

Requested by Senator KNOPP

**PROPOSED AMENDMENTS TO
HOUSE BILL 4213**

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

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

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

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

13 **“(3) Even if a provision of section 3 or 5 of this 2020 special session**
14 **Act has the effect of undermining a contractual bargain, interfering**
15 **with a party’s reasonable expectations or preventing a party from**
16 **safeguarding or reinstating the party’s rights, the provision is appro-**
17 **priate and reasonable to carry out the significant and legitimate public**
18 **purpose of responding to the declaration of a state of emergency issued**
19 **by the Governor on March 8, 2020.**

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

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

2 **“(a) ‘Emergency period’ means the period beginning on March 22,**
3 **2020, and ending on the date that is 90 days after the date on which**
4 **Executive Order 20-13 issued by the Governor on April 1, 2020, and any**
5 **extension of the order, is no longer in effect.**

6 **“(b) ‘Nonpayment’ means the nonpayment of a payment that be-**
7 **comes due during the emergency period to a landlord, including a**
8 **payment of rent, late charges, utility or service charges or any other**
9 **charge or fee as described in the rental agreement or ORS 90.140,**
10 **90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.**

11 **“(c) ‘Nonpayment balance’ means the net total amount of all items**
12 **of nonpayment by a tenant.**

13 **“(2) Except as provided in subsection (11) of this section, during and**
14 **after the emergency period and notwithstanding this chapter or ORS**
15 **105.105 to 105.168, a landlord may not, and may not threaten to:**

16 **“(a) Deliver a notice of termination of a rental agreement based on**
17 **a tenant’s nonpayment balance;**

18 **“(b) Initiate or continue an action under ORS 105.110 to take pos-**
19 **session of a dwelling unit based on a notice of termination for non-**
20 **payment delivered on or after March 22, 2020;**

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

23 **“(d) Assess a late fee or any other penalty on a tenant’s nonpay-**
24 **ment balance; or**

25 **“(e) Report a tenant’s nonpayment balance as delinquent to any**
26 **consumer credit reporting agency.**

27 **“(3) Notwithstanding ORS 90.220 (9), before applying payments re-**
28 **ceived from a tenant to a tenant’s nonpayment balance, a landlord**
29 **shall first apply the payments, in the following order, to:**

30 **“(a) Rent for the current rental period;**

1 **“(b) Utility or service charges;**
2 **“(c) Late rent payment charges; and**
3 **“(d) Fees or charges owed by the tenant under ORS 90.302 or other**
4 **fees or charges related to damage claims or other claims against the**
5 **tenant.**

6 **“(4) During the emergency period, a landlord may provide a written**
7 **notice to a tenant stating that the tenant continues to owe any rent**
8 **due. The notice must also include a statement that eviction for non-**
9 **payment is not allowed before January 1, 2021.**

10 **“(5) Following the emergency period, a tenant with an outstanding**
11 **nonpayment balance has a 90-day grace period to pay the outstanding**
12 **nonpayment balance.**

13 **“(6) Following the emergency period, a landlord may deliver a**
14 **written notice to a tenant that substantially states:**

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

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

19 **“(c) That the nonpayment balance is still due and must be paid;**

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

22 **“(e) That the tenant is entitled to a 90-day grace period to repay the**
23 **nonpayment balance;**

24 **“(f) That within a specified date stated in the notice given under**
25 **this subsection that is no earlier than 14 days following the delivery**
26 **of the notice, the tenant must pay the nonpayment balance or notify**
27 **the landlord that the tenant intends to pay the nonpayment balance**
28 **by the end of the 90-day grace period described in subsection (5) of this**
29 **section;**

30 **“(g) That failure of a tenant to give notice to the landlord of utili-**

1 zation of the grace period described in subsection (5) of this section
2 may result in a penalty described in subsection (10) of this section; and

3 “(h) That rents and other charges or fees that come due after the
4 emergency period must be paid as usual or the landlord may terminate
5 the tenancy under ORS 90.392, 90.394 or 90.630.

