

House Bill 3249

Sponsored by Representative NATHANSON; Representatives BARNHART, CLEM, COWAN, C EDWARDS, GILLIAM, HUNT, KOMP, KOTEK, MAURER, RILEY, ROBLAN, ROSENBAUM, SHIELDS, TOMEI

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes payment obligation for facility landlord closing manufactured dwelling park or portion of park. Eliminates option for 180-day facility closure notice. Requires landlord closing facility or portion of facility to report to Housing and Community Services Department regarding relocation and abandonment of dwelling units.

A BILL FOR AN ACT

1
2 Relating to the closure of facilities renting space for dwelling units; creating new provisions; and
3 amending ORS 90.630, 90.635, 92.840, 316.153 and 456.579.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 90.505**
6 **to 90.840.**

7 **SECTION 2. (1) If a facility, or a portion of the facility that includes the space for a**
8 **manufactured dwelling or floating home, is to be closed and the land or leasehold converted**
9 **to a use other than as a facility, and the closure is not required by the exercise of eminent**
10 **domain or by order of state or local agencies, the landlord may terminate a month-to-month**
11 **or fixed-term rental agreement for a facility space:**

12 (a) **By giving not less than 365 days' notice in writing before the date designated in the**
13 **notice for termination; and**

14 (b) **If the facility is a manufactured dwelling park, by paying each tenant whose rental**
15 **agreement is terminated one of the following amounts, adjusted as described in subsection**
16 **(8) of this section:**

17 (A) **\$5,000 if the manufactured dwelling is a single-wide dwelling;**

18 (B) **\$7,500 if the manufactured dwelling is a double-wide dwelling; or**

19 (C) **\$9,000 if the manufactured dwelling is a triple-wide dwelling.**

20 (2) **Except as provided in subsection (3) of this section, the landlord must pay a tenant**
21 **the full amount required under subsection (1) of this section regardless of whether the ten-**
22 **ant relocates or abandons the manufactured dwelling. The landlord shall pay one-half of the**
23 **payment amount to the tenant within seven days after receiving the notice described in**
24 **subsection (3)(a) of this section from the tenant. The landlord shall pay the remaining**
25 **amount no later than seven days after the tenant ceases to occupy the space.**

26 (3) **Notwithstanding subsection (1) of this section:**

27 (a) **A landlord is not required to make a payment as provided in subsection (1) of this**
28 **section to a tenant unless the tenant gives the landlord not less than 30 days' and not more**
29 **than 60 days' notice of the date the tenant will cease tenancy, whether by relocation or**
30 **abandonment of the dwelling unit.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) If the dwelling unit is abandoned, the landlord may condition the payment required
 2 by subsection (1) of this section upon the tenant, and if applicable the lienholder, waiving any
 3 right to receive payment under ORS 90.675. The landlord may retain any amounts otherwise
 4 payable to the tenant and lienholder under ORS 90.675 that are waived by the tenant and
 5 lienholder.

6 (4) If a tenant who receives a notice under this section gives the landlord not less than
 7 30 days' and not more than 60 days' notice of the date the tenant will cease tenancy, the
 8 landlord may not charge the tenant any penalty or fee for moving out of the facility prior
 9 to the end of the 365-day notice period.

10 (5) A landlord may not increase the rent for a facility space after giving a notice of ter-
 11 mination under this section to the tenant of the space.

12 (6) Subsection (1) of this section does not prevent a landlord from relocating a floating
 13 home to another comparable space in the same facility or another facility owned by the same
 14 owner in the same city if the landlord desires or is required to make repairs, to remodel or
 15 to modify the tenant's original space.

16 (7) This section does not limit a landlord's right to terminate a tenancy for nonpayment
 17 of rent under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632
 18 by complying with ORS 105.105 to 105.168.

