

Enrolled
House Bill 2255

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)

CHAPTER

AN ACT

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

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

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

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

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

(a) A member of the cooperative who is identified in the lienholder request for notification terminates occupancy in the manufactured dwelling park of the cooperative and the cooperative knows of the termination;

(b) A member of the cooperative who is identified in the lienholder request for notification terminates membership in the cooperative; or

(c) The cooperative terminates, or gives notice of cause for terminating, the occupancy or membership of a member of the cooperative who is identified in the lienholder request for notification.

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

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

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

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

(3) The buyer of a manufactured dwelling sold by a lienholder under subsection (2)(b) of this section takes possession of the manufactured dwelling subject to ORS 62.809 (8) and any obligation to the cooperative. During the term of a storage agreement described in sub-

section (2)(c) of this section, the lienholder may remove or sell the manufactured dwelling as provided in subsection (2)(a) or (b) of this section.

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

SECTION 4. ORS 62.803 is amended to read:

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

(1) **“Lienholder” means the holder of a manufactured dwelling lien:**

(a) That is recorded in the deed records of the county in which the manufactured dwelling is located;

(b) That is perfected with the Department of Consumer and Business Services pursuant to ORS 446.611; or

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

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

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

[3] (4) “Manufactured dwelling park nonprofit cooperative” means a cooperative corporation that:

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

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

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

SECTION 5. ORS 62.809 is amended to read:

62.809. (1) A person may become a member of a manufactured dwelling park nonprofit cooperative if the person:

(a) Is a natural person;

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

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

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

(d) Meets any additional membership qualifications established in the articles of incorporation or bylaws of the cooperative.

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

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

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

(5) A cooperative shall issue memberships [*or shares of membership stock*] for a fee determined by the directors of the cooperative. The directors may periodically adjust the fee amount as provided in the articles of incorporation or bylaws of the cooperative. Except for periodic adjustments, the membership fee [*or membership stock price*] charged by the cooperative shall be the same for all members. [*A member may not sell, transfer or redeem a membership for more than the amount the*

member paid for the membership plus any adjustments approved by the directors to reflect cost-of-living increases.]

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

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

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

(b) A person that buys a manufactured dwelling located in the park of a cooperative from any person may apply to become a member of the cooperative. If a member of the cooperative transfers title to a manufactured dwelling to a person other than a lienholder, and no buyer of the manufactured dwelling from the member or from another person becomes a member of the cooperative within six months after the member transfers title, the owner of the manufactured dwelling must remove the manufactured dwelling from the park of the cooperative. If title to a manufactured dwelling located in the park of a cooperative is transferred to a lienholder, and no buyer of the manufactured dwelling from the lienholder or from a person that acquired title from the lienholder becomes a member of the cooperative within 12 months after title is transferred to the lienholder, the owner of the manufactured dwelling must remove the manufactured dwelling from the park of the cooperative.

(c) Notwithstanding ORS 446.626, if a manufactured dwelling located in a manufactured dwelling park of a cooperative was recorded in the county deed records before title to the manufactured dwelling was transferred from the record owner of the manufactured dwelling, the county shall continue to list the manufactured dwelling in the deed records until the earlier of:

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

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

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

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

SECTION 6. ORS 62.812 is amended to read:

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

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

- (a) Another manufactured dwelling park nonprofit cooperative;
- (b) An organization organized for a public or charitable purpose;
- (c) A religious corporation;
- (d) The United States;
- (e) This state;
- (f) A local government in this state;

- (g) A housing authority created under ORS 456.055 to 456.235; or
- (h) A person that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code.

SECTION 7. ORS 62.815 is amended to read:

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

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

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

(a) Issue stock in the cooperative.

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

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

(d) Merge with a business entity other than another manufactured dwelling park nonprofit cooperative.

(e) Convert to another type of business entity.

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

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

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a loan that is made before January 1, 2020, that complies with the requirements of this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Has a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower.

(5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this section shall be treated the same as a loan that meets the criteria stated in subsection (4) of this section.

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

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

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

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

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

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

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

(10) As used in this section:

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

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

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

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

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

(f) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

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

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

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

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

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

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

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

SECTION 8a. If House Bill 2261 becomes law, section 8 of this 2009 Act (amending ORS 317.097) is repealed and ORS 317.097, as amended by section 6, chapter 29, Oregon Laws 2008, section 15, chapter 45, Oregon Laws 2008, section 25, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), and section 1a, chapter 82, Oregon Laws 2009 (Enrolled House Bill 2261), is amended to read:

317.097. (1) As used in this section:

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

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

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

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

(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2008.

(f) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

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

(h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(i) "Qualified loan" means:

(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

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

(2) The Department of Revenue shall allow a credit against taxes otherwise due under this chapter for the taxable year to a lending institution that makes a qualified loan certified by the Housing and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a qualified loan that is made before January 1, 2020, that complies with the requirements of this section; and

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

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

(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

(a) An individual or individuals who own a dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level when the loan is made of less than 80 percent of the area median income;

(b) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department that the:

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

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

(c) **Subject to subsection (14) of this section**, a qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

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

(d) A qualified borrower who:

(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a preservation project; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

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

(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower.

(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this section must be treated the same as a loan that meets the criteria stated in subsection (5) of this section.

(7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing and Community Services Department must execute a written certification for the qualified loan that:

(a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan; and

(b) States that the qualified loan is within the limitation imposed by subsection (8) of this section.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed \$17 million for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the State Housing Council to have the greatest need for affordable housing.

(9) The tax credit provided for in this section may be taken whether or not:

(a) The financial institution is eligible to take a federal income tax credit under section 42 of the Internal Revenue Code with respect to the project financed by the qualified loan; or

(b) The project receives financing from bonds, the interest on which is exempt from federal taxation under section 103 of the Internal Revenue Code.

(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the Internal Revenue Code, the amount of finance charge that would have been charged under subsection (2)(b) of this section is determined by reference to the finance charge that would have been charged if the federally tax exempt bonds had been issued and the tax credit under this section did not apply.

(11) A lending institution may sell a qualified loan for which a certification has been executed to a qualified assignee whether or not the lending institution retains servicing of the qualified loan so long as a designated lending institution maintains records, annually verified by a loan servicer, that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

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

(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be a nonprofit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority.

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

SECTION 9. ORS 446.626 is amended to read:

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

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

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

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

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

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

(4) The owner of a manufactured structure that is recorded in the deed records of the county may apply to have the structure removed from the deed records and an ownership document issued for the structure. Unless the manufactured structure is subject to ORS 446.631, the owner must apply to the county assessor, as agent for the department, for an ownership document as provided in

ORS 446.571. Upon approval of the application, the assessor shall terminate the recording of the manufactured structure in the deed records.

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

- (a) Recordation of documents pursuant to ORS 93.600 to 93.800, 93.802, 93.804, 93.806 and 93.808;
- (b) Deed forms pursuant to ORS 93.850 to 93.870;
- (c) Mortgages, trust deeds and other liens pursuant to ORS 86.010 to 86.990 and ORS chapters 87 and 88; and
- (d) Real property tax collection pursuant to ORS chapters 311 and 312. The structure owner is considered the owner of the real property for purposes of assessing the structure under ORS 308.875.

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

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

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

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

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

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

SECTION 10a. If House Bill 2261 becomes law, section 10 of this 2009 Act is amended to read:

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

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

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

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

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

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

Passed by House April 14, 2009

Repassed by House June 4, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 3, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State