

Senate Bill 837

Sponsored by Senator AVAKIAN

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**.

Requires landlord who terminates rental agreements in order to close manufactured dwelling park to make payments to tenants and to city or county where park is located. Restricts city and county use of amounts paid by manufactured dwelling park landlord. Prohibits city and county from preventing, restricting or imposing sanctions for manufactured dwelling park closure or conversion.

Expresses state policy regarding manufactured dwelling park closures and conversions. Requires landlord to hire person listed by Housing and Community Services Department to assist tenants in relocating.

Extends time for tenants' association, facility purchase association or tenants' association supported nonprofit organization interested in purchasing available manufactured dwelling park to notify landlord of interest.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to manufactured dwelling parks; creating new provisions; amending ORS 90.630 and 90.820;
3 and declaring an emergency.

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

5 **SECTION 1. The Legislative Assembly finds and declares the following:**

6 (1) **The increase in closures and conversions of manufactured dwelling parks due to rising**
7 **land prices in this state have resulted in a crisis in which many elderly and low-income res-**
8 **idents are losing their homes and communities. Manufactured dwellings are not readily mo-**
9 **bile and, if a new location can be found, are costly to move. Few affordable housing options**
10 **are available to elderly or low-income Oregonians who lose their homes due to manufactured**
11 **dwelling park closures or conversions.**

12 (2) **Manufactured dwelling owners have considerable investments in their homes and in**
13 **the improvements they have made to their dwellings, such as garages, carports, storage**
14 **sheds, workshops, decks and patios. Manufactured dwelling owners pay taxes on their homes**
15 **and improvements in the same manner as owners of site-built homes. In addition, manufac-**
16 **tured dwelling owners help pay the park owner's property taxes through their monthly lease**
17 **payments.**

18 (3) **Although manufactured dwelling park owners have every right to close or convert a**
19 **park, remedying the social consequences of park closures and conversions is the responsi-**
20 **bility of the park owner since the park owner is likely to make substantial profits from the**
21 **park closure or conversion. The social consequences of a park closure or conversion include**
22 **a reduction in the available affordable housing stock in the community.**

23 (4) **It is the policy of this state to recognize manufactured dwelling owners who occupy**
24 **their dwellings as coinvestors in the manufactured dwelling park in which they reside. A**
25 **manufactured dwelling park owner who closes or converts a park should therefore be re-**
26 **quired to compensate manufactured dwelling owners for the owners' relocation expenses or,**

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 if dwellings cannot feasibly be relocated, for the value of the dwellings. The park owners
 2 should also be required to compensate local governing bodies for the loss of affordable
 3 housing stock in the community.

4 **SECTION 2.** (1) As used in this section:

5 (a) “Manufactured dwelling” has the meaning given that term in ORS 90.100.

6 (b) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.

7 (2) The Housing and Community Services Department shall develop and maintain a list
 8 of persons qualified to render relocation and information assistance to manufactured dwell-
 9 ing owners who receive notice that their rental agreements are being terminated because a
 10 manufactured dwelling park is being closed. A person listed by the department under this
 11 section must be qualified:

12 (a) Subject to the payment of any applicable fees adopted under ORS 446.390, to provide
 13 owners who are willing and able to relocate their manufactured dwellings with information
 14 about vacant spaces in comparable parks in the community and the acceptance criteria of
 15 those parks; and

16 (b) To provide owners who are unable or unwilling to relocate their dwellings with in-
 17 formation about available alternative housing in the community.

18 (3) A manufactured dwelling park owner that gives a notice terminating rental agree-
 19 ments in order to close the park shall pay a person listed by the department under sub-
 20 section (2) of this section to assist the dwelling owners. After rendering assistance to the
 21 dwelling owners the person shall report to the department, summarizing whether the efforts
 22 to assist the dwelling owners were successful.

23 **SECTION 3.** (1) As used in this section:

24 (a) “Cost of moving and setting up” means the total amount a manufactured dwelling
 25 owner pays for the following:

26 (A) Disassembly of, sealing of multiple sections of, installation of wheels and tires on and
 27 other preparation of the manufactured dwelling for transport.

28 (B) Installation, connection, disconnection, removal and capping of utilities.

29 (C) Assembly, installation, disassembly or removal of stairs, decks, awnings, skirting,
 30 drains, foundations, tiedowns, driveways, carports, garages and storage units used in con-
 31 junction with the manufactured dwelling.

32 (D) Site cleanup required by the landlord of the closing facility.

33 (E) Site preparation required by the landlord of the new site.

34 (F) Fees or charges imposed by any public body, as defined in ORS 174.109, as a condition
 35 for moving or siting the manufactured dwelling.

36 (G) Transportation of the manufactured dwelling.

37 (H) Temporary storage of the manufactured dwelling during preparation of a new site.

38 (I) Installation, reconnection and sealing of manufactured dwelling sections.