19 (8) The Housing and Community Services Department shall adopt rules to administer and
 20 enforce this section and section 3 of this 2007 Act. The department may annually adopt rules
 21 adjusting the payment amounts described in subsection (1) of this section to reflect changes
 22 in the Portland-Salem Consumer Price Index for All Urban Consumers for All Items, as re-
 23 ported by the United States Bureau of Labor Statistics.

24 **SECTION 3.** (1) A landlord that gives a tenant a notice of termination under section 2
 25 of this 2007 Act shall send a copy of the notice to the Housing and Community Services De-
 26 partment, and to any holder of a recorded lien on the manufactured dwelling or floating
 27 home, by first class mail with certificate of mailing.

28 (2) A landlord that terminates rental agreements for manufactured dwelling park spaces
 29 under section 2 of this 2007 Act shall, no later than 60 days after the facility or portion of
 30 the facility closes, report to the department:

31 (a) The number of dwelling unit owners who moved their dwelling units out of the facil-
 32 ity; and

33 (b) The number of dwelling unit owners who abandoned their dwelling units at the facil-
 34 ity.

35 **SECTION 4.** ORS 90.630 is amended to read:

36 90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a
 37 rental agreement that is a month-to-month or fixed term tenancy for space for a manufactured
 38 dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the
 39 date designated in the notice for termination if the tenant:

40 (a) Violates a law or ordinance related to the tenant's conduct as a tenant, including but not
 41 limited to a material noncompliance with ORS 90.740;

42 (b) Violates a rule or rental agreement provision related to the tenant's conduct as a tenant and
 43 imposed as a condition of occupancy, including but not limited to a material noncompliance with a
 44 rental agreement regarding a program of recovery in drug and alcohol free housing; or

45 (c) Fails to pay a:

- 1 (A) Late charge pursuant to ORS 90.260;
- 2 (B) Fee pursuant to ORS 90.302; or
- 3 (C) Utility or service charge pursuant to ORS 90.534 or 90.536.

4 (2) A violation making a tenant subject to termination under subsection (1) of this section in-
 5 cludes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or
 6 rule, but does not include the physical condition of the dwelling or home. Termination of a rental
 7 agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS
 8 90.632.

9 (3) The notice required by subsection (1) of this section shall state facts sufficient to notify the
 10 tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination
 11 by correcting the violation as provided in subsection (4) of this section.

12 (4) The tenant may avoid termination of the tenancy by correcting the violation within the
 13 30-day period specified in subsection (1) of this section. However, if substantially the same act or
 14 omission that constituted a prior violation of which notice was given recurs within six months after
 15 the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice
 16 specifying the violation and the date of termination of the tenancy.

17 *[(5) The landlord of a facility may terminate a rental agreement that is a month-to-month or fixed*
 18 *term tenancy for a facility space if the facility or a portion of it that includes the space is to be closed*
 19 *and the land or leasehold converted to a different use, which is not required by the exercise of eminent*
 20 *domain or by order of state or local agencies, by:]*

21 *[(a) Not less than 365 days' notice in writing before the date designated in the notice for termi-*
 22 *nation; or]*

23 *[(b) Not less than 180 days' notice in writing before the date designated in the notice for termi-*
 24 *nation, if the landlord finds space acceptable to the tenant to which the tenant can move the manufac-*
 25 *tured dwelling or floating home and the landlord pays the cost of moving and set-up expenses or \$3,500,*
 26 *whichever is less.]*

27 *[(6) The landlord may:]*

28 *[(a) Provide greater financial incentive to encourage the tenant to accept an earlier termination date*
 29 *than that provided in subsection (5) of this section; or]*

30 *[(b) Contract with the tenant for a mutually acceptable arrangement to assist the tenant's move.]*

31 *[(7) The Housing and Community Services Department shall adopt rules to implement the pro-*
 32 *visions of subsection (5) of this section.]*

33 *[(8)(a) A landlord may not increase the rent for the purpose of offsetting the payments required*
 34 *under this section.]*

