

HB 3042 A STAFF MEASURE SUMMARY
Senate Committee On Housing and Development

Carrier: Sen. Campos

Action Date: 05/08/23
Action: Do pass the A-Eng bill.
Vote: 3-1-0-1
Yeas: 3 - Jama, Patterson, Sollman
Nays: 1 - Anderson
Abs: 1 - Knopp
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Kevin Rancik, LPRO Analyst
Meeting Dates: 4/17, 5/8

WHAT THE MEASURE DOES:

Prohibits, from three years beginning on the termination date for existing tenants not in the Housing Choice Voucher Program, termination of tenancy and more than one rent increase per year, and requires compliance with rent increase limits. Defines “termination date” for withdrawal of publicly supported housing as date when affordability restrictions expire and property is withdrawn from affordable inventory as allowed under statute or contract. Levies \$5,000 maximum penalty for noncompliance to be paid to the Housing Finance Fund, and for Oregon Housing and Community Services (OHCS) to file lien against property if penalty not paid within 90 days. Permits OHCS to provide notice to affected tenants if property owner or landlord does not provide notice, provided notice is recorded prior to termination date and after OHCS has provided property owner at least 14 days written notice. Requires owner to provide notice to tenant of specified termination date and information about safe harbor provisions between 20 to 24 months prior to the termination date; extends termination date to 20 months after delivery of required notices if owner fails to provide notice. Requires owner to provide first notice to OHCS between 30 to 36 months prior to termination date of intent to withdraw property as affordable housing, and provide second notice between 24 to 30 months of termination date; extends termination date if owner fails to provide notice. Allows OHCS to waive notice requirements if property owner is local government or housing authority. Allows OHCS to appoint designee to act as purchaser of property no later than 60 days prior to termination date and establishes qualified purchaser may record notice of right of first refusal no earlier than 14 days after delivery of offer and no later than termination date. Extends right of first refusal expiration to 36 months from 24 months. Allows OHCS to record notice of right of first refusal without delivering offer, if no qualified purchaser recorded one 60 days prior to termination date, department gave written notice to owner 14 days in advance, and notice is recorded prior to termination date. Removes requirement that property owner selling participating property to third party certify that owner has complied with provisions and removes specific requirements of certificate of compliance. Applies provisions of Act to participating properties with termination date on or after effective date, and requires owners of properties whose termination date is within 20 months of effective date to give notice no later than 30 days after effective date. Clarifies that owner’s failure to comply may only be remedied with tenant recovery of damages, costs, and attorney fees, but does not require extension of termination date.

ISSUES DISCUSSED:

- Impact of market rate rent on tenants of affordable housing
- Timeline and content of notices required of owner or landlord
- Landlord ability to opt-out of affordable housing programs and federal rules covering participation
- Ownership of housing complexes following affordability expiration
- Building maintenance and inspection

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- Application to senior or veteran-specific affordable housing

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon law defines publicly supported housing as multifamily rental housing developments of five or more units that receive government assistance or subsidies under a contract containing an affordability restriction, which is a limit on rent charged or use of a participating property. Oregon Housing and Community Services' Publicly Supported Housing Preservation program was established with the intent of preserving homes as affordable beyond the expiration of a predetermined affordability period. The program came as a result of House Bill 2002 (2017), which required notice of expiring contracts or other events causing property to be withdrawn from the publicly supported housing supply, and House Bill 2002 (2019), which clarified these provisions to help preserve affordable housing.

Owners of publicly supported housing are required to provide notice to Oregon Housing and Community Services (OHCS) and to local governments regarding the owner's intent to withdraw a property from publicly supported housing at the expiration of a contract. Qualified purchasers (OHCS and local governments) have the first right of refusal to purchase a property that is withdrawn from publicly supported housing. In 2021, the Legislative Assembly enacted House Bill 2095, which modified notice requirements for expiring publicly supported housing properties and increased the notification period for tenants prior to a property's removal from publicly supported housing. According to the OHCS-maintained publicly supported housing inventory, affordability restrictions will expire on over 7,500 units within the next ten years.

House Bill 3042 A prohibits a landlord or owner of formerly publicly supported housing from terminating a tenancy in the three years from the date a property is withdrawn from publicly supported housing, defined by the measure as the "termination date." It prohibits a landlord or owner of a property withdrawn from publicly supported housing from providing a rent increase notice to tenants more than once per calendar year in the three-year period following the termination date, subject to state requirements on rent increase limits, and with certain exceptions. The measure modifies required landlord or owner notifications to tenants of affected property from between 12 and 14 months to between 20 and 24 months prior to the termination date, and it allows a tenant to recover damages for landlord or owner noncompliance with withdrawal notice requirements if the termination date is within 20 months of the Act's effective date.