

## HOUSE AMENDMENTS TO HOUSE BILL 4213

By JOINT COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020

June 26

1 On page 1 of the printed bill, delete lines 4 through 31 and delete pages 2 through 5 and insert:

2 **“SECTION 1. The Legislative Assembly finds and declares that:**

3 **“(1) The provisions of section 3 or 5 of this 2020 special session Act might affect the**  
4 **terms and conditions of certain contracts entered into in this state.**

5 **“(2) The effects of the provisions of section 3 or 5 of this 2020 special session Act are not**  
6 **substantial because the provisions have a limited scope and duration and are necessary to**  
7 **protect the public health, safety and welfare. For these reasons the provisions do not**  
8 **undermine a contractual bargain, interfere with a party’s reasonable expectations or prevent**  
9 **a party from safeguarding or reinstating the party’s rights.**

10 **“(3) Even if a provision of section 3 or 5 of this 2020 special session Act has the effect**  
11 **of undermining a contractual bargain, interfering with a party’s reasonable expectations or**  
12 **preventing a party from safeguarding or reinstating the party’s rights, the provision is ap-**  
13 **propriate and reasonable to carry out the significant and legitimate public purpose of re-**  
14 **sponding to the declaration of a state of emergency issued by the Governor on March 8, 2020.**

15 **“SECTION 2. Section 3 of this 2020 special session Act is added to and made a part of**  
16 **ORS chapter 90.**

17 **“SECTION 3. (1) As used in this section:**

18 **“(a) ‘Emergency period’ means the period beginning on April 1, 2020, and ending on Sep-**  
19 **tember 30, 2020.**

20 **“(b) ‘Nonpayment’ means the nonpayment of a payment that becomes due during the**  
21 **emergency period to a landlord, including a payment of rent, late charges, utility or service**  
22 **charges or any other charge or fee as described in the rental agreement or ORS 90.140,**  
23 **90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.**

24 **“(c) ‘Nonpayment balance’ includes all or a part of the net total amount of all items of**  
25 **nonpayment by a tenant.**

26 **“(d) ‘Termination notice without cause’ means a notice delivered by a landlord under ORS**  
27 **90.427 (3)(b), (4)(b) or (c), (5)(a) to (c), or (8)(a)(B) or (b)(B).**

28 **“(2) During and after the emergency period and notwithstanding this chapter or ORS**  
29 **105.105 to 105.168, a landlord may not, and may not threaten to:**

30 **“(a) Deliver a notice of termination of a rental agreement based on a tenant’s nonpay-**  
31 **ment balance;**

32 **“(b) Initiate or continue an action under ORS 105.110 to take possession of a dwelling unit**  
33 **based on a notice of termination for nonpayment delivered on or after April 1, 2020;**

34 **“(c) Take any action that would interfere with a tenant’s possession or use of a dwelling**  
35 **unit based on a tenant’s nonpayment balance;**

