

# Oregon's New Eviction Law for Residential Tenancies (HB 4213)

## June 2020

### What is Oregon's New COVID-19 Eviction Law and When Does It Take Effect?

- The [new law](#) takes effect immediately and replaces the Governor's [Executive Order 20-13](#).
- Bans certain notices and evictions during a defined "Emergency Period" (4/1 – 9/30/2020)
- Creates a 6 month "grace period" (Sep 30 – March 31) where tenants can catch up on rent and other charges that were unpaid during the Emergency Period without being evicted.
- Gives tenants right to possession, actual damages and three months' rent for landlord violations.
- Law is repealed in its entirety March 31, 2021

### What Notices and Evictions are Prohibited Under the New Law?

- Notices of termination or evictions for nonpayment of rent, late charges, utility or service charges or any other charge or fees that came due between 4/1 and 9/30/2020.
- No-cause termination notices (termination of month-to-month tenancy in first year, or non-renewal of a fixed-term tenancy that ends within the first year for any reason other than tenant cause)
- Notices of terminations after the first year of tenancy for any reason other than the sale of the home to a person moving in as their primary residence (90-day notice) or for tenant causes.

### What Notices and Evictions are Allowed During the Emergency Period?

- Notice/evictions for tenant cause ([ORS 90.392](#), [90.396](#), [90.398](#), [90.405](#), [90.440](#), [90.445](#), [86.782\(6\)\(c\)](#))
- Notices and evictions for nonpayment if the nonpayment occurred prior to April 1, 2020.
- Notices and evictions after the first year of tenancy for the sale of a home to a person who intends to occupy the home as a primary residence. Must comply with SB 608 rules (see [ORS 90.427\(5\)\(d\)](#)).
- A notice during the Emergency Period to a tenant letting them know that they owe you rent so long as the notice also states that no eviction for nonpayment of rent is allowed until after September 30.

### What Else Does the Law Prohibit with Respect to Nonpayment?

- Landlords may not assess a late fee or any other penalty on a tenant's nonpayment balance that accrues from April 1, 2020 through September 30, 2020.
- Landlords may not report a tenant's nonpayment for this period to any credit reporting agency.

## How Does the Grace Period Work?

- Following the emergency period, a tenant with an outstanding nonpayment balance has a six-month grace period that ends on March 31, 2021, to pay the outstanding nonpayment balance.
- Tenant must give landlord notice of intent to use the grace period by the date specified in landlord's notice (see below). It must be actual notice (see [ORS 90.150](#)) or notice given by electronic means.
- A tenant's failure to give the notice to a landlord entitles the landlord to recover damages equal to 50 percent of one month's rent following the grace period.
- In a landlord's post-Emergency Period notice (see below) the landlord **may** offer an alternate voluntary payment plan but the notice must state that the alternate payment plan is voluntary.

## What Should a Notice to Tenant After the Emergency Period Include?

- The date the Emergency Period ended (September 30, 2020)
- That the Landlord may terminate the tenancy for failure to timely pay rents and other payments that come due after the emergency period
- That the nonpayment balance that accrued during the emergency period is still due and must be paid but that the tenant will not owe a late charge for the nonpayment balance
- That the tenant is entitled to a 6 mo grace period ending 03-31-21 to repay the nonpayment balance
- That within a specified date stated in the notice given that is no earlier than 14 days following the delivery of the notice, the tenant must pay the nonpayment balance or notify the landlord that the tenant intends to pay the nonpayment balance by the end of the six-month grace period
- That failure of a tenant to give notice to the landlord of utilization of the grace period may result in a penalty of one half of one month's rent owed by the tenant to the landlord
- That rents and other charges or fees that come due after the emergency period must be paid as usual or the landlord may terminate the tenancy under ORS 90.392, 394 or .630
- The notice **may** include an alternate voluntary payment plan but the notice must state that the alternate payment plan is voluntary

## If Tenants are Late on Rent How Must Landlords Apply Payments They Do Receive?

- Landlords must apply payments in the following order: 1) rent for the current rental period 2) utility or service charges 3) late rent payment charges 4) fees or charges owed by the tenant under [ORS 90.302](#) or fees or charges related to damage claims or other claims against the tenant.

### **Does a Landlord Preserve the Right to Issue a No-Cause Termination After the Emergency Period?**

- If the tenancy passes the one-year threshold during the Emergency Period, landlords will have a 30-day window after the end of the Emergency Period to issue a 30-day no-cause eviction notice.

### **If Notice was Lawfully Issued Prior to the Emergency Period, can a Landlord Pursue Eviction?**

- If the notice was for nonpayment that occurred prior to the Emergency Period, yes.
- If the notice was a 90-day notice given after the first year of the tenancy for the sale of a home to a person who intends to occupy the home as a primary residence, yes.
- If the notice was a no-cause notice, or for a landlord-based reason other than sale of the home to a person who intends to occupy it as a primary residence (demolition, remodeling, owner/family member moving in) then the landlord cannot pursue the eviction until after September 30.

### **What Are the Penalties if a Landlord Violates Any of These Provisions?**

- A tenant may obtain injunctive relief to recover possession or address any other violation and may recover from the landlord an amount up to three months' periodic rent plus any actual damages.

### **Even If I'm Allowed to Pursue an Eviction, Will the Courts Be Open to Process it?**

- Oregon's Chief Justice is setting the procedures for the courts. Landlords should check for the latest Chief Justice's orders [here](#). As of the latest orders on May 15 eviction proceedings can begin on July 1 but only in counties where at least 50 people are able to congregate (Phase 2 Counties). Some discretion is given to local presiding judges. Check with the clerk of your county court.

### **What Else Should I know About this Law?**

- The one-year statute of limitations to bring a landlord/tenant action is tolled until March 31, 2021.
- Acceptance of partial rent payments is not a waiver of the right to terminate under ORS 90.412.