

A-Engrossed
House Bill 2216

Ordered by the House February 24
Including House Amendments dated February 24

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

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.

[Expands definition of "manufactured dwelling park" for purposes of statutes relating to contracts for site improvements. Eliminates deadline for provider submission of statement of estimated costs for manufactured dwelling site improvements in manufactured dwelling park. Requires provider to comply with contractor bidding statutes when providing statement of estimated costs for manufactured dwelling site improvements in manufactured dwelling park.]

[Applies to manufactured dwelling park site improvement contracts entered into on or after January 1, 2006.]

Expands definition of "provider" for purposes of statutes relating to contracts for certain manufactured dwelling site improvements. Changes deadline for provider submission of statement of estimated costs for improvements. Specifies that statutes apply also to rental spaces in former manufactured dwelling parks converted to subdivisions.

A BILL FOR AN ACT

1
2 Relating to manufactured dwellings; creating new provisions; and amending ORS 90.100, 90.120,
3 90.512, 90.514, 90.516, 90.518 and 646.402.

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

5 **SECTION 1.** ORS 90.100 is amended to read:

6 90.100. Subject to additional definitions contained in this chapter that apply to specific sections
7 or parts thereof, and unless the context otherwise requires, in this chapter:

8 (1) "Accessory building or structure" means any portable, demountable or permanent structure,
9 including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks,
10 steps, ramps, piers and pilings, that is:

11 (a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

12 (b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a
13 tenant of a manufactured dwelling or floating home.

14 (2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding
15 in which rights are determined, including an action for possession.

16 (3) "Applicant screening charge" means any payment of money required by a landlord of an
17 applicant prior to entering into a rental agreement with that applicant for a residential dwelling
18 unit, the purpose of which is to pay the cost of processing an application for a rental agreement for
19 a residential dwelling unit.

20 (4) "Building and housing codes" include any law, ordinance or governmental regulation con-
21 cerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or ap-
22 pearance of any premises or dwelling unit.

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 (5) "Conduct" means the commission of an act or the failure to act.

2 (6) "Dealer" means any person in the business of selling, leasing or distributing new or used
3 manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling
4 or floating home for use as a residence.

5 (7) "Domestic violence" has the meaning given that term in ORS 135.230.

6 (8) "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.

7 (9) "Dwelling unit" means a structure or the part of a structure that is used as a home, resi-
8 dence or sleeping place by one person who maintains a household or by two or more persons who
9 maintain a common household. "Dwelling unit" regarding a person who rents a space for a manu-
10 factured dwelling or recreational vehicle or regarding a person who rents moorage space for a
11 floating home as defined in ORS 830.700, but does not rent the home, means the space rented and
12 not the manufactured dwelling, recreational vehicle or floating home itself.

13 (10) "Essential service" means:

14 (a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or
15 recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.840:

16 (A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior
17 doors, latches for windows and any cooking appliance or refrigerator supplied or required to be
18 supplied by the landlord; and

19 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320,
20 the lack or violation of which creates a serious threat to the tenant's health, safety or property or
21 makes the dwelling unit unfit for occupancy.

22 (b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or rec-
23 reational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.840:

24 (A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any
25 drainage system; and

26 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730,
27 the lack or violation of which creates a serious threat to the tenant's health, safety or property or
28 makes the rented space unfit for occupancy.

29 (11) "Facility" means:

30 (a) A place where four or more manufactured dwellings are located, the primary purpose of
31 which is to rent space or keep space for rent to any person for a fee; or

32 (b) A moorage of contiguous dwelling units that may be legally transferred as a single unit and
33 are owned by one person where four or more floating homes are secured, the primary purpose of
34 which is to rent space or keep space for rent to any person for a fee.

35 (12) "Facility purchase association" means a group of three or more tenants who reside in a
36 facility and have organized for the purpose of eventual purchase of the facility.

37 (13) "Fee" means a nonrefundable payment of money.

38 (14) "First class mail" does not include certified or registered mail, or any other form of mail
39 that may delay or hinder actual delivery of mail to the recipient.

40 (15) "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a
41 specific ending date and terminating on that date without requiring further notice to effect the ter-
42 mination.

43 (16) "Floating home" has the meaning given that term in ORS 830.700. As used in this chapter,
44 "floating home" includes an accessory building or structure.

45 (17) "Good faith" means honesty in fact in the conduct of the transaction concerned.