1       “(d) Assess a late fee or any other penalty on a tenant’s nonpayment; or  
2       “(e) Report a tenant’s nonpayment balance as delinquent to any consumer credit re-  
3       porting agency.  
4       “(3) Notwithstanding ORS 90.220 (9), before applying payments received from a tenant or  
5       on behalf of a tenant to a tenant’s nonpayment balance, a landlord shall first apply the pay-  
6       ments, in the following order, to:  
7       “(a) Rent for the current rental period;  
8       “(b) Utility or service charges;  
9       “(c) Late rent payment charges; and  
10       “(d) Fees or charges owed by the tenant under ORS 90.302 or other fees or charges re-  
11       lated to damage claims or other claims against the tenant.  
12       “(4) During the emergency period, a landlord may provide a written notice to a tenant  
13       stating that the tenant continues to owe any rent due. The notice must also include a  
14       statement that eviction for nonpayment is not allowed before September 30, 2020.  
15       “(5)(a) During the emergency period, a landlord may not deliver a termination notice  
16       without cause and may not file an action under ORS 105.110 based on a termination notice  
17       without cause.  
18       “(b) If the first year of occupancy would end during the emergency period, for the pur-  
19       poses of a termination notice without cause, the ‘first year of occupancy’ is extended to  
20       mean a period lasting until 30 days following the emergency period.  
21       “(6) Following the emergency period, a tenant with an outstanding nonpayment balance  
22       has a six-month grace period that ends on March 31, 2021, to pay the outstanding nonpay-  
23       ment balance.  
24       “(7) Following the emergency period, a landlord may deliver a written notice to a tenant  
25       that substantially states:  
26       “(a) The date that the emergency period ended;  
27       “(b) That if rents and other payments that come due after the emergency period are not  
28       timely paid, the landlord may terminate the tenancy;  
29       “(c) That the nonpayment balance that accrued during the emergency period is still due  
30       and must be paid;  
31       “(d) That the tenant will not owe a late charge for the nonpayment balance;  
32       “(e) That the tenant is entitled to a six-month grace period to repay the nonpayment  
33       balance that ends on March 31, 2021;  
34       “(f) That within a specified date stated in the notice given under this subsection that is  
35       no earlier than 14 days following the delivery of the notice, the tenant must pay the non-  
36       payment balance or notify the landlord that the tenant intends to pay the nonpayment bal-  
37       ance by the end of the six-month grace period described in subsection (6) of this section;  
38       “(g) That failure of a tenant to give notice to the landlord of utilization of the grace pe-  
39       riod described in subsection (6) of this section may result in a penalty described in subsection  
40       (10) of this section; and  
41       “(h) That rents and other charges or fees that come due after the emergency period must  
42       be paid as usual or the landlord may terminate the tenancy under ORS 90.392, 90.394 or  
43       90.630.  
44       “(8)(a) If a landlord gives a notice as described in subsection (7) of this section, a tenant  
45       who has an outstanding nonpayment balance as of the date listed on the landlord’s notice

1 as described in subsection (7)(f) of this section must notify the landlord of the tenant's in-  
2 tention to use the grace period described in subsection (6) of this section to pay the non-  
3 payment balance.

4 "(b) The tenant's notice under this subsection must be actual notice described in ORS  
5 90.150 or notice given by electronic means, and must be given to the landlord by the date  
6 given in the landlord's notice as described in subsection (7)(f) of this section.

7 "(9) The landlord's notice described in subsection (7) of this section may offer an alter-  
8 nate voluntary payment plan for payment of the nonpayment balance, but the notice must  
9 state that the alternate payment plan is voluntary.

10 "(10) A tenant's failure to give the notice required by subsection (8) of this section to a  
11 landlord entitles the landlord to recover damages equal to 50 percent of one month's rent  
12 following the grace period.

13 "(11) If a landlord violates this section, a tenant may obtain injunctive relief to recover  
14 possession or address any other violation of this section and may recover from the landlord  
15 an amount up to three months' periodic rent plus any actual damages.

16 "(12) ORS 90.412 does not apply to a landlord that accepts a partial rent payment.

17 "SECTION 4. Section 3 of this 2020 special session Act is repealed on March 31, 2021.

18 "SECTION 5. (1) As used in this section:

19 "(a) 'Emergency period' means the period beginning on April 1, 2020, and ending on Sep-  
20 tember 30, 2020.

21 "(b) 'Landlord' means the owner, lessor or sublessor of a rental unit or the building or  
22 premises of which the rental unit is a part, or a person who is authorized by the owner,  
23 lessor or sublessor to manage the premises or to enter into a rental agreement.

24 "(c) 'Nonpayment' includes the nonpayment of rent, late charges, utility charges or any  
25 other service charge or fee, as described in the rental agreement or ORS 91.090, 91.210 or  
26 91.220, during the emergency period.

27 "(d) 'Nonpayment balance' includes all or a part of the net total amount of all items of  
28 nonpayment by a tenant.

29 "(e) 'Rental unit' means a structure or part of a structure for use as a commercial space  
30 by a tenant.

