EXECUTIVE ORDER NO. 20-56

TEMPORARY MORATORIUM ON RESIDENTIAL EVICTIONS FOR NONPAYMENT, IN RESPONSE TO COVID-19 AND WILDFIRE EMERGENCIES.

Since January 2020, the State of Oregon has been engaged in responding to the public health threat posed by the novel infectious coronavirus (COVID-19). As the threat escalated, the State's response elevated to meet the threat. On March 8, 2020, I declared a state of emergency pursuant to ORS 401.165 *et seq*., and directed certain immediate response actions.

During March and April 2020, as COVID-19 continued to spread around the world, I took a series of actions aimed at slowing the spread of the virus, and to mitigate the public health and economic impacts of the pandemic. Those actions helped prevent and control the spread of COVID-19 in Oregon, and increased the state's preparedness to live with this virus until a vaccine or cure can be found.

Following the success of these early measures, in late April and early May 2020, I began to take steps to ease the restrictions that had been imposed in March and April. I signed executive orders directing the State to begin a data-driven, phased reopening. This process has been gradual and cautious. In response to rising case numbers during the summer, I imposed additional measures, including face-covering requirements for individuals. Outbreaks and community spread in certain counties also have required us to reimpose restrictions at times, to maintain public health and safety. Although Oregon has been able to cautiously reopen sectors of its economy, this virus remains very dangerous. As of today, there are at least 32,994 cases and 547 deaths in Oregon, with more than 7 million cases and 200,000 deaths from COVID-19 nationwide. Continued work is necessary to bring virus levels down to where it is safe for K-12 schools across the state to fully reopen for in-person instruction, among other critical priorities.

Throughout this crisis, making sure that Oregonians can remain in their homes has been an essential part of Oregon's COVID-19 emergency response. Keeping economically vulnerable Oregonians in their homes makes it significantly easier for them to practice effective physical distancing which is vital to controlling the spread of the virus. It helps facilitate quarantine and isolation for individuals exposed to the virus or who become sick. It helps to prevent families and individuals from being displaced from their homes into more crowded multifamily or congregate living conditions, where the virus can spread more easily. Housing stability also helps to ensure that students have a stable place to engage in remote learning. Ensuring that individuals are able to remain in their homes during the COVID-19 state of emergency also conserves housing resources and helps reduce economic hardship and related life, health, and safety risks.

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Accordingly, Executive Order 20-11, signed in March of 2020, prohibited law enforcement from enforcing residential tenant eviction notices and orders, and Executive Order 20-13, signed in April of 2020 imposed a temporary moratorium on the termination of residential and non-residential rental agreements and evictions for nonpayment. During its first special session early this summer, the Legislative Assembly passed House Bill 4213, which enacted an eviction moratorium for residential and non-residential tenants, and extended that moratorium until September 30, 2020, after which time tenants have a six-month grace period to pay outstanding rent. In addition, House Bill 4204 imposed a mortgage foreclosure moratorium, which I recently extended through the end of this year, to provide support to homeowners, including property owners who rent to residential tenants.

Since the enactment of House Bill 4213, housing needs essential to Oregon's emergency response have become even more acute in recent months. After the Legislature acted in June, cases of COVID-19 spiked across the state over the summer, demonstrating how quickly the virus can spread, including in areas of the state that previously had few incidents. Additionally, although earlier this year we hoped that conditions would allow students to begin in-person instruction at the start of the school year, community spread remains too high in much of the state for that to happen at this point, and most students in Oregon are engaging in remote learning from their homes, making stable housing absolutely essential to their education. Indeed, in light of the pandemic, the Centers for Disease Control and Prevention ("CDC") recently recognized the vital importance of making sure that individuals can remain in their homes because housing stability helps protect public health, and issued a nationwide moratorium on certain residential evictions, through December 31, 2020.

In addition to the significant challenges arising from the spread of COVID-19, shortly after the start of the school year massive and unprecedented wildfires erupted across Oregon. In response, I declared a statewide wildfires state of emergency under ORS 401.165 *et seq.*, and invoked the Emergency Conflagration Act statewide. Despite the heroic efforts of our firefighters and first responders, these fires have resulted in evacuations, damage and destruction to critical infrastructure, including homes, as well as other structures, and injury and loss of life. The effects of these fires will be felt long after the fires themselves are out. Among other impacts, the destruction and displacement caused by the fires is placing significant, additional pressure on housing resources at a time when the state is already dealing with a housing crisis.

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Following the Labor Day holiday, and the significant displacement associated with the wildfire evacuations, cases of COVID 19 have again begun to rise sharply in Oregon. As flu season begins, we anticipate additional stress on our health care system capacity, and even greater need to facilitate Oregonians' compliance with physical distancing recommendations and directives to mitigate community spread of COVID-19.