1 (18) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

2 (19) "Informal dispute resolution" means, but is not limited to, consultation between the landlord
3 or landlord's agent and one or more tenants, or mediation utilizing the services of a third party.

4 (20) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or
5 premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor
6 or sublessor to manage the premises or to enter into a rental agreement.

7 (21) "Landlord's agent" means a person who has oral or written authority, either express or
8 implied, to act for or on behalf of a landlord.

9 (22) "Last month's rent deposit" means a type of security deposit, however designated, the pri-
10 mary function of which is to secure the payment of rent for the last month of the tenancy.

11 (23) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured
12 home as those terms are defined in ORS 446.003 (26). "Manufactured dwelling" includes an accessory
13 building or structure. "Manufactured dwelling" does not include a recreational vehicle.

14 [(24) "*Manufactured dwelling park*" has the meaning given that term in ORS 446.003.]

15 [(25)] (24) "Month-to-month tenancy" means a tenancy that automatically renews and continues
16 for successive monthly periods on the same terms and conditions originally agreed to, or as revised
17 by the parties, until terminated by one or both of the parties.

18 [(26)] (25) "Organization" includes a corporation, government, governmental subdivision or
19 agency, business trust, estate, trust, partnership or association, two or more persons having a joint
20 or common interest, and any other legal or commercial entity.

21 [(27)] (26) "Owner" includes a mortgagee in possession and means one or more persons, jointly
22 or severally, in whom is vested:

23 (a) All or part of the legal title to property; or

24 (b) All or part of the beneficial ownership and a right to present use and enjoyment of the
25 premises.

26 [(28)] (27) "Person" includes an individual or organization.

27 [(29)] (28) "Premises" means a dwelling unit and the structure of which it is a part and facilities
28 and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally
29 or whose use is promised to the tenant.

30 [(30)] (29) "Prepaid rent" means any payment of money to the landlord for a rent obligation not
31 yet due. In addition, "prepaid rent" means rent paid for a period extending beyond a termination
32 date.

33 [(31)] (30) "Recreational vehicle" has the meaning given that term in ORS 446.003.

34 [(32)] (31) "Rent" means any payment to be made to the landlord under the rental agreement,
35 periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a
36 dwelling unit to the exclusion of others. "Rent" does not include security deposits, fees or utility
37 or service charges as described in ORS 90.315 (4) and 90.510 (8).

38 [(33)] (32) "Rental agreement" means all agreements, written or oral, and valid rules and regu-
39 lations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the
40 use and occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental
41 agreement shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

42 [(34)] (33) "Roomer" means a person occupying a dwelling unit that does not include a toilet and
43 either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and
44 where one or more of these facilities are used in common by occupants in the structure.

45 [(35)] (34) "Screening or admission criteria" means a written statement of any factors a landlord

1 considers in deciding whether to accept or reject an applicant and any qualifications required for
2 acceptance. “Screening or admission criteria” includes, but is not limited to, the rental history,
3 character references, public records, criminal records, credit reports, credit references and incomes
4 or resources of the applicant.

5 [(36)] (35) “Security deposit” means any refundable payment or deposit of money, however des-
6 ignated, the primary function of which is to secure the performance of a rental agreement or any
7 part of a rental agreement, but does not mean a fee.

8 [(37)] (36) “Sexual assault” has the meaning given that term in ORS 147.450.

9 [(38)] (37) “Squatter” means a person occupying a dwelling unit who is not so entitled under a
10 rental agreement or who is not authorized by the tenant to occupy that dwelling unit. “Squatter”
11 does not include a tenant who holds over as described in ORS 90.427 (4).

12 [(39)] (38) “Stalking” means the behavior described in ORS 163.732.

13 [(40)] (39) “Statement of policy” means the summary explanation of information and facility
14 policies to be provided to prospective and existing tenants under ORS 90.510.

15 [(41)] (40) “Surrender” means an agreement, express or implied, as described in ORS 90.148 be-
16 tween a landlord and tenant to terminate a rental agreement that gave the tenant the right to oc-
17 cupy a dwelling unit.

18 [(42)] (41) “Tenant” means a person, including a roomer, entitled under a rental agreement to
19 occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or
20 controlled by a public housing authority. “Tenant” also includes a minor, as defined and provided
21 for in ORS 109.697. As used in ORS 90.505 to 90.840, “tenant” includes only a person who owns and
22 occupies as a residence a manufactured dwelling or a floating home in a facility and persons resid-
23 ing with that tenant under the terms of the rental agreement.

