House Bill 2580

Sponsored by Representative FAHEY (Presession filed.)

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.

Limits rent increase for purchaser of dwelling in facility to increase consistent with that applied to existing tenants.

A BILL FOR AN ACT

Relating to rent increases in a facility; amending ORS 90.680.

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

SECTION 1. ORS 90.680 is amended to read:

90.680. (1) As used in this section, “consignment” means an agreement in which a tenant authorizes a landlord to sell a manufactured dwelling or floating home on behalf of the tenant who owns the dwelling or home in a facility that is owned by the landlord and for which the landlord receives compensation.

(2) A landlord may not deny any manufactured dwelling or floating home space tenant the right to sell a manufactured dwelling or floating home on a rented space or require the tenant to remove the dwelling or home from the space solely on the basis of the sale.

(3) A landlord may not require, as a condition of a tenant's occupancy, consignment of the tenant’s manufactured dwelling or floating home.

(4)(a) A landlord may sell a tenant’s manufactured dwelling or floating home on consignment only if:

(A) The sale involves a dwelling in a facility and the landlord is licensed to sell dwellings under ORS 446.661 to 446.756. The license may be held by a person that differs from the person that owns the facility and is the landlord, if there is common ownership between the two.

(B) The landlord and tenant first enter into a written consignment contract that specifies at a minimum:

(i) The duration of the contract, which, unless extended in writing, may not exceed 180 days;

(ii) The estimated square footage of the dwelling or home, and the make, model, year, vehicle identification number and license plate number, if known;

(iii) The price offered for sale of the dwelling or home;

(iv) Whether lender financing is permitted and the amount, if any, of the earnest money deposit;

(v) Whether the transaction is intended to be closed through a state-licensed escrow;

(vi) All liens, taxes and other charges known to be in existence against the dwelling or home that must be removed before the tenant can convey marketable title to a prospective buyer;

(vii) The method of marketing the sale of a dwelling or home to the public, such as signs posted at the facility or through advertisements posted on the Internet or published in newspapers or in other publications;

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.
HB 2580

(viii) The form and amount of compensation to the landlord, such as a fixed fee, a percentage of the gross sale price or another similar arrangement. If the form of compensation is a fixed fee, the contract shall state the amount; and

(ix) For the purpose of determining the net sale proceeds that are payable to the tenant, the manner and order by which the gross sale proceeds will be applied to liens, taxes, actual costs of sale, landlord compensation and other closing costs.

(C) Within 10 days after a sale, the landlord pays to the tenant the tenant’s share of the sale proceeds and provides to the tenant a written accounting for the sale proceeds.

(b) The landlord may not exact a commission or fee, however designated, or retain a portion of any sale proceeds for the sale of a manufactured dwelling or floating home on a rented space unless the landlord has acted as representative for the seller pursuant to a written consignment contract.

(5)(a) The landlord may not deny the tenant the right to place a “for sale” sign on or in a manufactured dwelling or floating home owned by the tenant. The size, placement and character of such signs shall be subject to reasonable rules of the landlord.

(b) If the landlord advertises a manufactured dwelling or floating home for sale within the facility, the tenant may advertise the sale of the tenant’s dwelling or home by posting a sign in a similar manner and similar location.

(6) A landlord may not knowingly make false statements to a prospective purchaser about the quality of a tenant’s manufactured dwelling or floating home.

(7) Nothing in this section prevents a landlord from selling to a prospective purchaser a manufactured dwelling or floating home owned by the landlord at a price or on terms, including space rent, that are more favorable than the price and terms offered for dwellings or homes that are for sale by a tenant.

(8) If the prospective purchaser of a manufactured dwelling or floating home desires to leave the dwelling or home on the rented space and become a tenant:

(a) The landlord may require in the rental agreement:

[(a)(A)] Except when a termination or abandonment occurs, that a tenant give not more than 10 days’ notice in writing prior to the sale of the dwelling or home on a rented space;

[(b)(B)] That prior to the sale, the prospective purchaser submit to the landlord a complete and accurate written application for occupancy of the dwelling or home as a tenant after the sale is finalized and that a prospective purchaser may not occupy the dwelling or home until after the prospective purchaser is accepted by the landlord as a tenant;

[(c)(C)] That a tenant give notice to any lienholder, prospective purchaser or person licensed to sell dwellings or homes of the requirements of [paragraphs (b) and (d) of this subsection] subparagraphs (B) and (D) of this paragraph, the location of all properly functioning smoke alarms and any other rules and regulations of the facility such as those described in ORS 90.510 (5)(b), (f), (g), (i) and (j); and

[(d)(D)] If the sale is not by a lienholder, that the prospective purchaser pay in full all rents, fees, deposits or charges owed by the tenant as authorized under ORS 90.140 and the rental agreement, prior to the landlord’s acceptance of the prospective purchaser as a tenant.

(b) The landlord may not increase the rent for a prospective purchaser except as part of a facility-wide rent increase for all facility tenants that is consistent with the requirements of ORS 90.600.

(9)(a) If a landlord requires a prospective purchaser to submit an application for occupancy as a tenant under subsection (8) of this section, the landlord shall provide, upon request from the pur-
chaser, a copy of the application. At the time that the landlord gives the prospective purchaser an application the landlord shall also give the prospective purchaser:

(A) Copies of the statement of policy, the rental agreement and the facility rules and regulations, including any conditions imposed on a subsequent sale, all as provided by ORS 90.510;

(B) Copies of any outstanding notices given to the tenant under ORS 90.632;

(C) A list of any disrepair or deterioration of the manufactured dwelling or floating home;

(D) A list of any failures to maintain the space or to comply with any other provisions of the rental agreement, including aesthetic or cosmetic improvements; and

(E) A statement that the landlord may require a prospective purchaser to complete repairs, maintenance and improvements as described in the notices and lists provided under subparagraphs (B) to (D) of this paragraph.

