

HOUSE AMENDMENTS TO HOUSE BILL 2665

By COMMITTEE ON JUDICIARY

April 12

1 On page 1 of the printed bill, line 3, before "94.595" insert "94.580," and after "94.616" insert
2 ", 94.645".

3 In line 4, after "100.410" insert ", 100.412".

4 On page 2, line 30, delete "de-".

5 In line 31, delete "scribed in subsection (1) of this section".

6 Delete lines 37 and 38 and insert:

7 "(4) Not later than 10 days after adoption of a resolution under subsection (1) or (3) of this
8 section, the board of directors shall ensure that a copy of the resolution and a notice described in
9 subsection (5) of this section are:".

10 In line 40, delete ", not later than 10 days after adoption of the resolution,".

11 On page 4, after line 7, insert:

12 "**SECTION 6a.** ORS 94.580 is amended to read:

13 "94.580. (1) A declarant shall record, in accordance with ORS 94.565, the declaration for a
14 planned community in the office of the recording officer of each county in which the planned com-
15 munity is located.

16 "(2) The declaration shall include:

17 "(a) The name and classification of the planned community;

18 "(b) The name of the association and the type of entity formed in accordance with ORS 94.625;

19 "(c) A statement that the planned community is subject to ORS 94.550 to 94.783;

20 "(d) A statement that the bylaws adopted under ORS 94.625 must be recorded;

21 "(e) A legal description, as required under ORS 93.600, of the real property included in the
22 planned community;

23 "(f) A legal description, as required under ORS 93.600, of any real property included in the
24 planned community which is or must become a common property;

25 "(g) A description of any special declarant rights other than the rights described under sub-
26 sections (3) and (4) of this section;

27 "(h) A statement of the number of votes allocated to each lot in accordance with ORS 94.658;

28 "(i) A method of determining the liability of each lot for common expenses and the right of each
29 lot to any common profits of the association;

30 "(j) A statement of when the lots, including lots owned by the declarant, become subject to as-
31 sessment;

32 "(k) If a Class I planned community, provisions for establishing a reserve account and for the
33 preparation, review and update of the reserve study **and the maintenance plan** as required by ORS
34 94.595;

35 "(L) Any restrictions on the alienation of lots. Any such restriction created by any document

1 other than the declaration may be incorporated by reference to the official records of the county
2 where the property is located;

3 “(m) A statement of the use, residential or otherwise, for which each lot is intended;

4 “(n) A statement as to whether or not the association pursuant to ORS 94.665 may sell, convey
5 or subject to a security interest any portion of the common property and any limitation on such
6 authority;

7 “(o) A statement of any restriction on the use, maintenance or occupancy of lots or units;

8 “(p) The method of amending the declaration and a statement of the percentage of votes re-
9 quired to approve an amendment of the declaration in accordance with ORS 94.590;

10 “(q) A description of any contemplated improvements which the declarant agrees to build, or a
11 statement that the declarant does not agree to build any improvement or does not choose to limit
12 declarant’s rights to add improvements not described in the declaration;

13 “(r) A statement of any period of declarant control or other special declarant rights reserved
14 by the declarant under ORS 94.600;

15 “(s) A statement of the time at which the deed to the common property is to be delivered,
16 whether by date or upon the occurrence of a stipulated event; and

17 “(t) Any provisions restricting a right of the association with respect to the common property,
18 or an individual lot owner with respect to the lot or improvements on the lot, including but not
19 limited to:

20 “(A) A right to divide the lot or to combine it with other lots;

21 “(B) A right to repair or restore improvements on the lot at the owner’s discretion in the event
22 of damage or destruction;

23 “(C) The requirement for architectural controls, including but not limited to fencing, landscaping
24 or choice of exterior colors and materials of structures to be placed on the common property or on
25 a lot; and

26 “(D) The requirement of review of any plans of any structure to be placed on the common
27 property or a lot.

28 “(3) If the declarant reserves the right to expand the planned community by annexing lots or
29 common property or by creating additional lots or common property by developing existing property
30 in the planned community, the declaration shall contain, in addition to the provisions required under
31 subsections (1) and (2) of this section, a general description of the plan of development including:

32 “(a) The procedure by which the planned community will be expanded;

33 “(b) The maximum number of lots and units to be included in the planned community or a
34 statement that there is no limitation on the number of lots or units which the declarant may create
35 or annex to the planned community;

36 “(c) A general description of the nature and proposed use of any common property which the
37 declarant agrees to create or annex to the planned community or a statement that there is no lim-
38 itation on the right of the declarant to create or annex common property;

39 “(d) The method of allocation of votes if additional lots are to be created or annexed to the
40 planned community; and

41 “(e) The formula to be used for reallocating the common expenses if additional lots are to be
42 created or annexed to the planned community, and the manner of reapportioning the common ex-
43 penses if lots are created or annexed during the fiscal year.

