

House Bill 2990

Sponsored by Representative MARSH; Representative FAHEY

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**.

Increases time period during which tenants of manufactured dwelling park must identify or form tenants committee for purpose of purchasing park from 10 days to 60 days. Provides tenants committee with 15-day right of first refusal for offer or agreement to purchase park.

A BILL FOR AN ACT

1
2 Relating to purchase of manufactured dwelling park by tenants; creating new provisions; and
3 amending ORS 90.842, 90.844 and 90.846.

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

5 **SECTION 1.** ORS 90.842 is amended to read:

6 90.842. (1) An owner of a manufactured dwelling park shall give written notice of the owner's
7 interest in selling the park before the owner markets the park for sale or when the owner receives
8 an offer to purchase that the owner intends to consider, whichever occurs first.

9 (2) The owner shall give the notice required by subsection (1) of this section to:

10 (a) All tenants of the park; or

11 (b) A tenants committee, if there is an existing committee of tenants formed for purposes in-
12 cluding the purchase of the park and with which the owner has met in the 12-month period imme-
13 diately before delivery of the notice.

14 (3) The owner shall also give the notice required by subsection (1) of this section to the Office
15 of Manufactured Dwelling Park Community Relations of the Housing and Community Services De-
16 partment.

17 (4) The notice must include the following:

18 (a) The owner is considering selling the park.

19 (b) The tenants, through a tenants committee, have an opportunity [*to compete*] to purchase the
20 park.

21 (c) In order [*to compete*] to purchase the park, within [*10*] **60** days after delivery of the notice,
22 the tenants must form or identify a single tenants committee for the purpose of purchasing the park
23 and notify the owner in writing of:

24 (A) The tenants' interest in [*competing to purchase*] **purchasing** the park; and

25 (B) The name and contact information of the representative of the tenants committee with whom
26 the owner may communicate about the purchase.

27 (d) The representative of the tenants committee may request financial information described in
28 ORS 90.844 (2) from the owner within the [*10-day*] **60-day** period.

29 (e) Information about purchasing a manufactured dwelling park is available from the Office of
30 Manufactured Dwelling Park Community Relations of the Housing and Community Services De-
31 partment.

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.

SECTION 2. ORS 90.844 is amended to read:

90.844. (1) Within [10] **60** days after delivery of the notice described in ORS 90.842, if the tenants choose [to compete] to purchase the manufactured dwelling park in which the tenants reside, the tenants must notify the owner in writing of:

(a) The tenants' interest in [competing to purchase] **purchasing** the park;

(b) The formation or identification of a single tenants committee formed for the purpose of purchasing the park; and

(c) The name and contact information of the representative of the tenants committee with whom the owner may communicate about the purchase.

(2) During the [10-day] **60-day** period, in order to perform a due diligence evaluation of the opportunity [to compete] to purchase the park, the representative of the tenants committee may make a written request for the kind of financial information that a seller of a park would customarily provide to a prospective purchaser.

(3) Of the financial information described in subsection (2) of this section, the owner shall provide the following information within seven days after delivery of the request by the tenants committee for the information:

(a) The asking price, if any, for the park;

(b) The total income collected from the park and related profit centers, including storage and laundry, in the 12-month period immediately before delivery of the notice required by ORS 90.842;

(c) The cost of all utilities for the park that were paid by the owner in the 12-month period immediately before delivery of the notice required by ORS 90.842;

(d) The annual cost of all insurance policies for the park that were paid by the owner, as shown by the most recent premium;

(e) The number of homes in the park owned by the owner; and

(f) The number of vacant spaces and homes in the park.

(4) The owner may:

(a) Designate all or part of the financial information provided pursuant to this section as confidential.

(b) If the owner designates financial information as confidential, establish, in cooperation with the representative of the tenants committee, a list of persons with whom the tenants may share the information, including any of the following persons that are either seeking to purchase the park on behalf of the tenants committee or assisting the tenants committee in evaluating or purchasing the park:

(A) A nonprofit organization or a housing authority.

(B) An attorney or other licensed professional or adviser.

(C) A financial institution.

(c) Require that persons authorized to receive the confidential information:

(A) Sign a confidentiality agreement before receiving the information;

(B) Refrain from copying any of the information; and

(C) Return the information to the owner when the negotiations to purchase the park are completed or terminated.

