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## OVERCOMING PUBLIC POLICY OBSTACLES TO MANUFACTURED HOMES AS AFFORDABLE HOUSING

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- Goal: manufactured home as
    - Stable form of affordable housing
    - Asset for families
  - Three obstacles
    - Policies that allow park land to be sold out from under the residents
    - Lack of lease security for park residents
    - Policies that impede treatment and financing of the home as real estate
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- AARP Model Law: “Manufactured Housing Community Tenants: Shifting the Balance of Power” (2004), available at [www.aarp.org/research/housing-mobility/affordability](http://www.aarp.org/research/housing-mobility/affordability)
  - Materials at [www.nclc.org](http://www.nclc.org)
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## Sale of park land

- When a park closes
    - Hundreds of residents risk loss of asset
    - Hundreds of residents need housing
  - Policies that give residents the opportunity to purchase the park reduce these problems
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How Secure is the Land in Your Manufactured Housing Community?



- no protection against sale of park
- some protection against sale of park, but significant gaps
- strong protection against sale of park

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## Only twelve states have policies in place

- Cal.
  - Conn.
  - Fla.
  - Maine
  - Mass.
  - Minn.
  - Nevada
  - New Hampshire
  - New Jersey
  - Oregon
  - Rhode Island
  - Vermont
- [Washington statute was held unconstitutional]
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Three types of laws

- Notice & right of first refusal
- Notice only
- Tax incentive

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Who gets notice? Laws vary -

- All residents
- Existing resident association only  
(and it may have to jump through hoops)
- State agency

Broadest notice possible, plus notice to state agency, are most desirable.

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What triggers notice? Laws vary -

- Intent to discontinue use or sell it for different use
- Any sale
- Listing

The simpler and more inclusive the better.

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Content of notice

- Some states don't specify
  - Some require details about existing offer and about the park
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Residents' rights upon notice

- Notice only - Cal., Maine, Nev. (but includes duty to compensate residents forced to move)
  - Consider residents' offer & negotiate in good faith - NH, Oregon, VT
  - Right of first refusal - Conn., Fla., Mass., Minn., NJ, RI, Wash.\*
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How much time after notice for residents to act

- 45 days most common to make offer or express intent to purchase
- Typically 90-135 more days to close

Important that time frames be workable.

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### □ Tax incentive laws

- Vermont gives 7% capital gains tax credit to owner if park is sold to residents or to a non-profit organization
  - Oregon has similar provision
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### □ Constitutional issues

- Does denying owner free choice in sale amount to a taking of owner's property without just compensation?
    - This challenge is unlikely to succeed, although courts have gone both ways.
  - Does right of first refusal law take property for private use?
    - Unlikely under U.S. Constitution, but state constitutions may differ.
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### □ AARP Model Law § 113

### □ NCLC project

- Analyze options, alternatives
  - State-by-state analysis of best approach
  - Help advocates get, defend, and improve policies
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### □ Citations – notice/right of first refusal laws

- Cal. Civil Code § 798.80
  - Conn. Gen. Stat. § 21-70
  - Fla. Stat. Ann. § 723.071
  - Mass. Gen. Laws Ch. 140 § 32R
  - Me. Rev. Stat. Ann. Tit. 10 § 9094-A
  - Minn. Stat. §§ 327C.095, .096
  - Nev. Rev. Stat. §§ 118B.173, .183
  - N.H. Rev. Stat. Ann. §§ 205-A:21 to 24
  - N.J. Stat. Ann. § 46:8C-11
  - Or. Rev. Stat. §§ 90.760, .810
  - R.I. Gen. Laws § 31-44-3.1
  - Vt. Stat. Ann. tit. 10 § 6242 (notice), tit. 32 § 5828 (tax)
  - Wash. Rev. Code § 59.23.025
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### Lease protections

- Lack of lease protections affects right of first refusal, ability to get other protections
  - Residents fearful of retaliation
  - AARP Model Law
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### Lease protections

- Most states allow month-to-month leases
    - About a third require one-year leases
    - A few require longer leases
    - About a quarter require automatic renewal
  - About a third of states allow eviction at park owner's discretion (no good cause requirement)
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