35 *[(b) There shall be no increase in the rent after a notice of termination is given pursuant to this*
 36 *section.]*

37 *[(9)] (5) This section does not limit a landlord's right to terminate a tenancy for nonpayment of*
 38 *rent under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by com-*
 39 *plying with ORS 105.105 to 105.168.*

40 *[(10)] (6) A tenancy terminates on the date designated in the notice and without regard to the*
 41 *expiration of the period for which, by the terms of the rental agreement, rents are to be paid. Un-*
 42 *less otherwise agreed, rent is uniformly apportionable from day to day.*

43 *[(11) Nothing in subsection (5) of this section shall prevent a landlord from relocating a floating*
 44 *home to another comparable space in the same facility or another facility owned by the same owner in*
 45 *the same city if the landlord desires or is required to make repairs, to remodel or to modify the tenant's*

1 *original space.]*

2 [(12)(a)] (7) Notwithstanding any other provision of this section or ORS 90.392, 90.394, 90.396 or
 3 90.398, the landlord may terminate the rental agreement for space for a manufactured dwelling or
 4 floating home because of repeated late payment of rent by giving the tenant not less than 30 days'
 5 notice in writing before the date designated in that notice for termination and may take possession
 6 as provided in ORS 105.105 to 105.168 if:

7 [(A)] (a) The tenant has not paid the monthly rent prior to the eighth day of the rental period
 8 as described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394
 9 (2)(b) in at least three of the preceding 12 months and the landlord has given the tenant a notice for
 10 nonpayment of rent pursuant to ORS 90.394 (2) during each of those three instances of nonpayment;

11 [(B)] (b) The landlord warns the tenant of the risk of a 30-day notice for termination with no
 12 right to correct the cause, upon the occurrence of a third notice for nonpayment of rent within a
 13 12-month period. The warning must be contained in at least two notices for nonpayment of rent that
 14 precede the third notice within a 12-month period or in separate written notices that are given
 15 concurrent with, or a reasonable time after, each of the two notices for nonpayment of rent; and

16 [(C)] (c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause
 17 for termination of the tenancy and is given to the tenant concurrent with or after the third or a
 18 subsequent notice for nonpayment of rent.

19 [(b)] (8) Notwithstanding subsection (2) of this section, a tenant who receives a 30-day notice
 20 of termination pursuant to this subsection does not have a right to correct the cause for the notice.

21 [(c)] (9) The landlord may give a copy of the notice required by [*paragraph (a) of this*] subsection
 22 (7) of this section to any lienholder of the manufactured dwelling or floating home by first class
 23 mail with certificate of mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord
 24 is not liable to a tenant for any damages incurred by the tenant as a result of the landlord giving
 25 a copy of the notice in good faith to a lienholder. A lienholder's rights and obligations regarding
 26 an abandoned manufactured dwelling or floating home shall be as provided under ORS 90.675.

27 **SECTION 5.** ORS 90.635 is amended to read:

28 90.635. (1) If a facility is closed or a portion of a facility is closed, resulting in the termination
 29 of the rental agreement between the landlord of the facility and a tenant renting space for a man-
 30 ufactured dwelling, whether because of the exercise of eminent domain, by order of the state or local
 31 agencies[,] or as provided under [ORS 90.630 (5)] **section 2 of this 2007 Act**, the landlord shall
 32 provide notice to the tenant of the tax credit provided under ORS 316.153. The notice shall state the
 33 eligibility requirements for the credit, information on how to apply for the credit and any other in-
 34 formation required by the Office of Manufactured Dwelling Park Community Relations by rule.

35 (2) The landlord shall send the notice described under subsection (1) of this section to a tenant
 36 affected by a facility closure on or before:

37 (a) The date notice of rental termination [*must be*] **is** given to the tenant under [ORS 90.630
 38 (5)] **section 2 of this 2007 Act**, if applicable; or

39 (b) In the event of facility closure by exercise of eminent domain or by order of a state or local
 40 agency, within 15 days of the date the landlord received notice of the closure.

