

# House Bill 4213

Sponsored by Representative KOTEK (at the request of Joint Committee on the First Special Session of 2020)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits residential and commercial evictions under specified conditions during emergency period.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to evictions; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

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

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

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

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

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

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

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22 **on April 1, 2020, and any extension of the order, is no longer in effect.**

23 (b) **"Nonpayment" means the nonpayment of a payment that becomes due during the**  
24 **emergency period to a landlord, including a payment of rent, late charges, utility or service**  
25 **charges or any other charge or fee as described in the rental agreement or ORS 90.140,**  
26 **90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.**

27 (c) **"Nonpayment balance" means the net total amount of all items of nonpayment by a**  
28 **tenant.**

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) Deliver a notice of termination of a rental agreement based on a tenant's nonpayment  
2 balance;

3 (b) Initiate or continue an action under ORS 105.110 to take possession of a dwelling unit  
4 based on a notice of termination for nonpayment delivered on or after March 22, 2020;

5 (c) Take any action that would interfere with a tenant's possession or use of a dwelling  
6 unit based on a tenant's nonpayment balance;

7 (d) Assess a late fee or any other penalty on a tenant's nonpayment balance; or

8 (e) Report a tenant's nonpayment balance as delinquent to any consumer credit reporting  
9 agency.

10 (3) Notwithstanding ORS 90.220 (9), before applying payments received from a tenant to  
11 a tenant's nonpayment balance, a landlord shall first apply the payments, in the following  
12 order, to:

13 (a) Rent for the current rental period;

14 (b) Utility or service charges;

15 (c) Late rent payment charges; and

16 (d) Fees or charges owed by the tenant under ORS 90.302 or other fees or charges related  
17 to damage claims or other claims against the tenant.

18 (4) During the emergency period, a landlord may provide a written notice to a tenant  
19 stating that the tenant continues to owe any rent due. The notice must also include a  
20 statement that eviction for nonpayment is not allowed before the date that is 90 days after  
21 the date on which Executive Order 20-13 issued by the Governor on April 1, 2020, and any  
22 extension of the order, is no longer in effect.

23 (5) During the emergency period, a landlord may not deliver a termination notice under  
24 ORS 90.427 (3)(b) or (c)(B), (4)(b) or (c), (5) or (8)(a)(B) or (b)(B) and may not file an eviction  
25 action under ORS 105.110 for a notice given by a landlord under ORS 90.427 (3)(b) or (c)(B),  
26 (4)(b) or (c), (5) or (8)(a)(B) or (b)(B).

27 (6) Following the emergency period, a tenant with an outstanding nonpayment balance  
28 has a 90-day grace period to pay the outstanding nonpayment balance.

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

31 (a) The date that the emergency period ended;

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

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

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

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

37 (f) That within a specified date stated in the notice given under this subsection that is  
38 no earlier than 14 days following the delivery of the notice, the tenant must pay the non-  
39 payment balance or notify the landlord that the tenant intends to pay the nonpayment bal-  
40 ance by the end of the 90-day grace period described in subsection (6) of this section;

41 (g) That failure of a tenant to give notice to the landlord of utilization of the grace period  
42 described in subsection (6) of this section may result in a penalty described in subsection (10)  
43 of this section; and

44 (h) That rents and other charges or fees that come due after the emergency period must  
45 be paid as usual or the landlord may terminate the tenancy under ORS 90.392, 90.394 or

1 **90.630.**

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

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

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

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

15 (11) If, within the time period allowed under a notice from a landlord under subsection  
 16 (7)(f) of this section, a tenant does not provide actual or electronic notice to the landlord  
 17 that the tenant intends to pay the nonpayment balance by no later than the end of the 90-day  
 18 grace period described in subsection (6) of this section, subsection (2) of this section does  
 19 not apply.

20 (12) If a landlord violates this section, a tenant may obtain injunctive relief to recover  
 21 possession or address any other violation of this section and may recover from the landlord  
 22 an amount up to three month's periodic rent plus any actual damages.

