).

59 Brasch, *supra* note 52.

60 See Lillian Leung, Peter Hepburn & Matthew Desmond, *Serial Eviction Filing: Civil Courts Property Management, and the Threat of Displacement*, SOC. FORCES (Sept. 11, 2020). <https://doi.org/10.1093/sf/soaa089> at 2.

61 *Id.* at 4.

62 Scott, *supra* note 56.

63 Leung *supra* note 60 at 2.

enabling bad actors to exploit the permissive rental landscape, legislative reforms can benefit local landlords who are invested in their community.

## **Legislative Reform Benefits All Oklahomans**

Reforms to the ORLTA can benefit landlords, tenants, and Oklahomans in general, reducing homelessness, improving available housing options, and lessening the burdens on taxpayers that result from increased evictions and homelessness. In addition to the social costs described in Section III, evictions also place a strain on the court. Judicial costs are borne by Oklahoma's taxpayer, even though, as described above, many of the legal proceedings are brought by out-of-state landlords. High eviction rates place an administrative burden on the court system. Reforms that decrease the incentives for and encourage alternatives to evictions, together with restrictions on the ability of out-of-state landlords to profit from serial evictions benefit all Oklahomans.

## **Conclusion**

Reforms to the Oklahoma Residential Landlord Tenant Act can bring about greater equity between landlords and tenants while preventing out-of-state landlords from exploiting the ORLTA's permissive environment to increase their profits. These profits come at a cost to the state and the taxpayer. They also impose direct costs on tenants and local "mom and pop" landlords, as well as local business owners. Greater regulation of rental practices together with alternatives to eviction will advance employment stability, investment, and economic development. Finally, by contributing to the availability of safe and affordable housing and reducing the incentives for evictions, reforms will ensure that fewer children experience the adverse effects of displacement and substandard housing, and fewer children will enter the foster care and juvenile justice systems.