

House Bill 3016

Sponsored by Representatives NATHANSON, KENNEMER; Representatives GILLIAM, GOMBERG

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**.

Modifies provisions of capital gains exemption for amounts received for sale of manufactured dwelling park. Applies to tax years beginning on or after January 1, 2015, and before January 1, 2020.

Modifies provisions related to opportunity of entity formed by or associated with tenants to purchase manufactured dwelling park.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to manufactured structures; creating new provisions; amending sections 6, 7, 9 and 10,
3 chapter 826, Oregon Laws 2005, and sections 2 and 4, chapter 89, Oregon Laws 2014; and pre-
4 scribing an effective date.

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

6 **SECTION 1.** Section 6, chapter 826, Oregon Laws 2005, as amended by section 16, chapter 89,
7 Oregon Laws 2014, is amended to read:

8 **Sec. 6.** Amounts received as a result of the sale of a manufactured dwelling park to [*a tenants'*
9 *association, tenants' association supported nonprofit organization as described in ORS 90.820 or entity*
10 *formed by or associated with the tenants,*] **an entity formed by the tenants of the park, or by a**
11 **nonprofit corporation or housing authority, as described in section 2, chapter 89, Oregon**
12 **Laws 2014,** to a community development corporation as described in ORS 458.210 or to a housing
13 authority as defined in ORS 456.005 are exempt from the tax imposed by [*this chapter*] **ORS chapter**
14 **316.**

15 **SECTION 2.** Section 9, chapter 826, Oregon Laws 2005, as amended by section 17, chapter 89,
16 Oregon Laws 2014, is amended to read:

17 **Sec. 9.** Amounts received as a result of the sale of a manufactured dwelling park to [*a tenants'*
18 *association, tenants' association supported nonprofit organization as described in ORS 90.820 or entity*
19 *formed by or associated with the tenants,*] **an entity formed by the tenants of the park, or by a**
20 **nonprofit corporation or housing authority, as described in section 2, chapter 89, Oregon**
21 **Laws 2014,** to a community development corporation as described in ORS 458.210 or to a housing
22 authority as defined in ORS 456.005 are exempt from the tax imposed by [*this chapter*] **ORS chapter**
23 **317.**

24 **SECTION 3.** Section 2, chapter 89, Oregon Laws 2014, is amended to read:

25 **Sec. 2.** (1) Within 10 days after delivery of the notice described in [*section 1 of this 2014 Act*]
26 **section 1, chapter 89, Oregon Laws 2014,** if the tenants choose to compete to purchase the man-
27 ufactured dwelling park in which the tenants reside, the tenants must notify the owner in writing
28 of:

29 (a) The tenants' interest in competing to purchase the park;

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 (b) The formation or identification of a single tenants committee formed for the purpose of pur-
 2 chasing the park; and

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

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

9 (3) Of the financial information described in subsection (2) of this section, the owner shall pro-
 10 vide the following information within seven days after delivery of the request by the tenants com-
 11 mittee for the information:

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

13 (b) The total income collected from the park and related profit centers, including storage and
 14 laundry, in the 12-month period immediately before delivery of the notice required by section 1,
 15 **chapter 89, Oregon Laws 2014** [*of this 2014 Act*];

16 (c) The cost of all utilities for the park that were paid by the owner in the 12-month period
 17 immediately before delivery of the notice required by section 1, **chapter 89, Oregon Laws 2014** [*of*
 18 *this 2014 Act*];

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

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

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

23 (4) The owner may:

24 (a) Designate all or part of the financial information provided pursuant to this section as confi-
 25 dential.

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

31 (A) A nonprofit organization or a housing authority.

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

33 (C) A financial institution.

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

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

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

37 (C) Return the information to the owner when the negotiations to purchase the park are com-
 38 pleted or terminated.

39 (5) Within 15 days after delivery of the financial information described in subsection (3) of this
 40 section, **or within 15 days after the end of the 10-day period described in subsection (1) of this**
 41 **section when the representative of the tenants committee does not request financial infor-**
 42 **mation under subsection (2) of this section**, if the tenants choose to continue competing to pur-
 43 chase the park, the tenants committee must:

44 (a) Form a corporate entity under ORS chapter 60, 62 or 65 that is legally capable of purchasing
 45 real property or associate with a nonprofit corporation or housing authority that is legally capable

1 of purchasing real property or that is advising the tenants about purchasing the park in which the
 2 tenants reside.

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

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

9 (b) If the parties reach agreement on the purchase, the purchase and sale agreement must
 10 specify the price, due diligence duties, schedules, timelines, conditions and any extensions.

11 (c) If the tenants do not act as required within the time periods described in this section and
 12 section 1, **chapter 89, Oregon Laws 2014** [*of this 2014 Act*], if the tenants violate the confidentiality
 13 agreement described in this section or if the parties do not reach agreement on a purchase, the
 14 owner is not obligated to take additional action under sections 1 to 5, **chapter 89, Oregon Laws**
 15 **2014** [*of this 2014 Act*].

16 **SECTION 4.** Section 4, chapter 89, Oregon Laws 2014, is amended to read:

17 **Sec. 4.** (1) With regard to a sale or transfer of a manufactured dwelling park, sections 1, 2 and
 18 3, **chapter 89, Oregon Laws 2014**, [*of this 2014 Act*] do not apply to:

19 (a) Any sale or transfer to an individual who would be included within the table of descent and
 20 distribution if the owner of the manufactured dwelling park were to die intestate.

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

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

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

24 (e) Any sale or transfer of an interest in a limited liability company to any of the limited li-
 25 ability company’s members.

26 (f) Any conveyance of an interest in a park incidental to the financing of the park.

27 (g) Any conveyance resulting from the foreclosure of a mortgage, deed of trust or other instru-
 28 ment encumbering a park or any deed given in lieu of a foreclosure.

29 (h) Any sale or transfer between or among joint tenants or tenants in common owning a park.

30 (i) Any sale or transfer in which the park satisfies the purchaser’s requirement to make a like-
 31 kind exchange under section 1031 of the Internal Revenue Code.

32 (j) Any purchase of a park by a governmental entity under the entity’s powers of eminent do-
 33 main.

34 (k) Any transfer to a charitable trust.

35 (2) As used in this section, “affiliate” means any shareholder of the **selling or** transferring
 36 corporation, any corporation or entity owned or controlled, directly or indirectly, by the **selling or**
 37 transferring corporation or any other corporation or entity owned or controlled, directly or indi-
 38 rectly, by any shareholder of the **selling or** transferring corporation.

39 **SECTION 5.** Section 7, chapter 826, Oregon Laws 2005, as amended by section 21, chapter 906,
 40 Oregon Laws 2007, and section 36, chapter 750, Oregon Laws 2013, is amended to read:

41 **Sec. 7. (1)** Section 6, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after
 42 January 1, 2006, and before January 1, 2020.

43 **(2) The amendments to section 6, chapter 826, Oregon Laws 2005, by section 1 of this 2015**
 44 **Act apply to tax years beginning on or after January 1, 2015, and before January 1, 2020.**

45 **SECTION 6.** Section 10, chapter 826, Oregon Laws 2005, as amended by section 22, chapter 906,

1 Oregon Laws 2007, and section 37, chapter 750, Oregon Laws 2013, is amended to read:

2 **Sec. 10. (1)** Section 9, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after
3 January 1, 2006, and before January 1, 2020.

4 **(2) The amendments to section 9, chapter 826, Oregon Laws 2005, by section 2 of this 2015**
5 **Act apply to tax years beginning on or after January 1, 2015, and before January 1, 2020.**

6 **SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015**
7 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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