24 [(43)] (42) “Transient lodging” means a room or a suite of rooms.

25 [(44)] (43) “Transient occupancy” means occupancy in transient lodging that has all of the fol-
26 lowing characteristics:

27 (a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

28 (b) The lodging operator provides maid and linen service daily or every two days as part of the
29 regularly charged cost of occupancy; and

30 (c) The period of occupancy does not exceed 30 days.

31 [(45)] (44) “Vacation occupancy” means occupancy in a dwelling unit, not including transient
32 occupancy in a hotel or motel, that has all of the following characteristics:

33 (a) The occupant rents the unit for vacation purposes only, not as a principal residence;

34 (b) The occupant has a principal residence other than at the unit; and

35 (c) The period of authorized occupancy does not exceed 45 days.

36 [(46)] (45) “Victim” means a person who is the subject of domestic violence, sexual assault or
37 stalking. “Victim” includes a parent or guardian of a minor who is the subject of domestic violence,
38 sexual assault or stalking.

39 [(47)] (46) “Week-to-week tenancy” means a tenancy that has all of the following characteristics:

40 (a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven
41 days;

42 (b) There is a written rental agreement that defines the landlord’s and the tenant’s rights and
43 responsibilities under this chapter; and

44 (c) There are no fees or security deposits, although the landlord may require the payment of an
45 applicant screening charge, as provided in ORS 90.295.

1 **SECTION 2.** ORS 90.120 is amended to read:

2 90.120. (1) The provisions of ORS 87.152 to 87.212, 91.010 to 91.110, 91.130, 91.210 and 91.220 do
3 not apply to the rights and obligations of landlords and tenants governed by this chapter.

4 (2) Any provisions of this chapter *[which]* **that** reasonably apply only to the structure that is
5 used as a home, residence or sleeping place *[shall]* **do** not apply to a manufactured dwelling, recre-
6 ational vehicle or floating home where the tenant owns the manufactured dwelling, recreational
7 vehicle or floating home but rents the space on which it is located.

8 (3) The provisions of ORS 90.505 to 90.840 apply only if:

9 (a) The tenant owns the manufactured dwelling or floating home;

10 (b) The tenant rents the space on which the dwelling or home is located; and

11 (c) **Except as provided in subsection (4) of this section**, the space is in a facility.

12 **(4) ORS 90.512, 90.514, 90.516 and 90.518 apply to a converted rental space as defined in**
13 **ORS 90.512 regardless of whether the converted rental space is in a facility.**

14 *[(4)]* **(5)** Residential tenancies for recreational vehicles and for manufactured dwellings and
15 floating homes that are not subject to ORS 90.505 to 90.840 shall be subject to ORS 90.100 to 90.459.
16 Tenancies described in this subsection include tenancies for:

17 (a) A recreational vehicle, located inside or outside of a facility, if the tenant owns or rents the
18 vehicle;

19 (b) A manufactured dwelling or floating home, located inside or outside of a facility, if the ten-
20 ant rents both the dwelling or home and the space; and

21 (c) A manufactured dwelling or floating home, located outside a facility, if the tenant owns the
22 dwelling or home and rents the space.

23 **SECTION 3.** ORS 90.512 is amended to read:

24 90.512. As used in **this section and** ORS 90.514, **90.516** and 90.518:

25 (1) “Buyer” has the meaning given that term in ORS 72.1030.

26 **(2) “Converted rental space” means a rental lot that is located in a subdivision created**
27 **as provided under ORS 92.010 to 92.190.**

28 *[(2)]* **(3)** “Improvements” has the meaning given that term in ORS 646.400.

29 *[(3) “Provider” means a contractor licensed under ORS chapter 701 who adds improvements to a*
30 *manufactured dwelling park.]*

31 **(4) “Manufactured dwelling park” means any place where four or more manufactured**
32 **dwellings are located within 500 feet of one another on a lot, tract or parcel of land under**
33 **the same ownership, the primary purpose of which is to rent or lease space or keep space**
34 **for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease**
35 **or use of facilities or to offer space free in connection with securing the trade or patronage**
36 **of the person.**

37 **(5) “Provider” means a contractor, manufactured dwelling dealer or landlord that is li-**
38 **censed under ORS chapter 701 and that contracts with a buyer for improvements to be made**
39 **to a manufactured dwelling site in a manufactured dwelling park or to a converted rental**
40 **space.**

41 *[(4)]* **(6)** “Statement of estimated costs” means a written list of the charges, fees, services, goods
42 and accessories that a provider knows or should know are associated with the making of an im-
43 provement contracted by the provider and the total estimated cost to the buyer for the improvement.

