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COVID-19 and the Recent State Legislative Session

By Nicholas V. Beyer

The recent state legislative session initiated changes to the law that, when enacted, will affect landlords, tenants, homeowners, and secured lenders. All landlords and tenants should be aware that state lawmakers voted to extend protections for commercial and residential tenants prohibiting evictions for nonpayment of rent during the COVID-19 pandemic. Additionally, all property owners and secured lenders should be aware that lawmakers placed a temporary moratorium on foreclosures against homeowners and other borrowers that have designated real or personal property as collateral in a lending agreement.

On Friday, June 26th, House Bills 4213 and 4204 passed both chambers of the Legislature. Gov. Kate Brown has voiced support for both bills, indicating she will likely sign them into law.

What House Bill 4213 means for landlords and tenants

All protections granted under Gov. Kate Brown's previous Executive Order 20-113, which places a moratorium on any steps relating to evictions of commercial and residential tenants, will stay in effect through **September 30th**.

In addition to extending the eviction moratorium, House Bill 4213 also gives tenants until **March 31st** to pay any outstanding balance of rent.

Landlords who want to proceed with evictions *after* the protections end should provide tenants notice that includes notification of the grace period ending March 31st. But landlords cannot notice or initiate evictions for non-payment until the grace period has ended.

After receiving notice, tenants must then notify landlords if they intend to use the grace period or they will face a penalty equal to half of one month's rent.

What House Bill 4204 means for property owners and secured lenders

Secured lenders will be prohibited from enforcing default remedies for failure to pay amounts due on loans secured by mortgages, trust deeds, land sale contracts, or other security instruments until **September 30th**. Before September 1st, Gov. Kate Brown has the authority to extend that date further.

To qualify for the protections in the Act, borrowers must provide their lenders notice of the reason for their failure to pay. Residential borrowers must notify their lenders that their inability to

pay is a result of a loss of income related to the COVID-19 pandemic. Commercial borrowers must provide their lenders evidence of a loss of income related to the COVID-19 pandemic, and must disclose any United States Small Business Administration or Paycheck Protection Program loans received.

If notified of a borrower's failure to pay due to the pandemic, secured lenders may not treat such failure occurring from **March 8th to September 30th** as a default of the parties' lending agreement. This means that lenders cannot impose late fees for any payments missed or pursue any foreclosure on the secured collateral during that period. All outstanding amounts owed under the agreement must still be paid by the end of the loan period, or some other agreed-upon date.

All foreclosure actions or actions to collect on a secured interest filed from **March 8th to September 30th**, or a later date as specified by the Governor, will be dismissed. However, lenders may refile and proceed with any dismissed actions after the specified period ends.

All secured lenders are required to provide notice to their borrowers of their rights for accommodation under the new law **within 60** days of the effective date of the Act.