39 (J) Repair of damage to carpet, walls, ceilings, floors, roofs and paint sustained because
 40 of the moving of the manufactured dwelling.

41 (K) Temporary housing for residents of the manufactured dwelling while the manufac-
 42 tured dwelling is uninhabitable.

43 (L) Restaurant meals for residents of the manufactured dwelling while the manufactured
 44 dwelling is uninhabitable.

45 (b) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.

1 **(2) A manufactured dwelling park owner that gives a notice terminating rental agree-**
2 **ments in order to close the park shall:**

3 **(a) In addition to any payments made under ORS 90.630, pay to dwelling owners who are**
4 **moving their dwellings from the park:**

5 **(A) The receipted actual cost of moving and setting up the manufactured dwelling in-**
6 **curred by the person; or**

7 **(B) A flat amount established by the Housing and Community Services Department by**
8 **rule.**

9 **(b) Notwithstanding ORS 90.675, in addition to any payments made under ORS 90.630, pay**
10 **to manufactured dwelling owners who abandoning their dwellings at the park:**

11 **(A) Except as provided in subsection (3) of this section, an amount equal to the fair**
12 **market value of the dwelling as reported on the most recent tax assessment for the dwelling;**
13 **and**

14 **(B) A flat amount established by the department by rule to pay for moving other personal**
15 **property of the owner.**

16 **(3) A manufactured dwelling owner who believes that the amount described in subsection**
17 **(2)(b)(A) of this section does not reflect the true value of the manufactured dwelling at the**
18 **time the notice terminating the rental agreement was given may request a higher amount**
19 **of the park owner. If the park owner and manufactured dwelling owner cannot agree on a**
20 **higher amount, the department may appoint an appraiser to determine the true value of the**
21 **manufactured dwelling. The cost of the appraiser shall be borne equally by the park owner**
22 **and the manufactured dwelling owner. If the appraiser's determination of the true value of**
23 **the manufactured dwelling is higher than the amount described in subsection (2)(b)(A) of this**
24 **section, the determination shall be binding for purposes of establishing the amount to be paid**
25 **to the manufactured dwelling owner under subsection (2)(b)(A) of this section.**

26 **(4) A landlord paying a flat amount under subsection (2)(a) of this section to a tenant**
27 **who is moving a manufactured dwelling shall pay the amount one week before the manufac-**
28 **tured dwelling is moved. The department shall annually review and adjust the flat amounts**
29 **described in subsection (2)(a) and (b) of this section.**

30 **SECTION 4.** (1) **"Manufactured dwelling park" has the meaning given that term in ORS**
31 **446.003.**

32 **(2) A manufactured dwelling park owner that gives a notice terminating rental agree-**
33 **ments in order to close the park shall, if the park property is being sold, pay to the city in**
34 **which the park is located or, if not in a city, to the county in which the park is located a**
35 **percentage of any net long-term capital gain on the sale.**

36 **(3) The percentage of net long-term capital gain to be paid to a city or county under**
37 **subsection (2) of this section shall be established by ordinance of the city or county entitled**
38 **to payment. The percentage may not exceed five percent of the net long-term capital gain**
39 **realized by the park owner on the park sale. A city or county receiving payment under sub-**
40 **section (2) of this section may use the payment only for the purpose of encouraging the de-**
41 **velopment of affordable housing in the city or county.**

42 **(4) Except as authorized under this section, a city or county may not adopt any ordinance**
43 **imposing a prohibition, restriction, fee, penalty or other sanction on a park owner for the**
44 **closure or conversion of a manufactured dwelling park.**

45 **SECTION 5.** ORS 90.630 is amended to read:

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

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

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

10 (c) Fails to pay a:

11 (A) Late charge pursuant to ORS 90.260;

12 (B) Fee pursuant to ORS 90.302; or

13 (C) Utility or service charge pursuant to ORS 90.534 or 90.536.

14 (2) A violation making a tenant subject to termination under subsection (1) of this section in-
 15 cludes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or
 16 rule, but does not include the physical condition of the dwelling or home. Termination of a rental
 17 agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS
 18 90.632.

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

22 (4) The tenant may avoid termination of the tenancy by correcting the violation within the
 23 30-day period specified in subsection (1) of this section. However, if substantially the same act or
 24 omission that constituted a prior violation of which notice was given recurs within six months after
 25 the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice
 26 specifying the violation and the date of termination of the tenancy.

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

31 (a) Not less than 365 days' notice in writing before the date designated in the notice for termi-
 32 nation; or

33 (b) Not less than 180 days' notice in writing before the date designated in the notice for termi-
 34 nation, if:

35 (A) The landlord finds space acceptable to the tenant to which the tenant can move the manu-
 36 factured dwelling or floating home and, **in addition to any other amounts payable to the tenant,**
 37 the landlord pays the [*cost of moving and set-up expenses or*] **tenant** \$3,500[*, whichever is less*]; **or**

38 (B) **The tenant agrees to abandon the dwelling or home and, in addition to any other**
 39 **amounts payable to the tenant, the landlord pays the tenant \$3,500.**

40 (6) The landlord may:

41 (a) Provide greater financial incentive to encourage the tenant to accept an earlier termination
 42 date than that provided in subsection (5) of this section; or

43 (b) Contract with the tenant for a mutually acceptable arrangement to assist the tenant's move.

