

A-Engrossed
House Bill 2255

Ordered by the House April 8
Including House Amendments dated April 8

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

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.

Prohibits manufactured dwelling park nonprofit cooperative from issuing stock. [*Exempts membership in manufactured dwelling park nonprofit cooperative from security registration requirement.*]

Prohibits member of manufactured dwelling park nonprofit cooperative from selling or redeeming membership at profit. Limits number of manufactured dwelling park nonprofit cooperative memberships to number of sites in manufactured dwelling park of cooperative.

Specifies rights of lienholder acquiring manufactured dwelling located in manufactured dwelling park of cooperative. Establishes [*deadline for buyer of*] **deadlines for buyer of, or person who acquires from lienholder title to**, manufactured dwelling in park of cooperative to join cooperative or move manufactured dwelling.

Makes membership in manufactured dwelling park nonprofit cooperative mandatory for residents if newly created park originates as cooperative.

Allows manufactured dwelling park nonprofit cooperative to be sponsoring entity for purposes of tax credit for loans used to finance construction, development, acquisition or acquisition and rehabilitation of manufactured dwelling park. Limits types of sponsoring entity that may be qualified borrower on loans for manufactured dwelling parks.

A BILL FOR AN ACT

1
2 Relating to manufactured dwelling park nonprofit cooperatives; creating new provisions; and
3 amending ORS 62.803, 62.809, 62.812, 62.815, 317.097 and 446.626.

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

5 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS 62.800**
6 **to 62.815.**

7 **SECTION 2. A manufactured dwelling park nonprofit cooperative may record notices,**
8 **restrictive covenants, leases, memoranda and other documents relating to the cooperative**
9 **in the deed records of the county in which the manufactured dwelling park of the cooperative**
10 **is located.**

11 **SECTION 3. (1) If a lienholder provides a manufactured dwelling park nonprofit cooper-**
12 **ative with a written request for notification regarding a manufactured dwelling on which the**
13 **lienholder has a lien, the cooperative shall provide the lienholder with written notice of a**
14 **termination of occupancy or membership if:**

15 (a) **A member of the cooperative who is identified in the lienholder request for notifica-**
16 **tion terminates occupancy in the manufactured dwelling park of the cooperative and the**
17 **cooperative knows of the termination;**

18 (b) **A member of the cooperative who is identified in the lienholder request for notifica-**
19 **tion terminates membership in the cooperative; or**

20 (c) **The cooperative terminates, or gives notice of cause for terminating, the occupancy**

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 or membership of a member of the cooperative who is identified in the lienholder request for
2 notification.

3 (2) If a member or the cooperative terminates the member's occupancy in the park or
4 membership in the cooperative, and the member fails to move or sell the manufactured
5 dwelling, a lienholder that has foreclosed on the lien on the manufactured dwelling may:

6 (a) Remove the manufactured dwelling from the park after satisfying any obligation to
7 the cooperative;

8 (b) Subject to subsection (3) of this section, sell the manufactured dwelling; or

9 (c) Require the cooperative to enter into a storage agreement that allows the lienholder
10 to store the manufactured dwelling on the space for up to 12 months if the lienholder pays
11 the space rent and reasonably maintains the manufactured dwelling and space.

12 (3) The buyer of a manufactured dwelling sold by a lienholder under subsection (2)(b) of
13 this section takes possession of the manufactured dwelling subject to ORS 62.809 (8) and any
14 obligation to the cooperative. During the term of a storage agreement described in sub-
15 section (2)(c) of this section, the lienholder may remove or sell the manufactured dwelling
16 as provided in subsection (2)(a) or (b) of this section.

17 (4) If the member of the cooperative terminated occupancy in the park without termi-
18 nating membership in the cooperative, an application for membership by the buyer or moving
19 of the manufactured dwelling shall act to transfer the membership of the terminating owner
20 to the cooperative.

21 **SECTION 4.** ORS 62.803 is amended to read:

22 62.803. As used in ORS 62.800 to 62.815, unless the context requires otherwise:

23 (1) "Lienholder" means the holder of a manufactured dwelling lien:

24 (a) That is recorded in the deed records of the county in which the manufactured dwell-
25 ing is located; or

26 (b) Of which a manufactured dwelling park nonprofit cooperative has actual knowledge.

27 [(1)] (2) "Manufactured dwelling" has the meaning given that term in ORS 446.003.

