

I am solo practitioner attorney who practices landlord-tenant law. I wish to offer comment on the drafting of HB 4213. I offer no comment as to the merits of extending any eviction moratorium, or as to the penalties assigned by HB 4213. I leave the decisions of how and when to tear this band-aid off to elected officials, after receiving input from affected persons and stakeholders.

However, there appear to be a few drafting oversights that I would like to bring to your attention for possible correction. In its current form, HB 4213 may lead to confusion among landlords, tenants, lawyers and judges. That type of confusion and uncertainty increases the likelihood of litigation and conflict.

**The issue is that it is likely that the act should use either the term “any nonpayment,” or “any portion of the nonpayment balance” instead of “nonpayment balance” in Sections 2(a), (c), (d) and (e).** This is because “nonpayment balance” as defined in the act is the *net total* amount unpaid during the emergency period. By limiting the Section 2 prohibited actions to being based on the net total unpaid during the emergency period, rather than any amount unpaid during that period, HB 4213, in its initial form, appears to allow landlords to:

1. Deliver termination notices based on any amount *less than* the unpaid balance accrued during the emergency period (although Section 2(b) of HB 4213 elsewhere prohibits the filing of an eviction based on such a notice); and
2. Report unpaid balances accrued during the pandemic to credit reporting agencies, so long as the amount reported is *less than* the net total accrued during the emergency period.

Whether or not these are intended results of HB4213 is up to the legislature. However, it seems internally inconsistent and strange to prohibit the reporting of the “nonpayment balance” to a credit reporting agency, but to allow the *nonpayment balance minus one cent* to be reported. It also seems inconsistent to allow landlords to deliver termination notices that are toothless in law because they are based on any amount less than the total amount unpaid, hoping that ignorant tenants might vacate their unit. Apparent inconsistencies in legislation lead to uncertainty. Parties to lawsuits are better off when they both know and agree what the rules are, as it often leads to early resolution and settlement.

Thank you for your time and consideration.

Sincerely,

MS

--

Matthew G. Shepard, Attorney  
Law Office of Matthew G. Shepard  
685 Church St. NE, Salem, OR 97301  
(503)-385-0121; [atty@mshepardlaw.com](mailto:atty@mshepardlaw.com)