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

24 (14) A landlord may not deliver a termination notice under ORS 90.427 (3) to (8) and may  
 25 not file an eviction action under ORS 105.110 for a notice given by a landlord under ORS  
 26 90.427 (3) to (8). If the first year of occupancy would end during the emergency period, for  
 27 the purposes of ORS 90.427, the "first year of occupancy" means a period lasting until 30 days  
 28 following the emergency period.

29 **SECTION 4.** Section 3 of this 2020 special session Act is repealed on the date that is 180  
 30 days after the date on which Executive Order 20-13 issued by the Governor on April 1, 2020,  
 31 and any extension of the order, is no longer in effect.

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

33 (a) "Emergency period" means the period beginning on March 22, 2020, and ending on the  
 34 date that is 90 days after the date on which the declaration of a state of emergency issued  
 35 by the Governor on March 8, 2020, and any extension of the declaration, is no longer in ef-  
 36 fect.

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

40 (c) "Nonpayment" includes the nonpayment of rent, late charges, utility charges or any  
 41 other service charge or fee, as described in the rental agreement or ORS 91.090, 91.210 or  
 42 91.220, during the emergency period.

43 (d) "Nonpayment balance" means the net total amount of all items of nonpayment by a  
 44 tenant.

45 (e) "Rental unit" means a structure or part of a structure for use as a commercial space

1 by a tenant.

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

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

7 (a) Deliver a notice terminating a rental agreement for a rental unit based on a tenant's  
8 nonpayment;

9 (b) Initiate or continue an action under ORS 105.110 to take possession of a rental unit  
10 based on a termination notice for nonpayment delivered on or after March 22, 2020; or

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

13 (3) The tenant shall pay all received publicly funded rent assistance to the landlord as  
14 payment for rent.

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

17 (5) Following the emergency period, a tenant with an outstanding nonpayment balance  
18 has a 90-day grace period to pay the outstanding nonpayment balance.

19 (6) Following the emergency period, a landlord may deliver a written notice to a tenant  
20 that substantially states:

21 (a) The date that the emergency period ended;

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

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

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

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

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

31 (g) That failure of a tenant to give notice to the landlord of utilization of the grace period  
32 described in subsection (5) of this section may result in a penalty described in subsection (10)  
33 of this section; and

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

36 (7)(a) A tenant who has an outstanding nonpayment balance as of the date listed on the  
37 landlord's notice as described in subsection (6)(f) of this section must notify the landlord of  
38 the tenant's intention to use the grace period described in subsection (5) of this section to  
39 pay the nonpayment balance.

40 (b) The tenant's notice under this subsection must be given in compliance with ORS  
41 91.110 or notice given by electronic means, and must be given to the landlord by the date  
42 given in the landlord's notice as described in subsection (6)(f) of this section.

43 (8) The landlord's notice described in subsection (6) of this section may offer an alternate  
44 voluntary payment plan for payment of the nonpayment balance, but the notice must state  
45 that the alternate payment plan is voluntary.

1       **(9) A tenant's failure to give the notice required by subsection (7) of this section to a**  
2 **landlord entitles the landlord to recover damages equal to 50 percent of one month's rent**  
3 **following the grace period.**

4       **(10) If, within the time period allowed under a notice from a landlord under subsection**  
5 **(6)(f) of this section, a tenant does not provide actual or electronic notice to the landlord**  
6 **that the tenant intends to pay the nonpayment balance by no later than the end of the 90-day**  
7 **grace period described in subsection (5) of this section, subsection (2) of this section does**  
8 **not apply.**

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

12       **SECTION 6. Section 5 of this 2020 special session Act is repealed on the date that is 270**  
13 **days after the date on which Executive Order 20-13 issued by the Governor on April 1, 2020,**  
14 **and any extension of the order, is no longer in effect.**

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

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