28 [(2)] (3) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

29 [(3)] (4) "Manufactured dwelling park nonprofit cooperative" means a cooperative corporation
30 that:

31 (a) Is organized to acquire or develop, and to own, an interest in one or more manufactured
32 dwelling parks that are primarily used for the siting of manufactured dwellings owned and occupied
33 by members of the cooperative;

34 (b) Limits the use of all income and earnings to use by the cooperative and not for the benefit
35 or profit of any individual; and

36 (c) Elects to be governed by ORS 62.800 to 62.815.

37 **SECTION 5.** ORS 62.809 is amended to read:

38 62.809. (1) A person may become a member of a manufactured dwelling park nonprofit cooper-
39 ative if the person:

40 (a) Is a natural person;

41 (b) Owns a manufactured dwelling that is, or is to be, located in a manufactured dwelling park
42 of the cooperative and occupied by the person;

43 (c)[(A)] Pays the membership fee required by the cooperative; [or] **and**

44 [(B) Purchases a share of membership stock issued by the cooperative; and]

45 (d) Meets any additional membership qualifications established in the articles of incorporation

1 or bylaws of the cooperative.

2 (2) A manufactured dwelling park nonprofit cooperative shall accept as a member any person
3 who meets the qualifications described in subsection (1) of this section.

4 (3) Membership in a manufactured dwelling park nonprofit cooperative entitles the member to
5 rent space for a manufactured dwelling in a manufactured dwelling park of the cooperative and to
6 occupy the manufactured dwelling.

7 (4) **The total number of memberships available for issuance by a manufactured dwelling**
8 **park nonprofit cooperative may not exceed the number of manufactured dwelling spaces in**
9 **the manufactured dwelling park of the cooperative.** A cooperative shall create or issue one
10 membership [*or share of membership stock*] for each manufactured dwelling that is, or is to be, lo-
11 cated in a manufactured dwelling park of the cooperative and occupied by the dwelling owner. A
12 person may not own more than one membership [*or share of membership stock*] in the same cooper-
13 ative. A membership [*or membership stock*] may not be issued [*or transferred*] to a person unless the
14 person meets the qualifications for membership described in subsection (1) of this section.

15 (5) A cooperative shall issue memberships [*or shares of membership stock*] for a fee determined
16 by the directors of the cooperative. The directors may periodically adjust the fee amount as provided
17 in the articles of incorporation or bylaws of the cooperative. Except for periodic adjustments, the
18 membership fee [*or membership stock price*] charged by the cooperative shall be the same for all
19 members. [*A member may not sell, transfer or redeem a membership for more than the amount the*
20 *member paid for the membership plus any adjustments approved by the directors to reflect cost-of-living*
21 *increases.*]

22 (6) **A member may sell or redeem membership in the cooperative only to the cooperative.**
23 **A member may not sell or redeem membership to the cooperative for more than the price**
24 **the member paid for the membership.**

25 [(6)] (7) **Except as provided in this section,** the articles of incorporation or bylaws of the co-
26 operative shall establish the methods for accepting and terminating membership and for the sale[,
27 *transfer*] or redemption of a membership [*or share of membership stock*].

28 (8)(a) **A member may sell to another person the member's manufactured dwelling located**
29 **in the manufactured dwelling park of a cooperative. The member selling the manufactured**
30 **dwelling must arrange to sell or redeem the membership to the cooperative as described in**
31 **subsection (6) of this section.**

32 (b) **A person that buys a manufactured dwelling located in the park of a cooperative from**
33 **any person may apply to become a member of the cooperative. If a member of the cooper-**
34 **ative transfers title to a manufactured dwelling to a person other than a lienholder, and no**
35 **buyer of the manufactured dwelling from the member or from another person becomes a**
36 **member of the cooperative within six months after the member transfers title, the owner**
37 **of the manufactured dwelling must remove the manufactured dwelling from the park of the**
38 **cooperative. If title to a manufactured dwelling located in the park of a cooperative is**
39 **transferred to a lienholder, and no buyer of the manufactured dwelling from the lienholder**
40 **or from a person that acquired title from the lienholder becomes a member of the cooper-**
41 **ative within 12 months after title is transferred to the lienholder, the owner of the manu-**
42 **factured dwelling must remove the manufactured dwelling from the park of the cooperative.**