44 **SECTION 4.** ORS 90.514 is amended to read:

45 90.514. (1) Before a prospective tenant signs a rental agreement for space in a manufactured

1 dwelling park **or for a converted rental space**, the landlord must provide the prospective tenant
2 with a written statement that discloses the improvements that the [*park*] **landlord** will require under
3 the rental agreement. The written statement must be in the format developed by the Attorney
4 General pursuant to ORS 90.516 and include at least the following:

5 (a) A notice that the tenant may select **and contract directly with a contractor to be** the
6 provider of an improvement.

7 (b) Separately stated and identifiable information for each required improvement that specifies:

8 (A) The dimensions, materials and finish for improvements to be constructed;

9 (B) The installation charges imposed by the landlord and the installation fees imposed by gov-
10 ernment agencies;

11 (C) The system development charges to be paid by the tenant; and

12 (D) The site preparation requirements and restrictions, including, but not limited to, require-
13 ments and restrictions on the use of plants and landscaping.

14 (c) Identification of the improvements that belong to the tenant and the improvements that must
15 remain with the [*manufactured dwelling park*] **space**.

16 (2) Except as provided in ORS 41.740, a written statement provided under this section is con-
17 sidered to contain all of the terms relating to improvements that a prospective tenant must make
18 under the rental agreement. There may be no evidence of the terms of the written statement other
19 than the contents of the written statement.

20 **SECTION 5.** ORS 90.516 is amended to read:

21 90.516. The Attorney General, by rule, shall adopt a model written statement for use by manu-
22 factured dwelling park **and converted rental space** landlords pursuant to ORS 90.514.

23 **SECTION 6.** ORS 90.518 is amended to read:

24 90.518. [(1) *A provider hired to make improvements shall give the buyer of the provider's services*
25 *a statement of estimated costs for the improvements contracted by the provider prior to the date that*
26 *the manufactured dwelling is delivered to a manufactured dwelling park.*]

27 **(1) A provider shall give the buyer a statement of estimated costs for all improvements**
28 **to be made under a contract between the buyer and the provider. The provider shall deliver**
29 **the statement of estimated costs to the buyer before work commences on any of the im-**
30 **provements covered by the contract.**

31 (2) If a provider fails to give a statement of estimated costs or knowingly fails to give a complete
32 statement of estimated costs, a buyer who does not have actual notice of the total cost for an im-
33 provement and suffers an ascertainable loss due to the failure by the provider may bring an action
34 to recover the greater of actual damages or \$200.

35 (3) Except as provided in ORS 41.740, a statement of estimated costs given under this section
36 is considered to contain all of the terms of the [*agreement between the buyer and the provider hired*
37 *to make improvements. There may be no evidence of the terms of the statement of estimated costs other*
38 *than the contents of the statement of estimated costs.*] **contract between the buyer and the provider.**
39 **The contents of the statement of estimated costs are the only admissible evidence of the**
40 **terms of the contract between the buyer and the provider.**

41 **SECTION 7.** ORS 646.402 is amended to read:

42 646.402. (1) A manufactured dwelling dealer who sells a manufactured dwelling shall use a pur-
43 chase agreement form that complies with this section and rules adopted in accordance with ORS
44 646.404.

45 (2) The purchase agreement shall include the base price and a written itemization that clearly

1 and conspicuously discloses the retail prices of the following, if not included in the base price:

2 (a) Manufactured dwelling options that are ordered by the buyer.

3 (b) The amount of any refundable or nonrefundable administrative or processing fees paid to or
4 collected by the dealer and the circumstances under which the fees may be returned to the buyer.

5 (c) The amount of any earnest money paid and the circumstances under which the earnest
6 money may be returned to the buyer.

7 (d) Improvements provided by the dealer, or by a third party at the request of the dealer, to the
8 extent known to the dealer at the time of sale. The written itemization of improvements under this
9 paragraph excuses the [*provider making the improvements from compliance with ORS 90.518 (1).*]
10 **dealer from providing the buyer with a separate statement of estimated costs under ORS**
11 **90.518 for those itemized improvements.**

12 (e) All loan fees and credit report fees paid to or collected by the dealer to obtain financing for
13 the buyer's purchase of the manufactured dwelling and the circumstances under which the fees may
14 be returned to the buyer.