(b) The terms of the statement, rental agreement and rules and regulations need not be the same as those in the selling tenant's statement, rental agreement and rules and regulations.

(c) Consistent with ORS 90.305 (4)(b), a landlord may require a prospective purchaser to pay a reasonable copying charge for the documents.

(d) If a prospective purchaser agrees, a landlord may provide the documents in an electronic format.

(10) The following apply if a landlord receives an application for tenancy from a prospective purchaser under subsection (8) of this section:

(a) The landlord shall accept or reject the prospective purchaser's application within seven days following the day the landlord receives a complete and accurate written application. An application is not complete until the prospective purchaser pays any required applicant screening charge and provides the landlord with all information and documentation, including any financial data and references, required by the landlord pursuant to ORS 90.510 (5)(i). The landlord and the prospective purchaser may agree to a longer time period for the landlord to evaluate the prospective purchaser's application or to allow the prospective purchaser to address any failure to meet the landlord's screening or admission criteria. If a tenant has not previously given the landlord the 10 days' notice required under subsection (8)(a) of this section, the period provided for the landlord to accept or reject a complete and accurate written application is extended to 10 days.

(b) When a landlord considers an application for tenancy from a prospective purchaser of a dwelling or home from a tenant, the landlord shall apply to the prospective purchaser credit and conduct screening criteria that are substantially similar to the credit and conduct screening criteria the landlord applies to a prospective purchaser of a dwelling or home from the landlord.

(c) The landlord may not unreasonably reject a prospective purchaser as a tenant. Reasonable cause for rejection includes, but is not limited to, failure of the prospective purchaser to meet the landlord's conditions for approval as provided in ORS 90.510 (5)(i) or failure of the prospective purchaser's references to respond to the landlord's timely request for verification within the time allowed for acceptance or rejection under paragraph (a) of this subsection. Except as provided in paragraph (d) of this subsection, the landlord shall furnish to the seller and purchaser a written statement of the reasons for the rejection.

(d) If a rejection under paragraph (c) of this subsection is based upon a consumer report, as defined in 15 U.S.C. 1681a for purposes of the federal Fair Credit Reporting Act, the landlord may not disclose the contents of the report to anyone other than the purchaser. The landlord shall disclose to the seller in writing that the rejection is based upon information contained within a consumer report and that the landlord may not disclose the information within the report.
(11) The following apply if a landlord does not require a prospective purchaser to submit an application for occupancy as a tenant under subsection (8) of this section or if the landlord does not accept or reject the prospective purchaser as a tenant within the time required under subsection (10) of this section:

(a) The landlord waives any right to bring an action against the tenant under the rental agreement for breach of the landlord's right to establish conditions upon and approve a prospective purchaser of the tenant's dwelling or home;

(b) The prospective purchaser, upon completion of the sale, may occupy the dwelling or home as a tenant under the same conditions and terms as the tenant who sold the dwelling or home; and

(c) If the prospective purchaser becomes a new tenant, the landlord may impose conditions or terms on the tenancy that are inconsistent with the terms and conditions of the seller's rental agreement only if the new tenant agrees in writing.

(12) A landlord may not, because of the age, size, style or original construction material of the dwelling or home or because the dwelling or home was built prior to adoption of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403), in compliance with the standards of that Act in effect at that time or in compliance with the state building code as defined in ORS 455.010:

(a) Reject an application for tenancy from a prospective purchaser of an existing dwelling or home on a rented space within a facility; or

(b) Require a prospective purchaser of an existing dwelling or home on a rented space within a facility to remove the dwelling or home from the rented space.

(13) A tenant who has received a notice pursuant to ORS 90.632 may sell the tenant's dwelling or home in compliance with this section during the notice period. The tenant shall provide a prospective purchaser with a copy of any outstanding notice given to the tenant under ORS 90.632 prior to a sale. If the tenancy has been terminated pursuant to ORS 90.632, or the notice period provided in ORS 90.632 has expired without a correction of cause or extension of time to correct, a prospective purchaser does not have a right to leave the dwelling or home on the rented space and become a tenant.

(14) The following applies to a landlord that accepts a prospective purchaser as a tenant under subsection (10) of this section:

(a) Notwithstanding any waiver given by the landlord to the previous tenant, the landlord may require the new tenant to complete the repairs, maintenance and improvements described in the notices provided under subsection (9)(a)(B) to (D) of this section.

(b) Notwithstanding ORS 90.412, if the new tenant fails to complete the repairs, maintenance and improvements described in the notices provided under subsection (9)(a)(B) to (D) of this section within six months after the tenancy begins, the landlord may terminate the tenancy by giving the new tenant the notice required under ORS 90.630 or 90.632.

(15) Except as provided by subsection (13) of this section, after a tenancy has ended and during the period provided by ORS 90.675 (6) and (8), a former tenant retains the right to sell the tenant's dwelling or home to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant as provided by this section, if the former tenant makes timely periodic payment of all storage charges as provided by ORS 90.675 (7)(b), maintains the dwelling or home and the rented space on which it is stored and enters the premises only with the written permission of the landlord. Payment of the storage charges or maintenance of the dwelling or home and the space does not create or reinstate a tenancy or create a waiver pursuant to ORS 90.412 or 90.417. A former tenant
may not enter the premises without the written permission of the landlord, including entry to
maintain the dwelling or home or the space or to facilitate a sale.

(16) A landlord or tenant who sells a manufactured dwelling or floating home shall deliver title
to the dwelling or home to the purchaser within 25 business days after completion of the sale. If the
sale by contract requires future payments, the landlord or tenant shall notify the county that the
purchaser is responsible for property tax payments.