44 (7) The Housing and Community Services Department shall adopt rules to implement the pro-
 45 visions of subsection (5) of this section.

1 (8)(a) A landlord may not increase the rent for the purpose of offsetting the payments required
2 under this section.

3 (b) There shall be no increase in the rent after a notice of termination is given pursuant to this
4 section.

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

8 (10) A tenancy terminates on the date designated in the notice and without regard to the expi-
9 ration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless
10 otherwise agreed, rent is uniformly apportionable from day to day.

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

15 (12)(a) Notwithstanding any other provision of this section or ORS 90.392, 90.394, 90.396 or
16 90.398, the landlord may terminate the rental agreement for space for a manufactured dwelling or
17 floating home because of repeated late payment of rent by giving the tenant not less than 30 days'
18 notice in writing before the date designated in that notice for termination and may take possession
19 as provided in ORS 105.105 to 105.168 if:

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

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

29 (C) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for
30 termination of the tenancy and is given to the tenant concurrent with or after the third or a sub-
31 sequent notice for nonpayment of rent.

32 (b) Notwithstanding subsection (2) of this section, a tenant who receives a 30-day notice of ter-
33 mination pursuant to this subsection does not have a right to correct the cause for the notice.

34 (c) The landlord may give a copy of the notice required by paragraph (a) of this subsection to
35 any lienholder of the manufactured dwelling or floating home by first class mail with certificate of
36 mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a
37 tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice
38 in good faith to a lienholder. A lienholder's rights and obligations regarding an abandoned manu-
39 factured dwelling or floating home shall be as provided under ORS 90.675.

40 **SECTION 6.** ORS 90.820 is amended to read:

41 90.820. (1) Within [14] **90** days of delivery by or on behalf of the facility owner of the notice
42 required by ORS 90.760 (2) or 90.810, a tenants' association or facility purchase association may
43 notify the owner of the facility in which the tenants reside by certified mail or personal service at
44 the address disclosed to the tenants under ORS 90.305 (1)(a) that the association, or a tenants' as-
45 sociation supported nonprofit organization, is interested in purchasing the facility.

1 (2) Upon delivery of the notice required by subsection (1) of this section, the owner shall nego-
 2 tiate in good faith with the association or organization and provide the association or organization
 3 an opportunity to purchase the facility as the owner would any bona fide third party potential pur-
 4 chaser.

5 (3) A facility purchase association or tenants' association actively involved in negotiations with
 6 a facility owner may waive or reduce the time periods for notice described in this section. A facility
 7 purchase association or tenants' association may authorize a tenants' association supported
 8 nonprofit organization to waive notice on behalf of the association.

9 (4) This section, ORS 90.760 (2) and 90.810 do not apply to:

10 (a) Any sale or transfer to a person who would be included within the table of descent and
 11 distribution if the facility owner were to die intestate.

12 (b) Any transfer by gift, devise or operation of law.

13 (c) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means
 14 any shareholder of the transferring corporation, any corporation or entity owned or controlled, di-
 15 rectly or indirectly, by the transferring corporation or any other corporation or entity owned or
 16 controlled, directly or indirectly, by any shareholder of the transferring corporation.

17 (d) Any transfer by a partnership to any of its partners.

18 (e) Any conveyance of an interest in a facility incidental to the financing of the facility.

19 (f) Any conveyance resulting from the foreclosure of a mortgage, deed of trust or other instru-
 20 ment encumbering a facility or any deed given in lieu of a foreclosure.

21 (g) Any sale or transfer between or among joint tenants or tenants in common owning a facility.

22 (h) Any exchange of a facility for other real property, whether or not the exchange also involves
 23 the payment of cash or other boot.

24 (i) The purchase of a facility by a governmental entity under that entity's powers of eminent
 25 domain.

26 **SECTION 7. (1) Section 2 (3) of this 2007 Act applies to manufactured dwelling park**
 27 **owners who give notice on or after January 1, 2008, terminating rental agreements for pur-**
 28 **poses of closing the park.**

29 **(2) Sections 3 and 4 of this 2007 Act and the amendments to ORS 90.630 by section 5 of**
 30 **this 2007 Act become operative January 1, 2008.**

31 **(3) The amendments to ORS 90.820 by section 6 of this 2007 Act apply to manufactured**
 32 **dwelling parks for which a notice under ORS 90.760 (2) or 90.810 is given on or after the ef-**
 33 **fective date of this 2007 Act.**

34 **SECTION 8. This 2007 Act being necessary for the immediate preservation of the public**
 35 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
 36 **on its passage.**

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