

House Bill 3263

Sponsored by Representative CAMPOS

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**.

Requires owners of multifamily rental housing to offer right of first refusal to tenants who form tenant committee and membership entity.

A BILL FOR AN ACT

1
2 Relating to sale of residential rental properties; creating new provisions; and amending ORS 90.848
3 and 90.850.

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

5 **SECTION 1. ORS 90.848 and 90.850 and sections 2 and 3 of this 2021 Act are added to and**
6 **made a part of ORS chapter 90.**

7 **SECTION 2. (1) As used in this section and section 3 of this 2021 Act and ORS 90.848 and**
8 **90.850, "multifamily rental housing" means a building, or group of buildings on the same legal**
9 **lot, that contains five or more residential dwelling units and that contains no other uses**
10 **except for residential tenancies and common areas for use by tenants.**

11 **(2) An owner of multifamily rental housing shall give written notice of the owner's in-**
12 **tention to sell the housing to each tenant:**

13 **(a) At or before the time the owner offers or lists the housing for sale; and**

14 **(b) After the owner receives an offer to purchase the housing that the owner intends to**
15 **accept.**

16 **(3) The notice must state that the owner intends to sell the multifamily rental housing**
17 **and that the tenants of the housing are entitled to purchase the housing at the highest price**
18 **offered if the tenants form a tenants committee and provide notice to the owner and landlord**
19 **within the time allowed by subsection (4) of this section.**

20 **(4) If the owner provides notice under subsection (2)(b) of this section, the owner may**
21 **make, accept or close a sales agreement for multifamily rental housing unless within 10 days**
22 **after receiving the notice, the landlord receives written notice from the tenants of:**

23 **(a) The tenants' interest in purchasing the housing;**

24 **(b) The tenants' formation or identification of a single tenants committee for the purpose**
25 **of purchasing the housing; and**

26 **(c) The name and contact information of the representative of the tenants committee.**

27 **SECTION 3. (1) If an owner has received timely notice from a tenants committee under**
28 **section 2 (4) of this 2021 Act, the owner may not make or accept a purchase offer for the**
29 **multifamily rental housing unless the owner first makes a binding offer in writing to sell the**
30 **housing to the tenants committee at an equal or lower price and on substantially similar**
31 **terms and:**

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.

- 1 (a) The tenants committee rejects the offer; or
- 2 (b) The tenants committee has not accepted the offer within 30 days following the later
- 3 of the date the owner delivered:
- 4 (A) A copy of the offer to the tenants; or
- 5 (B) All of the information required under subsection (2) of this section.
- 6 (2) After receiving a timely notice under section 2 (4) of this 2021 Act, the owner shall
- 7 deliver to the tenants committee, in writing:
- 8 (a) The asking price or the highest offer currently received, if any, for the multifamily
- 9 rental housing;
- 10 (b) The total income collected from the housing and related profit centers, including
- 11 storage and laundry, in the 12-month period immediately before delivery of the notice re-
- 12 quired by section 2 (2) of this 2021 Act;
- 13 (c) The cost of all utilities for the housing that were paid by the landlord in the 12-month
- 14 period immediately before delivery of the notice required by section 2 (2) of this 2021 Act;
- 15 (d) The annual cost of all insurance policies for the housing that were paid by the land-
- 16 lord or owner; and
- 17 (e) The number of vacant units in the housing.
- 18 (3)(a) The tenants committee shall maintain the confidentiality of information provided
- 19 under subsection (2) of this section that the owner or landlord designates as confidential,
- 20 except as necessary to obtain financial, legal or real estate advice.
- 21 (b) If a tenant misuses or discloses, in a substantial way, confidential financial informa-
- 22 tion in violation of a confidentiality agreement or this section, the owner may recover actual
- 23 damages from the tenant.
- 24 (4) In accepting or making an offer under this section and in executing and closing a
- 25 sales agreement under this section, the tenants committee must act through an entity in-
- 26 corporated as a cooperative under ORS chapter 62 or a limited liability company under ORS
- 27 chapter 63 that requires that:
- 28 (a) Each member of the entity be a tenant of the housing;
- 29 (b) Each tenant of the housing hold an equal membership share and voting rights in the
- 30 entity; and
- 31 (c) All officers or directors be elected by the membership at least once every two years.
- 32 (5)(a) During the process described in this section and section 2 of this 2021 Act, the
- 33 parties shall act in a commercially reasonable manner.
- 34 (b) If the owner does not substantially comply with requirements of this section and
- 35 section 2 of this 2021 Act, in a substantial way that prevents the tenants from competing to
- 36 purchase the multifamily rental housing, the tenants may:
- 37 (A) Obtain injunctive relief to prevent or set aside a conveyance unless the owner has
- 38 recorded an affidavit under ORS 90.850 before the conveyance.
- 39 (B) Recover actual damages or twice the monthly rent from the owner for each tenant,
- 40 whichever is greater.
- 41 (c) An owner or landlord is not liable for minor, technical or harmless errors in providing
- 42 the notices or information required by this section or section 2 of this 2021 Act.
- 43 (6) Except as provided in subsection (1) of this section, this section and section 2 of this
- 44 2021 Act do not limit the owner from continuing to list the property as available for sale or
- 45 negotiating with potential purchasers in addition to the tenants committee.

