



# What the Hell? You Ask



## Musings On *HB 4213* & *EO 20-56*

By Brian Cox

Watching and interpreting law changes ‘on-the-fly’ during the pandemic is very much like having someone ask you to take over the controls of an aircraft spiraling out of control and learn to fly – while also taking up juggling on a unicycle at the same time. The task is crazy, the information is sparse, the instructions are almost non-existent, and the sense of panic and chaos feel very real !!!!

So how to deal with the confusion? Consider *EO 20-56* as an ‘overlay’ on *HB 4213*.

*HB 4213* imposed a number of changes on landlords, including a moratorium on certain kinds of residential and commercial evictions and eviction notices through September 30<sup>th</sup>. What *HB 4213* did *NOT* do is include language for extending that moratorium. On September 28<sup>th</sup>, Governor Brown issued *Executive Order 20-56*, which creates a new moratorium that prohibits certain residential evictions and eviction notices through December 31<sup>st</sup>. What *EO 20-56* did *NOT* do is displace *HB 4213* – instead, it acts as an ‘overlay’ to *HB 4213*.

***Here is what I think that means*** (this is *NOT* legal advice):

1. No residential evictions, late fees or eviction notices for non-payment of rent, utility charges or ‘other service charges or fees’ through December 31<sup>st</sup>.
2. No “No-Cause” termination notices, defined as notices pursuant to ORS 90.427(3)(b), (4)(b), or (c), (5)(a) or (b), or (8)(a)(B) or (b)(B), including 90-day landlord cause notices currently prohibited by *HB 4213* through September 30<sup>th</sup>, 2020.
3. Tenants continue to owe for unpaid rent, utility charges or other service charges or fees (excepting late fees and/or other penalties for non-payment).
4. Extension of the ‘first year of occupancy’ through January 30<sup>th</sup>, 2021.
5. Tenant payments continue to be applied under the modified application described in *HB 4213* (current rent, then utility/service charges, then late rent charges incurred before

*HB 4213*, then other fees or charges under *ORS 90.302* or for tenant damage claims), and then to any non-payment balance accrued during the *Emergency Period*.

6. Landlords can still give the *HB 4213* notice to tenants about their unpaid rent, utilities and other service charges/fees on or after October 1<sup>st</sup>, advising tenants they can't be evicted for these unpaid amounts until after December 31<sup>st</sup> and that they have a grace period through March 31<sup>st</sup>, 2021 to repay those amounts, also alerting them to the penalty for not responding within 14 days. Presumably, more than one notice may be given (nothing says differently), so landlords may want to give a notice on or after October 1<sup>st</sup>, and another notice on or after January 1<sup>st</sup>, 2021.

**Notice what is NOT in EO 20-56** (and which is allowed beginning October 1<sup>st</sup> under *HB 4213*)?

1. Any extension of the March 31, 2021 grace period.
2. Any "grace period" to repay rent for October, November or December 2020.
3. Any instruction (or limitation) on when to give one or more *HB 4213* notice(s) to tenants (other than 'after September 30<sup>th</sup>).
4. Any requirement for tenants to provide proof of inability to pay rent.
5. Any prohibition for giving 90-day notices where the landlord intends for the landlord or a member of the landlord's immediate family to occupy the dwelling unit as a primary residence and the landlord does not own a comparable unit in the same building that is available for occupancy at the same time that the tenant receives notice to terminate the tenancy. You can still give 90-day notices for owner-occupied buyers as well.
6. Anything restriction on commercial notices or evictions (which are now allowed).

Is all of this legal? Does the Governor have authority to do this? – We'll see.....

How to avoid panic in this chaos? *Breathe deeply*, read (and re-read) *HB 4213* and *EO 20-56* and all that wonderful ROA material provided to you, and **seek competent help when needed**.