6 “(7)(a) A tenant who has an outstanding nonpayment balance as of
7 the date listed on the landlord’s notice as described in subsection (6)(f)
8 of this section must notify the landlord of the tenant’s intention to
9 use the grace period described in subsection (5) of this section to pay
10 the nonpayment balance.

11 “(b) The tenant’s notice under this subsection must be actual notice
12 described in ORS 90.150 or notice given by electronic means, and must
13 be given to the landlord by the date given in the landlord’s notice as
14 described in subsection (6)(f) of this section.

15 “(8) The landlord’s notice described in subsection (6) of this section
16 may offer an alternate voluntary payment plan for payment of the
17 nonpayment balance, but the notice must state that the alternate
18 payment plan is voluntary.

19 “(9) Subsections (2) to (8) of this section do not apply:

20 “(a) Unless, no later than the latter of 30 days following the effec-
21 tive date of this 2020 special session Act or five days following a
22 tenant’s first nonpayment, the tenant provides to the landlord:

23 “(A) Actual notice that the tenant is unable to pay the full amount
24 of rent or charges; and

25 “(B) Documentation or other objective verification that the tenant
26 is experiencing:

27 “(i) An illness related to COVID-19; or

28 “(ii) A disruption to the tenant’s income, including unemployment
29 or lost wages, related to COVID-19.

30 “(b) If the tenant does not:

1 “(A) Make payments or partial payments to the extent that the
2 tenant is able to do so;

3 “(B) Timely apply for any eligible public funded rental assistance
4 and public benefits; or

5 “(C) Pay all rental income assistance received by the tenant to the
6 landlord.

7 “(10) If a tenant fails to give the notice required by subsection (7)
8 of this section to a landlord:

9 “(a) The landlord is entitled to recover damages equal to 50 percent
10 of one month’s rent; and

11 “(b) Subsection (2) of this section does not apply.

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

16 “(12) During the emergency period, a landlord may not deliver a
17 termination notice under ORS 90.427 (3) to (8) and may not file an
18 eviction action under ORS 105.110 for a notice given by the landlord
19 under ORS 90.427 (3) to (8). If the first year of occupancy would end
20 during the emergency period, for the purposes of ORS 90.427, the ‘first
21 year of occupancy’ means a period lasting until 30 days following the
22 emergency period.

23 “(13) ORS 90.412 does not apply to a landlord that accepts a partial
24 rent payment.

25 “SECTION 4. Section 3 of this 2020 special session Act is repealed
26 on December 31, 2020.

27 “SECTION 5. (1) As used in this section:

28 “(a) ‘Emergency period’ means the period beginning on March 22,
29 2020, and ending on the date that is 90 days after the date on which
30 the declaration of a state of emergency issued by the Governor on

1 **March 8, 2020, and any extension of the declaration, is no longer in**
2 **effect.**

3 **“(b) ‘Landlord’ means the owner, lessor or sublessor of a rental unit**
4 **or the building or premises of which the rental unit is a part, or a**
5 **person who is authorized by the owner, lessor or sublessor to manage**
6 **the premises or to enter into a rental agreement.**

7 **“(c) ‘Nonpayment’ includes the nonpayment of rent, late charges,**
8 **utility charges or any other service charge or fee, as described in the**
9 **rental agreement or ORS 91.090, 91.210 or 91.220, during the emergency**
10 **period.**

11 **“(d) ‘Nonpayment balance’ means the net total amount of all items**
12 **of nonpayment by a tenant.**

13 **“(e) ‘Rental unit’ means a structure or part of a structure for use**
14 **as a commercial space by a tenant.**

15 **“(f) ‘Tenant’ means an individual or organization entitled under a**
16 **rental agreement to occupy a rental unit to the exclusion of others.**

17 **“(2) Except as provided in subsection (10) of this section, during and**
18 **after the emergency period and notwithstanding ORS chapter 91 and**
19 **ORS 105.105 to 105.168, a landlord may not, and may not threaten to:**

20 **“(a) Deliver a notice terminating a rental agreement for a rental**
21 **unit based on a tenant’s nonpayment;**