44 “(4) If the declarant may withdraw property from the planned community, the declaration shall
45 include in addition to the provisions required under subsections (1), (2) and (3) of this section:

1 “(a) The procedure by which property will be withdrawn;

2 “(b) A general description of the property which may be withdrawn from the planned community;

3 “(c) The method of allocation of votes if lots are withdrawn from the planned community;

4 “(d) The formula to be used for reallocating the common expenses if the property to be with-

5 drawn has been assessed for common expenses prior to withdrawal; and

6 “(e) The date after which the right to withdraw property from the planned community shall ex-

7 pire or a statement that such a right shall not expire.”.

8 In line 13, delete “for” and insert “to fund”.

9 On page 5, line 11, after “94.783” insert a period and delete the rest of the line and line 12.

10 In line 13, delete “(2) of this section.”.

11 On page 7, line 5, delete “described in” and insert “and the maintenance plan required under”.

12 On page 8, after line 8, insert:

13 “**SECTION 8a.** ORS 94.645 is amended to read:

14 “94.645. (1) [*Unless otherwise provided in the bylaws,*] The board of directors at least annually

15 shall adopt a budget for the planned community.

16 “(2) **The budget shall include moneys to be allocated to the reserve account under ORS**

17 **94.595.**

18 “(3) Within 30 days after adopting the annual budget for the planned community, the board of

19 directors shall provide a summary of the budget to all owners.

20 “(4) If the board fails to adopt a budget, the last adopted annual budget shall continue in

21 effect.”.

22 On page 11, line 5, delete “approval or”.

23 On page 12, delete lines 3 and 4 and insert:

24 “(d) Even if an absentee ballot has been delivered to an owner, the owner may vote in person

25 at a meeting if the owner has:

26 “(A) Returned the absentee ballot; and

27 “(B) Canceled the absentee ballot, if cancellation is permitted in the instructions given under

28 paragraph (b) of this subsection.”.

29 In line 25, after “of” insert “the greater of”.

30 Delete lines 32 and 33 and insert:

31 “(6) Not later than 10 days after adoption of a resolution under subsection (4) of this section,

32 the board of directors shall ensure that a copy of the resolution and a notice described in section

33 3 of this 2007 Act are:”.

34 In line 35, delete “, not later than 10 days after adoption of the resolution,”.

35 On page 15, line 23, delete “for” and insert “to fund”.

36 On page 16, line 19, delete the second comma and insert a period.

37 Delete line 20.

38 In line 21, delete “subsection (2) of this section.”.

39 After line 31, insert:

40 “(5) The reserve study requirements under subsection (3) of this section and the maintenance

41 plan requirements under subsection (4) of this section do not apply to a condominium consisting of

42 four or fewer units, excluding units used for parking, storage or other uses ancillary to a unit if the

43 condominium was:

44 “(a) Created on or after the effective date of this 2007 Act; or

45 “(b) Created before the effective date of this 2007 Act, notwithstanding any requirement in the

1 declaration or bylaws.”.

2 In line 35, restore the bracketed material and delete the boldfaced material.

3 On page 17, line 1, restore the bracketed material and delete the boldfaced material.

4 In line 12, restore the bracketed material and delete the boldfaced material.

5 In line 15, restore the bracketed material and delete the boldfaced material.

6 In line 17, restore “(10)” and delete “(9)”.

7 On page 18, line 10, after the comma insert “the maintenance plan and all”.

8 On page 20, after line 12, insert:

9 “**SECTION 26a.** ORS 100.412 is amended to read:

10 “100.412. (1) [*Unless otherwise provided in the bylaws,*] The board of directors at least annually

11 shall adopt a budget for the association of unit owners.

12 “(2) **The budget shall include moneys required to be allocated to the reserve account**

13 **under ORS 100.175.**

14 “(3) Within 30 days after adopting the annual budget for the association, the board of directors

15 shall provide a summary of the budget to all owners.

16 “(4) If the board of directors fails to adopt an annual budget, the last adopted budget shall

17 continue in effect.”.

18 On page 23, delete lines 3 and 4 and insert:

19 “(d) Even if an absentee ballot has been delivered to a unit owner, the unit owner may vote in

20 person at a meeting if the unit owner has:

21 “(A) Returned the absentee ballot; and

22 “(B) Canceled the absentee ballot, if cancellation is permitted in the instructions given under

23 paragraph (b) of this subsection.”.

24 On page 24, line 7, after “study” insert “and the maintenance plan”.

25 On page 26, delete lines 11 through 13 and insert:

26 “(9) Not later than 10 days after adoption of a resolution under subsection (4), (6) or (8) of this

27 section, the board of directors shall ensure that a copy of the resolution and a notice described in

28 subsection (10) of this section are:”.

29 In line 15, delete “, not later than 10 days after adoption of the resolution,”.

30 In line 30, delete “approval or”.

31 On page 27, line 1, after “94.780” insert “and sections 2, 3, 4, 5 and 6 of this 2007 Act”.

32 In line 12, after “94.780” insert “and sections 2, 3, 4, 5 and 6 of this 2007 Act”.

33 In line 20, after “94.780” insert “and sections 2, 3, 4, 5 and 6 of this 2007 Act”.

34 In line 26, after “94.780” insert “and sections 2, 3, 4, 5 and 6 of this 2007 Act”.

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