41 (3) The landlord shall forward to the office a list of the names and addresses of tenants to whom
 42 notice under this section has been sent.

43 (4) The office may adopt rules to implement this section, including rules specifying the form and
 44 content of the notice described under this section.

45 **SECTION 6.** ORS 92.840 is amended to read:

1 92.840. (1) Notwithstanding the provisions of ORS 92.016 (1), prior to the approval of a tentative
 2 plan, the declarant may negotiate to sell a lot in a manufactured dwelling park or a mobile home
 3 park for which approval is required under ORS 92.830 to 92.845.

4 (2) Prior to the sale of a lot in a park, the declarant shall offer to sell the lot to the tenant who
 5 occupies the lot. The offer required under this subsection:

6 (a) Terminates 60 days after receipt of the offer by the tenant or upon written rejection of the
 7 offer, whichever occurs first; and

8 (b) Does not constitute a notice of termination of the tenancy.

9 (3) The declarant may not sell the lot to a person other than the tenant for 60 days after ter-
 10 mination of the offer required under subsection (2) of this section at a price or on terms that are
 11 more favorable to the purchaser than the price or terms that were offered to the tenant.

12 (4) After the park has been submitted for subdivision under ORS 92.830 to 92.845 and until a lot
 13 is offered for sale in accordance with subsection (2) of this section, the declarant shall notify a
 14 prospective tenant, in writing, prior to the commencement of the tenancy, that the park has been
 15 submitted for subdivision and that the tenant is entitled to receive an offer to purchase the lot under
 16 subsection (2) of this section.

17 (5) Prior to any sale of a lot in a subdivision created in the park, the declarant must provide
 18 the tenant or other potential purchaser of the lot with information about the homeowners associ-
 19 ation formed by the declarant as required by ORS 94.625. The information must, at a minimum, in-
 20 clude the association name and type and any rights set forth in the declaration required by ORS
 21 94.580.

22 (6) The declarant may not begin improvements or rehabilitation to the lot during the period
 23 described in *[ORS 90.630 (5)]* **the landlord’s notice of termination under section 2 of this 2007**
 24 **Act** without the permission of the tenant.

25 (7) The declarant may begin improvements or rehabilitation to the common property as defined
 26 in the declaration during the period described in *[ORS 90.630 (5)]* **the landlord’s notice of termi-**
 27 **nation under section 2 of this 2007 Act.**

28 (8) Nothing in this section prevents the declarant from terminating a tenancy in the park in
 29 compliance with ORS 90.630, 90.632 and 90.635. However, the declarant shall make the offer required
 30 under subsection (2) of this section to a tenant whose tenancy is terminated after approval of the
 31 tentative plan unless the termination is for cause under ORS 90.392, 90.394, 90.396, 90.630 (1) or
 32 *[(12)]* (7) or 90.632.

33 **SECTION 7.** ORS 316.153 is amended to read:

34 316.153. (1) As used in this section:

35 (a) “Federal poverty guideline” means the United States Department of Health and Human Ser-
 36 vices poverty guidelines set forth on page 8374 of Volume 70 of the 2005 Federal Register.

37 (b) “Household” has the meaning given that term in ORS 310.630.

38 (c) “Household income” has the meaning given that term in ORS 310.630.

39 (d) “Involuntary move” means a move forced on an owner due to the termination of the owner’s
 40 rental agreement for a facility space resulting from the closure of the facility, or portion of the fa-
 41 cility, as defined in ORS 90.100.

42 (e) “Mobile home” has the meaning given “manufactured dwelling” in ORS 446.003, and includes
 43 only a mobile home that is involuntarily moved from a facility space located in this state and that
 44 has a fair market value of \$110,000 or less on the date that the mobile home is involuntarily moved.