31 "(f) 'Tenant' means an individual or organization entitled under a rental agreement to  
32 occupy a rental unit to the exclusion of others.

33 "(2) During and after the emergency period and notwithstanding ORS chapter 91 and ORS  
34 105.105 to 105.168, a landlord may not, and may not threaten to:

35 "(a) Deliver a notice terminating a rental agreement for a rental unit based on a tenant's  
36 nonpayment;

37 "(b) Initiate or continue an action under ORS 105.110 to take possession of a rental unit  
38 based on a termination notice for nonpayment delivered on or after April 1, 2020; or

39 "(c) Take any action that would interfere with a tenant's possession or use of a rental  
40 unit based on a tenant's nonpayment.

41 "(3) Notwithstanding any provision in the rental agreement, a landlord may not impose  
42 a late fee or other penalty on a tenant for nonpayment under this section.

43 "(4) Following the emergency period, a tenant with an outstanding nonpayment balance  
44 has a six-month grace period that ends on March 31, 2021, to pay the outstanding nonpay-  
45 ment balance.

1       “(5) Following the emergency period, a landlord may deliver a written notice to a tenant  
2 that substantially states:

3       “(a) The date that the emergency period ended;

4       “(b) That if rents and other payments that come due after the emergency period are not  
5 timely paid, the landlord may terminate the tenancy;

6       “(c) That the nonpayment balance that accrued during the emergency period is still due  
7 and must be paid;

8       “(d) That the tenant will not owe a late charge for the nonpayment balance;

9       “(e) That the tenant is entitled to a six-month grace period to repay the nonpayment  
10 balance that ends on March 31, 2021;

11       “(f) That within a specified date stated in the notice given under this subsection that is  
12 no earlier than 14 days following the delivery of the notice, the tenant must pay the non-  
13 payment balance or notify the landlord that the tenant intends to pay the nonpayment bal-  
14 ance by the end of the six-month grace period described in subsection (4) of this section;

15       “(g) That failure of a tenant to give notice to the landlord of utilization of the grace pe-  
16 riod described in subsection (4) of this section may result in a penalty described in subsection  
17 (8) of this section; and

18       “(h) That rents and other charges or fees that come due after the emergency period must  
19 be paid as usual or the landlord may terminate the tenancy.

20       “(6)(a) If a landlord gives a notice as described in subsection (5) of this section, a tenant  
21 who has an outstanding nonpayment balance as of the date listed on the landlord’s notice  
22 as described in subsection (5)(f) of this section must notify the landlord of the tenant’s in-  
23 tention to use the grace period described in subsection (4) of this section to pay the non-  
24 payment balance.

25       “(b) The tenant’s notice under this subsection must be given in compliance with ORS  
26 91.110 or notice given by electronic means, and must be given to the landlord by the date  
27 given in the landlord’s notice as described in subsection (5)(f) of this section.

28       “(7) The landlord’s notice described in subsection (5) of this section may offer an alter-  
29 nate voluntary payment plan for payment of the nonpayment balance, but the notice must  
30 state that the alternate payment plan is voluntary.

31       “(8) A tenant’s failure to give the notice required by subsection (6) of this section to a  
32 landlord entitles the landlord to recover damages equal to 50 percent of one month’s rent  
33 following the grace period.

34       “(9) If a landlord violates this section, a tenant may obtain injunctive relief to recover  
35 possession or address any other violation of this section and may recover from the landlord  
36 an amount up to three months’ periodic rent plus any actual damages.

37       “SECTION 6. Section 5 of this 2020 special session Act is repealed on March 31, 2021.

38       “SECTION 7. Notwithstanding ORS 12.125, the period of limitation is tolled until March  
39 31, 2021, for claims by a landlord based on a tenant’s nonpayment or nonpayment balance,  
40 both as defined in section 3 of this 2020 special session Act.

41       “SECTION 8. This 2020 special session Act being necessary for the immediate preserva-  
42 tion of the public peace, health and safety, an emergency is declared to exist, and this 2020  
43 special session Act takes effect on its passage.”.