43 (c) **Notwithstanding ORS 446.626, if a manufactured dwelling located in a manufactured**
44 **dwelling park of a cooperative was recorded in the county deed records before title to the**
45 **manufactured dwelling was transferred from the record owner of the manufactured dwelling,**

1 the county shall continue to list the manufactured dwelling in the deed records until the
2 earlier of:

3 (A) Twelve months after title is transferred from the record owner to a person other
4 than a lienholder shown on the deed record for the manufactured dwelling, unless the county
5 is notified that a subsequent buyer of the manufactured dwelling has become a member of
6 the cooperative;

7 (B) Twelve months after title is transferred to a lienholder shown on the deed record for
8 the manufactured dwelling, unless the county is notified that a subsequent buyer of the
9 manufactured dwelling has become a member of the cooperative; or

10 (C) Issuance of a trip permit under ORS 446.631 for moving the dwelling.

11 (9) If a newly created manufactured dwelling park originates as a manufactured dwelling
12 park nonprofit cooperative, a manufactured dwelling owner must become a member of the
13 cooperative before residing in the park.

14 **SECTION 6.** ORS 62.812 is amended to read:

15 62.812. (1) As used in this section, “debts, liabilities and obligations” includes, but is not limited
16 to, the repurchase of each membership in the cooperative for the amount [*last*] **that was** charged
17 by the cooperative as a membership fee [*or as the purchase price of membership stock*].

18 (2) If a manufactured dwelling park nonprofit cooperative dissolves, after payment or provision
19 for all debts, liabilities and obligations of the cooperative, the cooperative shall distribute the assets
20 of the cooperative to:

21 (a) Another manufactured dwelling park nonprofit cooperative;

22 (b) An organization organized for a public or charitable purpose;

23 (c) A religious corporation;

24 (d) The United States;

25 (e) This state;

26 (f) A local government in this state;

27 (g) A housing authority created under ORS 456.055 to 456.235; or

28 (h) A person that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue
29 Code.

30 **SECTION 7.** ORS 62.815 is amended to read:

31 62.815. (1) As used in this section, “business entity” has the meaning given that term in ORS
32 62.605.

33 (2) A manufactured dwelling park nonprofit cooperative may not:

34 [*(a) Notwithstanding ORS 62.225, pay a dividend on stock to members.*]

35 (a) **Issue stock in the cooperative.**

36 (b) Apportion, distribute or pay net proceeds or savings to members.

37 (c) Make payments in redemption or refund of capital credits or retains to an heir of a member.

38 (d) Merge with a business entity other than another manufactured dwelling park nonprofit co-
39 operative.

40 (e) Convert to another type of business entity.

41 **SECTION 8.** ORS 317.097, as amended by section 6, chapter 29, Oregon Laws 2008, and section
42 15, chapter 45, Oregon Laws 2008, is amended to read:

43 317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
44 be allowed to a lending institution in an amount equal to the difference between:

45 (a) The amount of finance charge charged by the lending institution during the taxable year at

1 an annual rate less than the market rate for a loan that is made before January 1, 2020, that com-
2 plies with the requirements of this section; and

3 (b) The amount of finance charge that would have been charged during the taxable year by the
4 lending institution for the loan for housing construction, development, acquisition or rehabilitation
5 measured at the annual rate charged by the lending institution for nonsubsidized loans made under
6 like terms and conditions at the time the loan for housing construction, development, acquisition or
7 rehabilitation is made.

8 (2) The maximum amount of credit for the difference between the amounts described in sub-
9 section (1)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
10 the loan during the tax year for which the credit is claimed.

11 (3) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
12 particular year may be carried forward and offset against the taxpayer's tax liability for the next
13 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
14 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
15 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
16 credit not used in that third succeeding tax year may be carried forward and used in the fourth
17 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
18 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
19 thereafter.

