

SUMMARY OF SB 586

SB 586 was developed by the Manufactured Housing Landlord/Tenant Coalition in 19 meetings each of three hours between September 2017 and February 22, 2019, when final agreement was reached.

The coalition consists of manufactured housing landlords and tenants and tenant advocates. Manufactured housing tenants own their manufactured homes (“MHs”) and rent the land under the home in MH parks, which are defined as having four or more spaces rented by a homeowner from the land owner (or landlord). There are about 1,100 MH parks in Oregon with about 60,000 homeowners/tenants.

The coalition has existed since 1997 and has produced a negotiated bill amending MH landlord/tenant law in every long session since.

This session the coalition included floating home marina landlords and tenants and the bill makes some improvements to the laws that cover those tenancies. Floating home owners and their tenancies in marinas share many of the characteristics of MH tenants and parks.

The bill is supported by organizations representing MH park and floating home marina tenants and landlords.

The bill will be amended in the Senate Committee on Housing, but will require an additional amendment on the House side (adding issues ## 4 and 5, below). This reflects that the coalition negotiated details of these issues until March 1; there was not time to get all of the needed amendments ready for the Senate.

A summary of what will be included in the bill once it is amended on the House side follows:

SUMMARY OF SB 586 ONCE IT IS AMENDED (the bill will cover five areas)

1. Floating home tenancies in marinas
2. Submetering of water
3. Maintenance of trees on MH park spaces
4. Dispute resolution and enforcement of facility tenancy laws
5. Termination of tenancies; noncompliance fees

1. Floating home tenancies in marinas

As noted earlier, floating home tenancies in marinas are generally treated the same as MH tenancies in parks, although there are some differences. Several of those differences are addressed in this bill: Floating home tenants will pay a \$10 annual assessment and will be

covered by the Manufactured Communities Resource Center (“MCRC”, which will be renamed) (and the new expanded mandatory mediation program and enforcement); see ORS 446.525. And marina landlords will be required, as park landlords are now required, to register with MCRC and pay an annual registration fee to cover the costs, and they will be required to obtain and document four hours of continuing education every two years on marina management issues and on landlord/tenant and fair housing laws. See ORS 90.732, 90.734. Other changes include making the existing Opportunity to Purchase statutes apply to marinas (ORS 90.842 to 90.850); giving a longer repair period for floating homes with needed repairs to the floats, because this repair is complicated, repair times are limited in times of low water, and repair people are few (90.632); allowing a marina tenant to require a longer storage period after a tenancy ends (90.675); and allowing marina landlords to require a marina tenant to move her floating home within the marina in certain circumstances (such as when needed to move another home or to dredge) for short periods, at the landlord’s expense.

2. Submetering of water: The bill is intended to simplify the process for a landlord to switch from recovery for the cost of water/sewer in the rent to submeter billing, hopefully encouraging more landlords to do so, and to allow landlords to switch to pro rata billing and to allow landlords with water from wells to submeter. Also make other changes to promote transparency (including requiring a meeting before the switch and a three-month trial billing period to test the system) and to address tenant concerns that have arisen since we first went down this path in 2005.

3. Maintenance of trees on MH park spaces

ORS 90.727 allows a tenant to make a landlord maintain certain large trees considered to be hazardous by an arborist (see the definition of “hazard tree” in ORS 90.100 (20)); it also allows a landlord to act to prevent a tree from becoming a hazard. “Maintaining” a tree includes removal – aka, cutting it down. The statute currently requires the landlord who proposes to take this preventive action to give the tenant reasonable notice in advance. In a recent incident, the landlord gave that notice, but there were two trees on the space and the landlord mistakenly cut down the wrong (healthy) tree. The bill will amend this statute to require the landlord to specify which tree is proposed to be removed.

4. Dispute resolution and enforcement

There are two parts to this issue. The first is dispute resolution, which the coalition has been working on for about four years. The theory here is that many facility disputes, between landlords and tenants but also between one tenant and another, could be resolved through communication, which might avoid evictions or noncompliance fees. The bill will amend Oregon law to provide that either party may require the other party to participate in at least one mediation session – “mandatory mediation” – regarding a dispute involving landlord/tenant law or park issues, so long as the request for mediation is done in good faith and the session is held within 30 days. A timely request can delay most but not all terminations. Certain disputes are

exempted, including nonpayment of rent, park closures or sales, rent increase amounts, terminations for outrageous conduct, or disputes involving domestic violence. Mediations will be performed by the existing network of Community Dispute Resolution Centers, funded by the existing annual assessment already paid by MH park residents (\$10, collected with property tax assessments), or by a qualified mediator as chosen by the parties. The current annual fee paid by park landlords (\$25 for parks of 20 spaces or fewer, \$50 for larger parks) is doubled, to help pay for the increased use of mediators. No state tax dollars are involved. Landlords will be required to amend their rental agreements to add this new provision.

The second part of this issue is enforcement: A portion of the reserve from the resident special assessment payments will be granted through Oregon Housing and Community Services to the Oregon Law Center to employ one attorney to provide direct legal services – advice, negotiation, litigation – to park residents on matters arising under Oregon residential landlord/tenant law. The amount is \$100,000 annually for a period of four years.

Both of these elements have a four-year sunset. There is created an advisory committee, working with OHCS to monitor both elements, consisting of equal numbers of landlord and tenant representatives and a representative of the Community Dispute Resolution Centers. The committee shall present a report on the status of both elements to the 2021 and 2023 legislatures.

5. Termination of tenancies; noncompliance fees

MH park and FH marina tenants can only be evicted for cause. That primarily occurs under ORS 90.630 for noncompliance with laws or facility rules related to the tenant's conduct. That law requires a 30-day notice describing the cause, and gives the tenant the full thirty days to cure the noncompliance. If the tenant cures, the tenancy does not terminate. Landlords and neighboring tenants have long struggled with the rare event in which a noncomplying tenant continues the noncompliance until the 30th day and stops only then, thereby curing and avoiding termination. The bill will allow landlords to require cure within three days, instead of the full thirty, for separate and distinct violations; this provision has been in apartment landlord/tenant law since 2005.

In addition, the bill will make a change to allow park and marina landlords to better utilize an existing statute regarding noncompliance fees; ORS 90.302.

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