15 (f) Alterations and upgrades to the manufactured dwelling made by the dealer or by a third
16 party at the request of the dealer.

17 (g) Goods and services provided by the dealer, or by a third party at the request of the dealer,
18 that are not otherwise disclosed pursuant to this section.

19 (h) Registration and other charges for transferring title to the manufactured dwelling.

20 (i) The extended warranty contract, if any.

21 (j) Delivery, installation or site access costs that are not otherwise disclosed pursuant to this
22 section, if any.

23 (3) The purchase agreement form must be accompanied by a list, provided by the Department
24 of Justice, of governmental consumer protection agencies having jurisdiction over manufactured
25 dwelling issues.

26 (4) Failure of a manufactured dwelling dealer to use a purchase agreement form that complies
27 with this section and rules adopted in accordance with ORS 646.404 is an unlawful practice under
28 ORS 646.608.

29 (5) Except as provided in ORS 41.740, a purchase agreement is considered to contain all of the
30 terms of the contract between the buyer and the manufactured dwelling dealer. No evidence of the
31 terms of the contract may be presented other than the contents of the purchase agreement. As used
32 in this subsection, "contract" does not include a retail installment contract or loan agreement en-
33 tered into as part of a purchase transaction.

34 **SECTION 8.** ORS 646.402, as amended by section 81, chapter 655, Oregon Laws 2003, is
35 amended to read:

36 646.402. (1) A manufactured dwelling dealer who sells a manufactured dwelling shall use a pur-
37 chase agreement form that complies with this section and rules adopted in accordance with ORS
38 646.404.

39 (2) The purchase agreement shall include the base price and a written itemization that clearly
40 and conspicuously discloses the retail prices of the following, if not included in the base price:

41 (a) Manufactured dwelling options that are ordered by the buyer.

42 (b) The amount of any refundable or nonrefundable administrative or processing fees paid to or
43 collected by the dealer and the circumstances under which the fees may be returned to the buyer.

44 (c) The amount of any earnest money paid and the circumstances under which the earnest
45 money may be returned to the buyer.

1 (d) Improvements provided by the dealer, or by a third party at the request of the dealer, to the
2 extent known to the dealer at the time of sale. The written itemization of improvements under this
3 paragraph excuses the *[provider making the improvements from compliance with ORS 90.518 (1).]*
4 **dealer from providing the buyer with a separate statement of estimated costs under ORS**
5 **90.518 for those itemized improvements.**

6 (e) All loan fees and credit report fees paid to or collected by the dealer to obtain financing for
7 the buyer's purchase of the manufactured dwelling and the circumstances under which the fees may
8 be returned to the buyer.

9 (f) Alterations and upgrades to the manufactured dwelling made by the dealer or by a third
10 party at the request of the dealer.

11 (g) Goods and services provided by the dealer, or by a third party at the request of the dealer,
12 that are not otherwise disclosed pursuant to this section.

13 (h) Fees for the issuance or updating of an ownership document.

14 (i) The extended warranty contract, if any.

15 (j) Delivery, installation or site access costs that are not otherwise disclosed pursuant to this
16 section, if any.

17 (3) The purchase agreement form must be accompanied by a list, provided by the Department
18 of Justice, of governmental consumer protection agencies having jurisdiction over manufactured
19 dwelling issues.

20 (4) Failure of a manufactured dwelling dealer to use a purchase agreement form that complies
21 with this section and rules adopted in accordance with ORS 646.404 is an unlawful practice under
22 ORS 646.608.

23 (5) Except as provided in ORS 41.740, a purchase agreement is considered to contain all of the
24 terms of the contract between the buyer and the manufactured dwelling dealer. No evidence of the
25 terms of the contract may be presented other than the contents of the purchase agreement. As used
26 in this subsection, "contract" does not include a retail installment contract or loan agreement en-
27 tered into as part of a purchase transaction.

28 **SECTION 9. The amendments to ORS 90.100, 90.120, 90.512, 90.514, 90.516 and 90.518 by**
29 **sections 1 to 6 of this 2005 Act apply to contracts for improvement that are entered into on**
30 **or after the effective date of this 2005 Act. The amendments to ORS 646.402 by sections 7 and**
31 **8 of this 2005 Act apply to purchase agreements entered into on or after the effective date**
32 **of this 2005 Act.**