20 (4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
21 shall *[be]*:

22 (a) **Be** made to an individual or individuals who own the dwelling, participate in an owner-
23 occupied community rehabilitation program and are certified by the local government or its desig-
24 nated agent as having an income level at the time the loan is made of less than 80 percent of the
25 area median income;

26 (b)(A) **Be** made to a qualified borrower;

27 (B) Used to finance construction, development, acquisition or rehabilitation of housing; and

28 (C) Accompanied by a written certification by the Housing and Community Services Department
29 that the:

30 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent
31 of the area median income; and

32 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
33 or will be passed on to the tenants in the form of reduced housing payments, regardless of other
34 subsidies provided to the housing project;

35 (c)(A) **Subject to subsection (13) of this section, be** made to a qualified borrower;

36 (B) Used to finance construction, development, acquisition, or acquisition and rehabilitation of
37 housing consisting of a manufactured dwelling park; and

38 (C) Accompanied by a written certification by the Housing and Community Services Department
39 that the housing will continue to be operated as a manufactured dwelling park during the period for
40 which the tax credit is allowed; or

41 (d)(A) **Be** made to a qualified borrower;

42 (B) Used to finance acquisition, or acquisition and rehabilitation, of housing consisting of a
43 preservation project; and

44 (C) Accompanied by a written certification by the Housing and Community Services Department
45 that the housing preserved by the loan:

1 (i) Is or will be occupied by households earning less than 80 percent of the area median income;
2 and

3 (ii) Has a rent assistance contract with the United States Department of Housing and Urban
4 Development or the United States Department of Agriculture that will be maintained by the quali-
5 fied borrower.

6 (5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this sec-
7 tion shall be treated the same as a loan that meets the criteria stated in subsection (4) of this sec-
8 tion.

9 (6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
10 also shall be accompanied by a written certification by the Housing and Community Services De-
11 partment that:

12 (a) Specifies the period, as determined by the Housing and Community Services Department,
13 during which the loan is eligible for the tax credit under subsection (1) of this section; and

14 (b) States that the loan is within the limitation imposed by subsection (7) of this section.

15 (7)(a) The Housing and Community Services Department may certify loans that are eligible un-
16 der subsection (4) of this section if the total credits attributable to all loans eligible for credits un-
17 der subsection (1) of this section and then outstanding do not exceed \$17 million for any fiscal year.
18 In making loan certifications, the Housing and Community Services Department shall attempt to
19 distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state
20 that are determined by the State Housing Council to have the greatest need for affordable housing.

21 (b) The certification under subsection (6) of this section shall state the period for which the
22 credit will be allowed, which may not exceed 20 years.

23 (8) The applicant's receipt of a credit under section 42 of the Internal Revenue Code does not
24 affect the credit allowed under this section.

25 (9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a
26 qualified assignee with or without the lending institution's retaining servicing of the loan so long
27 as a designated lending institution maintains records annually verified by a loan servicer that es-
28 tablish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

29 (10) As used in this section:

30 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-
31 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

32 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed
33 by the lending institution, and other charges related to the cost of obtaining credit.

34 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,
35 any mortgage banking company that maintains an office in this state or any community development
36 corporation that is organized under the Oregon Nonprofit Corporation Law.

37 (d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

38 (e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section
39 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2007.

40 (f) "Preservation project" means housing that was previously developed as affordable housing
41 with a contract for rent assistance from the United States Department of Housing and Urban De-
42 velopment or the United States Department of Agriculture and that is being acquired by a spon-
43 soring entity.

44 (g) "Qualified assignee" means any investor participating in the secondary market for real estate
45 loans.

1 (h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling
2 interest in the real property that is financed by the loan described in subsection (4) of this section.
3 Such a controlling interest includes, but is not limited to, a controlling interest in the general
4 partner of a limited partnership that owns the real property.

5 (i) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental
6 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
7 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
8 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

9 (11) Notwithstanding any other provision of law, a lending institution that is a community de-
10 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer any
11 part or all of any tax credit arising under subsection (1) of this section to one or more other lending
12 institutions that are stockholders or members of the community development corporation or that
13 otherwise participate through the community development corporation in the making of one or more
14 loans that generate the tax credit under subsection (1) of this section.

15 (12) The lending institution shall file an annual statement with the Housing and Community
16 Services Department, specifying that it has conformed with all requirements imposed by law to
17 qualify for this tax credit.

18 **(13) Notwithstanding subsection (10)(h) and (i) of this section, a qualified borrower on a**
19 **loan to finance the construction, development, acquisition or acquisition and rehabilitation**
20 **of a manufactured dwelling park under subsection (4)(c) of this section must be a nonprofit**
21 **corporation, manufactured dwelling park nonprofit cooperative, state governmental entity,**
22 **local unit of government as defined in ORS 466.706 or housing authority.**

23 [(13)] (14) The Housing and Community Services Department and the Department of Revenue
24 may adopt rules to carry out the provisions of this section.