45 (f) “Qualified individual” means an individual who:

1 (A) Owns and occupies as a principal residence, on the date of the involuntary move, a mobile
2 home involuntarily moved; and

3 (B) Has a household income of \$60,000 or less for the tax year in which the mobile home is in-
4 voluntarily moved.

5 (2) A qualified individual is allowed a credit against the taxes otherwise due under this chapter.
6 The amount of the credit is the lesser of:

7 (a) \$10,000; or

8 (b) The actual cost of moving and setting up the mobile home after subtracting any payments
9 or reimbursements received by the qualified individual under ORS 90.630 (5) and (6) **(2005**
10 **Edition)**.

11 (3)(a) Except as provided in subsection (4) of this section, one-third of the total amount of credit
12 allowed under this section must be claimed by the qualified individual for the tax year in which the
13 mobile home is involuntarily moved and one-third of the credit in each of the two tax years imme-
14 diately following.

15 (b) Any credit which is not used by the taxpayer in a particular year may be carried forward
16 and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining
17 unused in the next succeeding tax year may be carried forward and used in the second succeeding
18 tax year, and likewise any credit not used in that second succeeding tax year may be carried for-
19 ward and used in the third succeeding tax year, and any credit not used in that third succeeding
20 tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used
21 in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year,
22 but may not be carried forward for any tax year thereafter.

23 (c) The credit allowed to a qualified individual is available for only one involuntary move of a
24 mobile home.

25 (d) If the taxpayer is married at the close of the tax year, the credit shall be allowed to only
26 one taxpayer if the spouses file separate returns for the tax year. Marital status shall be determined
27 as provided under section 21(e)(3) and (4) of the Internal Revenue Code.

28 (4) If, in the year of the involuntary move, the household income of the qualified individual is
29 not more than 200 percent of federal poverty guideline gross annual income for a family unit of the
30 same size as the qualified individual's household, the total amount allowable to the taxpayer as a
31 credit under subsection (2) of this section may be claimed as a credit in the year of the involuntary
32 move. If the amount of the credit, when added to the sum of the amounts allowable as payment of
33 tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts
34 and other refundable credit amounts, exceeds the taxes imposed by this chapter or ORS chapter 314
35 for the tax year (reduced by any nonrefundable credits allowable for purposes of this chapter for the
36 tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

37 **SECTION 8.** ORS 456.579 is amended to read:

38 456.579. (1) There is established in the General Fund an account to be known as the Mobile
39 Home Parks Purchase Account. Except as otherwise provided by law, all moneys appropriated or
40 credited to the Mobile Home Parks Purchase Account are appropriated continuously for and shall
41 be used by the Director of the Housing and Community Services Department for the purpose of
42 carrying out the duties and responsibilities imposed upon the Housing and Community Services De-
43 partment under ORS 90.100, [90.630,] **section 2 of this 2007 Act**, 90.760, 90.800 to 90.840, 308.905,
44 446.003 and 456.581 and this section. Interest earned on the account shall be credited to the account.

45 (2) Except for loans provided in ORS 90.840, the account described in subsection (1) of this

1 section shall not be connected to or commingled in any way with the funds described in ORS
2 456.720.

3 (3) For the purpose of carrying out the provisions of ORS 90.100, [90.630,] **section 2 of this 2007**
4 **Act**, 90.760, 90.800 to 90.840, 308.905, 446.003 and 456.581 and this section, the Housing and Com-
5 munity Services Department may seek funds from sources other than that described in ORS 308.905
6 (1). Such funds shall be credited to the Mobile Home Parks Purchase Account.

7 **SECTION 9. Sections 2 and 3 of this 2007 Act and the amendments to ORS 90.630, 90.635,**
8 **92.840, 316.153 and 456.579 by sections 4 to 8 of this 2007 Act apply to closures of facilities or**
9 **portions of facilities for which a landlord, on or after the effective date of this 2007 Act, gives**
10 **a notice terminating a rental agreement.**

11