(5) Within 15 days after delivery of the financial information described in subsection (3) of this section, or within 15 days after the end of the [10-day] **60-day** period described in subsection (1) of this section when the representative of the tenants committee does not request financial information under subsection (2) of this section, if the tenants choose to continue [competing to purchase] **pur-**

1 **chasing** the park, the tenants committee must:

2 (a) Form a corporate entity under ORS chapter 60, 62 or 65 that is legally capable of purchasing
 3 real property or associate with a nonprofit corporation or housing authority that is legally capable
 4 of purchasing real property or that is advising the tenants about purchasing the park in which the
 5 tenants reside.

6 (b) Submit to the owner a written offer to purchase the park, in the form of a proposed purchase
 7 and sale agreement, and either a copy of the articles of incorporation of the corporate entity or
 8 other evidence of the legal capacity of the formed or associated corporate entity to purchase real
 9 property.

10 (6)[(a)] The owner may accept the offer to purchase in the tenants committee’s purchase and sale
 11 agreement, reject the offer or submit a counteroffer.

12 [(b)] (7) If the parties reach agreement on the purchase, the purchase and sale agreement must
 13 specify the price, due diligence duties, schedules, timelines, conditions and any extensions.

14 (8)(a) **Upon delivery of the notice required by subsection (1) of this section, the owner**
 15 **shall negotiate in good faith with the tenants committee and provide the tenants committee**
 16 **the same opportunity to purchase the park as the owner would any bona fide third party**
 17 **potential purchaser.**

18 (b) **During the 15-day period following the delivery of a notice to the owner under sub-**
 19 **section (1) of this section, the tenants committee has a right of first refusal for any offer**
 20 **or agreement by the owner to sell the park.**

21 (c) **After the 15-day period, the tenants committee may compete with any other bona fide**
 22 **third party potential purchaser to purchase the park.**

23 [(c)] (9) If the tenants do not act as required within the time periods described in this section
 24 and ORS 90.842, if the tenants violate the confidentiality agreement described in this section or if
 25 the parties do not reach agreement on a purchase, the owner is not obligated to take additional
 26 action under ORS 90.842 to 90.850.

27 **SECTION 3.** ORS 90.846 is amended to read:

28 90.846. (1) During the process described in ORS 90.842 to 90.850, the parties shall act in a
 29 commercially reasonable manner.

30 (2) Except as provided in ORS 90.848, before selling a manufactured dwelling park to an entity
 31 that is not formed by or associated with the tenants, the owner of the park must give the notice
 32 required by ORS 90.842 and comply with the requirements of ORS 90.844.

33 (3) A minor error in providing the notice required by ORS 90.842 or in providing the financial
 34 information required by ORS 90.844 does not prevent the owner from selling the park to an entity
 35 that is not formed by or associated with the tenants and does not cause the owner to be liable to
 36 the tenants for damages or a penalty.

37 (4) *[During the process described in ORS 90.842 to 90.850]* **After the 15-day period described**
 38 **in ORS 90.844 during which the tenants committee has a right of first refusal for any offer**
 39 **or agreement by the owner to sell the park,** the owner may seek, or negotiate with, potential
 40 purchasers other than the tenants or an entity formed by or associated with the tenants.

41 (5) If the owner does not comply with requirements of this section and ORS 90.842 and 90.844,
 42 in a substantial way that prevents the tenants from *[competing to purchase]* **purchasing** the park,
 43 the tenants may:

44 (a) Obtain injunctive relief to prevent a sale or transfer to an entity that is not formed by or
 45 associated with the tenants when the owner has not caused an affidavit to be recorded before the

1 sale or transfer pursuant to ORS 90.850.

2 (b) Recover actual damages or twice the rent from the owner for each tenant, whichever is
3 greater.

4 (6) If a tenant misuses or discloses, in a substantial way, confidential information in violation
5 of a confidentiality agreement described in ORS 90.844, the owner may recover actual damages from
6 the tenant.

7 (7) The Office of Manufactured Dwelling Park Community Relations of the Housing and Com-
8 munity Services Department shall prepare and make available information for tenants about pur-
9 chasing a manufactured dwelling park.

10 **SECTION 4. The amendments to ORS 90.842, 90.844 and 90.846 by sections 1 to 3 of this**
11 **2017 Act apply to notices dated on or after the effective date of this 2017 Act.**

12