22 **“(b) Initiate or continue an action under ORS 105.110 to take pos-**
23 **session of a rental unit based on a termination notice for nonpayment**
24 **delivered on or after March 22, 2020; or**

25 **“(c) Take any action that would interfere with a tenant’s possession**
26 **or use of a rental unit based on a tenant’s nonpayment.**

27 **“(3) Notwithstanding any provision in the rental agreement, a**
28 **landlord may not impose a late fee or other penalty on a tenant for**
29 **nonpayment under this section.**

30 **“(4) Following the emergency period, a tenant with an outstanding**

1 nonpayment balance has a 90-day grace period to pay the outstanding
2 nonpayment balance.

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

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

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

9 “(c) That the nonpayment balance is still due and must be paid;

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

12 “(e) That the tenant is entitled to a 90-day grace period to repay the
13 nonpayment balance;

14 “(f) That within a specified date stated in the notice given under
15 this subsection that is no earlier than 14 days following the delivery
16 of the notice, the tenant must pay the nonpayment balance or notify
17 the landlord that the tenant intends to pay the nonpayment balance
18 by the end of the 90-day grace period described in subsection (4) of this
19 section;

20 “(g) That failure of a tenant to give notice to the landlord of utili-
21 zation of the grace period described in subsection (4) of this section
22 may result in a penalty described in subsection (9) of this section; and

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

26 “(6)(a) A tenant who has an outstanding nonpayment balance as of
27 the date listed on the landlord’s notice as described in subsection (5)(f)
28 of this section must notify the landlord of the tenant’s intention to
29 use the grace period described in subsection (4) of this section to pay
30 the nonpayment balance.

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

5 **“(7) The landlord’s notice described in subsection (5) of this section**
6 **may offer an alternate voluntary payment plan for payment of the**
7 **nonpayment balance, but the notice must state that the alternate**
8 **payment plan is voluntary.**

9 **“(8) Subsections (2) to (7) of this section do not apply:**

10 **“(a) Unless, no later than the latter of 30 days following the effec-**
11 **tive date of this 2020 special session Act or five days following a**
12 **tenant’s first nonpayment, the tenant provides to the landlord:**

13 **“(A) Actual notice that the tenant is unable to pay the full amount**
14 **of rent or charges; and**

15 **“(B) Documentation or other objective verification that the tenant**
16 **is experiencing a loss of income related to COVID-19 or the economic**
17 **consequences of COVID-19 or any public or government response to**
18 **COVID-19.**

19 **“(b) If the tenant does not:**

20 **“(A) Make payments or partial payments to the extent that the**
21 **tenant is able to do so;**

22 **“(B) Timely apply for any eligible public funded rental assistance**
23 **and public benefits; or**

24 **“(C) Pay all rental income assistance received by the tenant to the**
25 **landlord.**

26 **“(9) If a tenant fails to give the notice required by subsection (6)**
27 **of this section to a landlord:**

28 **“(a) The landlord is entitled to recover damages equal to 50 percent**
29 **of one month’s rent; and**

30 **“(b) Subsection (2) of this section does not apply.**

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

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

7 “SECTION 7. (1) Notwithstanding ORS 401.168 (1), 401.175 (1), 401.188
8 (2) and (3) and 433.441 (3), this 2020 special session Act is intended to
9 repeal and supercede the Governor’s Executive Order 20-13 issued on
10 April 1, 2020, and any authority of the Governor to enact any further
11 emergency order that alters or suspends ORS 105.105 to 105.168 and is
12 based on the health or financial consequences of COVID-19.

13 “(2) This 2020 special session Act preempts any ordinance by a local
14 government that alters or suspends any portion of ORS 105.105 to
15 105.168 and that is based on the health or financial consequences of
16 COVID-19.

17 “SECTION 8. This 2020 special session Act being necessary for the
18 immediate preservation of the public peace, health and safety, an
19 emergency is declared to exist, and this 2020 special session Act takes
20 effect on its passage.”.

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