SECTION 4. ORS 90.848 is amended to read:

90.848. (1) With regard to a sale or transfer of a facility **or multifamily rental housing by an owner**, ORS 90.842[, 90.844 and 90.846] **to 90.850 and sections 2 and 3 of this 2021 Act** do not apply to:

(a) Any sale or transfer to an individual who would be included within the table of descent and distribution if the owner [*of the facility*] were to die intestate.

(b) Any transfer by gift, devise or operation of law.

(c) Any sale or transfer by a corporation to an affiliate.

(d) Any sale or transfer by a partnership to any of its partners.

(e) Any sale or transfer of an interest in a limited liability company to any of the limited liability company's members.

(f) Any conveyance of an interest in a facility **or housing** incidental to [*the financing of the facility*] **financing**.

(g) Any conveyance resulting from the foreclosure of a mortgage, deed of trust or other [*instrument encumbering a facility*] **encumbrance** or any deed given in lieu of a foreclosure.

(h) Any sale or transfer between or among joint tenants or tenants in common owning a facility **or housing**.

(i) Any sale or transfer in which the facility **or housing** satisfies the purchaser's requirement to make a like-kind exchange under section 1031 of the Internal Revenue Code.

(j) Any purchase [*of a facility*] by a governmental entity under the entity's powers of eminent domain.

(k) Any transfer to a charitable trust.

(L) A conversion of housing to a condominium in compliance with ORS 100.301 to 100.320.

(m) Any sale or transfer from an individual to a partnership, trust or entity in which more than 10 percent of the equity is owned by the owner.

(n) The sale of a facility or housing if the tenants, tenants committee or an entity representing or comprising the tenants:

(A) Does not act timely or as required under ORS 90.842 to 90.850 or section 2 or 3 of this 2021 Act;

(B) Violates a confidentiality requirement under ORS 90.844 or section 3 of this 2021 Act;
or

(C) Withdraws from, terminates or breaches a sales agreement entered into under ORS 90.844 or section 3 of this 2021 Act.

(2) As used in this section, "affiliate" means any shareholder of the selling or transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the selling or transferring corporation or any other corporation or entity owned or controlled, directly or indirectly, by any shareholder of the selling or transferring corporation.

SECTION 5. ORS 90.850 is amended to read:

90.850. (1) [*A facility owner*] **The owner of a facility or multifamily rental housing** may present for recordation, in the County Clerk Lien Record of the county in which the facility **or housing** is located, an affidavit in which the owner certifies that:

(a) The owner has complied with the requirements of ORS [*90.842, 90.844 and 90.846*] **90.842 to 90.850 or sections 2 and 3 of this 2021 Act** with reference to an offer **made** by the owner for the sale or transfer of the facility **or housing**.

(b) The owner has complied with the requirements of ORS [*90.842, 90.844 and 90.846*] **90.842 to**

1 **90.850 or sections 2 and 3 of this 2021 Act** with reference to an offer received by the owner for
2 the purchase or transfer of the facility [*or to a counteroffer the owner has made or intends to make*]
3 **or housing.**

4 (c) The owner has not entered into a contract for the sale or transfer of the facility **or housing**
5 to an entity formed by or associated with the tenants.

6 (d) [*ORS 90.842, 90.844 and 90.846*] **ORS 90.842 to 90.850 or sections 2 and 3 of this 2021 Act**
7 do not apply to a particular sale or transfer of the facility **or housing** pursuant to ORS 90.848.

8 (2) The following parties have an absolute right to rely on the truth and accuracy of all state-
9 ments appearing in the affidavit and are not obligated to inquire further as to any matter or fact
10 relating to the owner's compliance with [*ORS 90.842, 90.844 and 90.846*] **ORS 90.842 to 90.850 or**
11 **sections 2 and 3 of this 2021 Act:**

12 (a) A party that acquires an interest in a facility **or housing.**

13 (b) A title insurance company, or an attorney, that prepares, furnishes or examines evidence of
14 title.

15 (3) The purpose and intention of this section is to preserve the marketability of title [*to*
16 *facilities*]. Accordingly, the provisions of this section must be liberally construed in order that all
17 persons may rely on the record title to facilities **or multifamily rental housing.**

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