25 **SECTION 9.** ORS 446.626 is amended to read:

26 446.626. (1) The owner of a manufactured structure that qualifies under this subsection may
27 apply to the county assessor to have the structure recorded in the deed records of the county. The
28 application must be on a form approved by the Department of Consumer and Business Services. The
29 application must include a description of the location of the real property on which the manufac-
30 tured structure is or will be sited. If the structure is being sold by a manufactured structure dealer,
31 the dealer may file the application on behalf of the owner within the time described in ORS 446.736
32 (7). A manufactured structure qualifies for recording in the deed records if the owner of the struc-
33 ture:

34 (a) Also owns the land on which the manufactured structure is located; [or]

35 (b) Is the holder of a recorded leasehold estate of 20 years or more if the lease specifically
36 permits the manufactured structure owner to record the structure under this section[.]; or

37 **(c) Is a member of a manufactured dwelling park nonprofit cooperative formed under**
38 **ORS 62.800 to 62.815 that owns the land on which the manufactured structure is located.**

39 (2) If the assessor, as agent for the department, determines that the manufactured structure
40 qualifies for recording in the deed records of the county, the assessor shall cause the structure to
41 be recorded in the deed records. The deed records must contain any unreleased security interest in
42 the manufactured structure. If the department has issued an ownership document for the manufac-
43 tured structure, the owner must submit the ownership document to the assessor with the application
44 described in subsection (1) of this section. Upon recording the manufactured structure in the deed
45 records, the assessor shall send the ownership document to the department for cancellation. The

1 department shall cancel the ownership document and send confirmation of the cancellation to the
2 assessor and the owner.

3 (3) The recording of a security interest in the deed records of the county under this section
4 satisfies the requirements for filing a financing statement for a fixture to real property under ORS
5 79.0502. The recording of a manufactured structure in the deed records of the county is independent
6 of the assessment and taxation of the structure as real property under ORS 308.875. The recording
7 of a manufactured structure in the deed records of the county makes the structure subject to the
8 same provisions of law applicable to any other building, housing or structure on the land. However,
9 the manufactured structure may not be sold separately from the land or leasehold estate unless the
10 owner complies with subsection (4) of this section.

11 (4) The owner of a manufactured structure that is recorded in the deed records of the county
12 may apply to have the structure removed from the deed records and an ownership document issued
13 for the structure. Unless the manufactured structure is subject to ORS 446.631, the owner must ap-
14 ply to the county assessor, as agent for the department, for an ownership document as provided in
15 ORS 446.571. Upon approval of the application, the assessor shall terminate the recording of the
16 manufactured structure in the deed records.

17 (5) If a manufactured structure described in *[paragraph]* **subsection (1)(b) or (c)** of this section
18 is recorded in the deed records, the owner of the structure has a real property interest in the
19 manufactured structure for purposes of:

20 (a) Recordation of documents pursuant to ORS 93.600 to 93.800, 93.802, 93.804, 93.806 and 93.808;

21 (b) Deed forms pursuant to ORS 93.850 to 93.870;

22 (c) Mortgages, trust deeds and other liens pursuant to ORS 86.010 to 86.990 and ORS chapters
23 87 and 88; and

24 (d) Real property tax collection pursuant to ORS chapters 311 and 312. The structure owner is
25 considered the owner of the real property for purposes of assessing the structure under ORS 308.875.

26 **SECTION 10. (1) Section 2 of this 2009 Act applies to notices, restrictive covenants,
27 leases, memoranda and other documents created before, on or after the effective date of this
28 2009 Act.**

29 **(2) Section 3 of this 2009 Act applies to a lienholder whose written notice is received by
30 a manufactured dwelling park nonprofit cooperative on or after the effective date of this 2009
31 Act.**

32 **(3) The amendments to ORS 62.809 by section 5 of this 2009 Act apply to:**

33 **(a) The sale or redemption of a membership issued before, on or after the effective date
34 of this 2009 Act, except to the extent of any vested contractual right to membership value
35 increases accruing before the effective date of this 2009 Act; and**

36 **(b) A transfer of title to a manufactured dwelling located in the park of a cooperative
37 occurring on or after the effective date of this 2009 Act.**

38 **(4) The amendments to ORS 317.097 by section 8 of this 2009 Act apply to loans made on
39 or after the effective date of this 2009 Act.**

40