

HB 4038A - Why Park Owners and Tenants Need this Law

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Current Oregon law (adopted in 1989) already requires manufactured home park landlords/owners to notify park residents prior to a sale to a third party and to negotiate a possible sale to the residents. (*ORS 90.760, 90.800 to 90.840*) Unfortunately, both landlord and tenant advocates recognize that the current law is seriously flawed and doesn't work for either side. Here are some of the most important issues which HB 4038A fixes:

- 1. Problem:** The current law requires owners to negotiate with interested resident buyers, but is completely open-ended; there is no time limit on how long this duty lasts. **Solution:** HB 4038A limits this duty to 15 days (after an initial 10-day period).
- 2. Problem:** Current law does not address an owner's ability to seek and negotiate with other buyers while the residents compete to buy. **Solution:** HB 4038A authorizes this.
- 3. Problem:** Current law has a right of first refusal for residents to buy their parks (from 2009). **Solution:** HB 4038A removes that language.
- 4. Problem:** Current law is unclear about whether an owner must give notice to the park residents of his/her interest in selling the park. As a result, most sales occur without the residents knowing about the owner's interest until after a sale, and the residents never even have a chance to compete to buy their park. **Solution:** HB 4038A requires notice and allows the residents a very short period to tell the owner of their interest and make an offer.
- 5. Problem:** Current law does allow residents to require the owner to give notice, but only if they form an association in advance and give notice to the owner. Residents generally don't think about trying to purchase their park unless and until they learn that the owner wants to sell. It is very difficult to organize a group whose only purpose is to do something which may or may not happen, and which may be years off. And there is no way to track such notices, which apparently are good forever, even if the members of the resident association move or die or there is a new owner. **Solution:** HB 4038A resolves this by requiring notice to all residents, with a copy to the Oregon Housing & Community Services Department.
- 6. Problem:** Current law says nothing about sharing financial information, confidentiality protections, or about the residents submitting a proposed purchase and sale agreement. **Solution:** HB 4038A addresses these issues.
- 7. Problem:** Current law appears to follow residential landlord/tenant practice, where landlords have a duty to act in good faith toward their residents. This is not the right legal model for an arm's length real estate transaction such as competing to buy a MH park. **Solution:** HB 4038A follows modern real estate transaction practice, with a commercially reasonable manner standard.