The ongoing threat of COVID-19, the need for students to have a safe and stable place to learn, and the additional challenges presented by fire response mean that housing stability remains critical to Oregon's response to the COVID-19 and wildfire emergencies. Similar to the significant needs underlying the CDC's nationwide eviction moratorium, it is necessary to Oregon's emergency response to keep a state eviction moratorium in place through the end of this year. Accordingly, I am ordering a temporary residential eviction moratorium through December 31, 2020, consistent with the timeline of the CDC's federal eviction moratorium and Oregon's mortgage foreclosure moratorium.

The directives set forth in this Executive Order are temporary, with a limited scope and duration. They address the immediate needs identified above, pursuant to my emergency powers, but do not otherwise undermine contractual bargains, interfere with parties' reasonable expectations, or prevent parties from safeguarding or reinstating their rights. The directives of this Executive Order are appropriate, necessary, and reasonable means by which to implement the significant and legitimate public purpose of responding to the declaration of a state of emergency for COVID-19, and the declaration of a state of emergency for wildfires.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

Pursuant to my emergency powers under ORS 401.168, ORS 401.175, ORS 401.188, ORS 401.192, and ORS 433.441, and pursuant to the emergency declarations made in Executive Order 20-03 and Executive Order 20-35, I am issuing the following directives:

1. Definitions. As used in this Executive Order:

   A. "Eviction moratorium period" means September 30, 2020, through December 31, 2020, unless that period is extended or terminated earlier by the Governor.

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B. "Nonpayment" means the nonpayment of a payment to a landlord that is due during the period beginning on April 1, 2020, and ending on December 31, 2020, including a payment of rent, late charges, utility or service charges, or any other charge or fee as described in the rental agreement or ORS 90.302, 90.315, 90.392, 90.394, 90.560 to 90.584, 90.630, 90.140, and 90.260.

C. "Termination notice without cause" means a notice delivered by a landlord under ORS 90.427(3)(b), (4)(b) or (c), (5)(a) or (b), or (8)(a)(B) or (b)(B).

2. Temporary Eviction Moratorium.

A. During the eviction moratorium period, landlords of properties governed by ORS Chapter 90 (referred to in this Executive Order as "residential properties") in Oregon shall not, and shall not threaten to:

(1) Deliver a termination notice without cause, or deliver a notice of termination of a rental agreement for nonpayment;

(2) Initiate or continue an action under ORS 105.110 based on a termination notice without cause or a notice of termination for nonpayment;

(3) Take any action for reason of nonpayment that would interfere with a tenant's possession or use of a dwelling unit;

(4) Assess a late fee or any other penalty for nonpayment; or

(5) Report a tenant's nonpayment as delinquent to any consumer credit reporting agency.

B. If the first year of occupancy ends between April 1, 2020, and December 31, 2020, for purposes of a termination notice without cause (referenced in paragraph 2(A) of this Executive Order) the "first year of occupancy" means a period lasting until 30 days following the eviction moratorium period.

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C. Nothing in paragraph 2 of this Executive Order relieves a residential property tenant of the obligation to pay rent, utility charges, or any other service charges or fees, except late charges or other penalties arising from nonpayment which are specifically waived by and during the eviction moratorium period.

D. Notwithstanding ORS 90.220(9), before applying payments received from a tenant or on behalf of a tenant to all or a part of a tenant's nonpayment balance, a landlord shall first apply the payments, in the following order, to:

(1) Rent for the current rental period;

(2) Utility or service charges;

(3) Late rent payment charges; and

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

3. Notices. If a landlord delivers a notice under Section 3(4) of House Bill 4213 (2020), or delivers a notice under Section 3(7) of that bill during the eviction moratorium period, the notice must notify tenants that eviction for nonpayment is not allowed before December 31, 2020.

4. Enforcement. This Executive Order and any agency guidance issued pursuant to this Executive Order at the Governor's direction are public health laws, as defined in ORS 431A.005, and may be enforced as permitted under ORS 431A.010. In addition to any other penalty that may be imposed under applicable laws, any person, business, or entity found to be in violation of this Executive Order or guidance issued pursuant to this Executive Order also is subject to the penalties described in ORS 401.990. These enforcement mechanisms are in addition to any other private rights of action or other enforcement mechanism that may exist in statute or at common law, or under federal law.

5. Discretion; No Right of Action. Any decision made by the Governor pursuant to this Executive Order is made at her sole discretion. This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural,

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enforceable at law or in equity by any party against the State of Oregon, its agencies, departments, or any officers, employees, or agents thereof.

6. Legal Effect. This Executive Order is issued under the authority conferred to the Governor by ORS 401.165 to 401.236. Pursuant to ORS 401.192(1), the directives set forth in this Executive Order shall have the full force and effect of law, and any existing laws, ordinances, rules and orders shall be inoperative to the extent they are inconsistent with this exercise of the Governor's emergency powers.

7. Effective Dates. This Executive Order is effective immediately, and remains in effect until December 31, 2020, unless extended or terminated earlier by the Governor.

Done at Salem, Oregon, this 28th day of September, 2020.

Kate Brown

Kate Brown
GOVERNOR

ATTEST:

Bev Clarno

Bev Clarno
SECRETARY OF STATE

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