

Requested by JOINT COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020

**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 April 1,**
3 **2020, and ending on September 30, 2020.**

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

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

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

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

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

19 **“(b) Initiate or continue an action under ORS 105.110 to take pos-**
20 **session of a dwelling unit based on a notice of termination for non-**
21 **payment delivered on or after April 1, 2020;**

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

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

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

28 **“(3) Notwithstanding ORS 90.220 (9), before applying payments re-**
29 **ceived from a tenant or on behalf of a tenant to a tenant’s nonpay-**
30 **ment balance, a landlord shall first apply the payments, in the**

1 following order, to:

2 “(a) Rent for the current rental period;

3 “(b) Utility or service charges;

4 “(c) Late rent payment charges; and

5 “(d) Fees or charges owed by the tenant under ORS 90.302 or other
6 fees or charges related to damage claims or other claims against the
7 tenant.

8 “(4) During the emergency period, a landlord may provide a written
9 notice to a tenant stating that the tenant continues to owe any rent
10 due. The notice must also include a statement that eviction for non-
11 payment is not allowed before September 30, 2020.

12 “(5)(a) During the emergency period, a landlord may not deliver a
13 termination notice without cause and may not file an action under
14 ORS 105.110 based on a termination notice without cause.

15 “(b) If the first year of occupancy would end during the emergency
16 period, for the purposes of a termination notice without cause, the
17 ‘first year of occupancy’ is extended to mean a period lasting until 30
18 days following the emergency period.

19 “(6) Following the emergency period, a tenant with an outstanding
20 nonpayment balance has a six-month grace period that ends on March
21 31, 2021, to pay the outstanding nonpayment balance.

22 “(7) Following the emergency period, a landlord may deliver a
23 written notice to a tenant that substantially states:

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

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

28 “(c) That the nonpayment balance that accrued during the emer-
29 gency period is still due and must be paid;

30 “(d) That the tenant will not owe a late charge for the nonpayment

1 balance;

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

4 “(f) That within a specified date stated in the notice given under
5 this subsection that is no earlier than 14 days following the delivery
6 of the notice, the tenant must pay the nonpayment balance or notify
7 the landlord that the tenant intends to pay the nonpayment balance
8 by the end of the six-month grace period described in subsection (6)
9 of this section;

10 “(g) That failure of a tenant to give notice to the landlord of utili-
11 zation of the grace period described in subsection (6) of this section
12 may result in a penalty described in subsection (10) of this section; and

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

16 “(8)(a) If a landlord gives a notice as described in subsection (7) of
17 this section, a tenant who has an outstanding nonpayment balance as
18 of the date listed on the landlord’s notice as described in subsection
19 (7)(f) of this section must notify the landlord of the tenant’s intention
20 to use the grace period described in subsection (6) of this section to
21 pay the nonpayment balance.

22 “(b) The tenant’s notice under this subsection must be actual notice
23 described in ORS 90.150 or notice given by electronic means, and must
24 be given to the landlord by the date given in the landlord’s notice as
25 described in subsection (7)(f) of this section.

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

30 “(10) A tenant’s failure to give the notice required by subsection (8)

1 of this section to a landlord entitles the landlord to recover damages
2 equal to 50 percent of one month's rent following the grace period.

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

7 “(12) ORS 90.412 does not apply to a landlord that accepts a partial
8 rent payment.

9 **“SECTION 4.** Section 3 of this 2020 special session Act is repealed
10 on March 31, 2021.

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

12 “(a) ‘Emergency period’ means the period beginning on April 1,
13 2020, and ending on September 30, 2020.

14 “(b) ‘Landlord’ means the owner, lessor or sublessor of a rental unit
15 or the building or premises of which the rental unit is a part, or a
16 person who is authorized by the owner, lessor or sublessor to manage
17 the premises or to enter into a rental agreement.

18 “(c) ‘Nonpayment’ includes the nonpayment of rent, late charges,
19 utility charges or any other service charge or fee, as described in the
20 rental agreement or ORS 91.090, 91.210 or 91.220, during the emergency
21 period.

22 “(d) ‘Nonpayment balance’ includes all or a part of the net total
23 amount of all items of nonpayment by a tenant.

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

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

28 “(2) During and after the emergency period and notwithstanding
29 ORS chapter 91 and ORS 105.105 to 105.168, a landlord may not, and
30 may not threaten to:

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

3 **“(b) Initiate or continue an action under ORS 105.110 to take pos-**
4 **session of a rental unit based on a termination notice for nonpayment**
5 **delivered on or after April 1, 2020; or**

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

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

11 **“(4) Following the emergency period, a tenant with an outstanding**
12 **nonpayment balance has a six-month grace period that ends on March**
13 **31, 2021, to pay the outstanding nonpayment balance.**

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

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

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

20 **“(c) That the nonpayment balance that accrued during the emer-**
21 **gency period is still due and must be paid;**

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

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

26 **“(f) That within a specified date stated in the notice given under**
27 **this subsection that is no earlier than 14 days following the delivery**
28 **of the notice, the tenant must pay the nonpayment balance or notify**
29 **the landlord that the tenant intends to pay the nonpayment balance**
30 **by the end of the six-month grace period described in subsection (4)**

1 of this section;

2 “(g) That failure of a tenant to give notice to the landlord of utili-
3 zation of the grace period described in subsection (4) of this section
4 may result in a penalty described in subsection (8) of this section; and

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

8 “(6)(a) If a landlord gives a notice as described in subsection (5) of
9 this section, a tenant who has an outstanding nonpayment balance as
10 of the date listed on the landlord’s notice as described in subsection
11 (5)(f) of this section must notify the landlord of the tenant’s intention
12 to use the grace period described in subsection (4) of this section to
13 pay the nonpayment balance.

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

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

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

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

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

1 **“SECTION 7. Notwithstanding ORS 12.125, the period of limitation**
2 **is tolled until March 31, 2021, for claims by a landlord based on a**
3 **tenant’s nonpayment or nonpayment balance, both as defined in sec-**
4 **tion 3 of this 2020 special session Act.**

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

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