

## **Guidance on the Governor’s Temporary Moratorium on Residential Evictions in Response to COVID-19 and Wildfire Emergencies**

This document answers frequently asked questions about the Governor’s Executive Order No. 20-56 issued on September 28, 2020 under her emergency powers and responding to the COVID-19 and Wildfire emergencies. The Executive Order provides protections to Oregon renters for September 30, 2020 through December 31, 2020.

### **FREQUENTLY ASKED QUESTIONS**

#### **Question 1: To whom does the Order apply?**

The Order applies to landlords and tenants of residential properties in Oregon. Unlike HB 4213, it does not apply to commercial properties. For more detail on what constitutes a residential property, see Questions 8 through 15 below.

#### **Question 2: What protections does the Order provide to tenants?**

From September 30, 2020 through December 31, 2020, landlords of Oregon residential properties are prohibited from or threatening to:

- Deliver a termination notice without cause;
- Deliver a termination notice for nonpayment of rent, including late charges, utility or service charges or any other fees described in the rental agreement or the statutes listed in the Order due between April 1, 2020 through December 31, 2020;
- Initiate or continue an eviction action based on such notices;
- Take any other action for nonpayment that interferes with the tenant’s possession or use of the rental property;
- Assess a late fee or penalty for nonpayment; or
- Report a tenant’s nonpayment as delinquent to any consumer credit reporting agency.

#### **Question 3: Can a landlord evict a tenant for causes other than nonpayment of rents due from April 1, 2020 through December 31, 2020?**

Yes. The Order does not prohibit evictions for violations of the rental agreement other than the nonpayment and without cause evictions specified in the Order.

**Question 4: If a tenant’s first year of tenancy ended during the period from April 1, 2020 through December 31, 2020, does a landlord lose the ability to give a no-cause termination notice?**

No. A landlord has until January 30, 2021 to give the tenant a no-cause termination notice.

**Question 5: When is unpaid rent due?**

That depends on when the rents became due. Rents that became due on April 1, 2020 through September 30, 2020, that remain unpaid now must be paid by March 31, 2021. Rents that became due October 1, 2020 through December 31, 2020, that remain unpaid now must be paid by January 1, 2021 (unless the Legislature or the Governor takes further action). These changes are summarized below:

Original Due Date Under Lease	New Date	Legal Source of Change
Apr 1, 2020 – Sep 30, 2020	Mar 31, 2021	House Bill 4213
Oct 1, 2020 – Dec 31, 2020	Jan 1, 2021	Executive Order 20-56
Jan 1, 2021 and after	No change	

**Question 6: Can a tenant be evicted for failing to pay rent coming due in January 2021?**

Yes. The eviction moratorium period only covers rents that come due through December 31, 2020.

**Question 7: Are there any differences between HB 4213 and the Order relating to “without cause” terminations?**

Yes. Under the Order, beginning October 1, landlords may give tenants notices of termination and may initiate or continue an eviction action because the landlord intends to demolish, convert to a non-residential use, undertake repairs or renovation (and the premises is or would be unsafe or unfit for occupancy), or when the landlord intends for the landlord or a member of the landlord’s

immediate family to occupy the dwelling unit as a primary residence under certain conditions.

**Question 8: What is a “residential property” under the Order?**

Under the Order, a residential property is any dwelling unit that is covered by the Oregon Residential Landlord and Tenant Act (ORS 90) (the “Landlord Tenant Act”).

A “dwelling unit” is a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

**Question 9: Which living situations are not covered by the Order?**

The following living situations are not covered by the Order:

- certain stays in a hotel or motel (this is discussed in more detail in Question 15 below)
- living in a dwelling unit as part of employment in or around the dwelling unit (such as a resident manager or janitor)
- a buyer or seller living in a dwelling unit within 90 days of the purchase or sale of the structure
- living on land rented primarily for the purpose of farming
- living in certain institutions
- vacation occupancy (when a person who has another home lives in a dwelling unit for less than 45 days)
- a member of a fraternal or social organization living in a building operated for the benefit of the organization
- “squatting” in a dwelling unit

**Question 10: Are manufactured dwellings covered by the Order?**

Yes. The Order covers manufactured dwellings.

**Question 11: Are recreational vehicles covered by the Order? What is considered a recreational vehicle?**

Yes. The Order covers recreational vehicles, as long as they are used as “dwelling units.”

A “recreational vehicle” under the Order is a vehicle, with or without a motor, that is designed for use as temporary living quarters. A camper or a van that meets this definition is considered a recreational vehicle.

**Question 12: Are floating homes covered by the Order? What is a floating home?**

Yes. The Order covers floating homes.

A “floating home” under the Order is a moored structure that is secured to a pier or pilings and is used primarily as a domicile and not as a boat.

**Question 13: Is a space rented for a manufactured dwelling, recreational vehicle or floating home covered by the Order?**

Yes. A space rented for a manufactured dwelling or a recreational vehicle, or a moorage space rented for a floating home, is covered by the Order. In this situation, the space itself is considered the dwelling unit.

If someone rents a manufactured dwelling, recreational vehicle or floating home, and also rents a space for that manufactured dwelling, recreational vehicle or floating home, then the rented manufactured dwelling, recreational vehicle or floating home, and the rented space, are considered dwelling units that are covered by the Order.

**Question 14: Are yurts or tents covered by the Order?**

No. Yurts, tents, huts, cabins, fabric structures and similar other accommodations are considered “transitional housing” intended to be used on a limited basis, for seasonal, emergency or transitional housing, and are not covered by the Order.

**Question 15: When is a stay in a hotel or motel covered by the Order?**

Under most conditions, a hotel or motel stay is considered “transient lodging” that is exempt from the Order.

A hotel or motel stay is transient lodging if all of these things are true:

- rates are charged on a daily basis, and not collected more than 6 days in advance;
- the hotel provides maid and linen service daily or every two days as part of the regularly charges for occupancy; and
- the period of occupancy does not exceed 30 days.

A hotel or motel stay longer than 30 days may nevertheless be considered transient lodging, if the guest is not using the hotel or motel as a principal residence.