

Senate Bill 543

Sponsored by Senator MONROE; Senator L GEORGE (at the request of Community Association Banc)

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**.

Requires homeowners association and association of condominium unit owners to deposit assessments in federally insured bank account. Removes requirement that bank account be located within state.

A BILL FOR AN ACT

1
2 Relating to property governed by declarations; amending ORS 94.670 and 100.480.

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

4 **SECTION 1.** ORS 94.670 is amended to read:

5 94.670. (1) A homeowners association shall retain within this state the documents, information
6 and records delivered to the association under ORS 94.616 and all other records of the association
7 for not less than the period specified for the record in ORS 65.771 or any other applicable law ex-
8 cept that:

9 (a) The documents specified in ORS 94.616 (3)(o), if received, must be retained as permanent
10 records of the association.

11 (b) Proxies and ballots must be retained for one year from the date of determination of the vote.

12 (2) All assessments, including declarant subsidies, shall be deposited in a separate **federally**
13 **insured** bank account[, *located within this state,*] in the name of the association. All expenses of the
14 association shall be paid from the association bank account.

15 (3) The association shall keep financial records sufficiently detailed for proper accounting pur-
16 poses. Within 90 days after the end of the fiscal year, the board of directors shall:

17 (a) Prepare or cause to be prepared an annual financial statement consisting of a balance sheet
18 and income and expenses statement for the preceding fiscal year; and

19 (b) Distribute to each owner and, upon written request, any mortgagee of a lot, a copy of the
20 annual financial statement.

21 (4) Subject to section 24, chapter 803, Oregon Laws 2003, the association of a planned commu-
22 nity that has annual assessments exceeding \$75,000 shall cause the financial statement required
23 under subsection (3) of this section to be reviewed within 180 days after the end of the fiscal year
24 by an independent certified public accountant licensed in the State of Oregon in accordance with
25 the Statements on Standards for Accounting and Review Services issued by the American Institute
26 of Certified Public Accountants.

27 (5) The association of a planned community created on or after January 1, 2004, or the associ-
28 ation of a planned community described in ORS 94.572 that has annual assessments of \$75,000 or less
29 shall cause the most recent financial statement required by subsection (3) of this section to be re-
30 viewed in the manner described in subsection (4) of this section within 180 days after the association
31 receives a petition requesting review signed by at least a majority of the owners.

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 (6) An association subject to the requirements of subsection (4) of this section may elect, on an
 2 annual basis, not to comply with the requirements of subsection (4) of this section by an affirmative
 3 vote of at least 60 percent of the owners, not including the votes of the declarant with respect to
 4 lots owned by the declarant.

5 (7)(a) The association shall provide, within 10 business days of receipt of a written request from
 6 an owner, a written statement that provides:

7 (A) The amount of assessments due from the owner and unpaid at the time the request was re-
 8 ceived, including:

9 (i) Regular and special assessments;

10 (ii) Fines and other charges;

11 (iii) Accrued interest; and

12 (iv) Late payment charges.

13 (B) The percentage rate at which interest accrues on assessments that are not paid when due.

14 (C) The percentage rate used to calculate the charges for late payment or the amount of a fixed
 15 charge for late payment.

16 (b) The association is not required to comply with paragraph (a) of this subsection if the asso-
 17 ciation has commenced litigation by filing a complaint against the owner and the litigation is
 18 pending when the statement would otherwise be due.

19 (8) The association shall make the documents, information and records described in subsections
 20 (1) and (3) of this section and all other records of the association reasonably available for exam-
 21 ination and, upon written request, available for duplication by an owner and any mortgagee of a lot
 22 that makes the request in good faith for a proper purpose, except that records kept by or on behalf
 23 of the association may be withheld from examination and duplication to the extent the records
 24 concern:

25 (a) Personnel matters relating to a specific identified person or a person's medical records.

26 (b) Contracts, leases and other business transactions that are currently under negotiation to
 27 purchase or provide goods or services.

28 (c) Communications with legal counsel that relate to matters specified in paragraphs (a) and (b)
 29 of this subsection.

30 (d) Disclosure of information in violation of law.

31 (e) Documents, correspondence or management or board reports compiled for or on behalf of the
 32 association or the board of directors by its agents or committees for consideration by the board of
 33 directors in executive session held in accordance with ORS 94.640 (7).

34 (f) Documents, correspondence or other matters considered by the board of directors in execu-
 35 tive session held in accordance with ORS 94.640 (7).

36 (g) Files of individual owners, other than those of a requesting owner or requesting mortgagee
 37 of an individual owner, including any individual owner's file kept by or on behalf of the association.

38 (9) The association shall maintain a copy, suitable for the purpose of duplication, of the follow-
 39 ing:

40 (a) The declaration and bylaws, including amendments or supplements in effect, the recorded
 41 plat, if feasible, and the association rules and regulations currently in effect.

42 (b) The most recent financial statement prepared pursuant to subsection (3) of this section.

43 (c) The current operating budget of the association.

44 (d) The reserve study, if any, described in ORS 94.595.

45 (e) Architectural standards and guidelines, if any.

1 (10) The association, within 10 business days after receipt of a written request by an owner,
2 shall furnish the requested information required to be maintained under subsection (9) of this sec-
3 tion.

4 (11) The board of directors, by resolution, may adopt reasonable rules governing the frequency,
5 time, location, notice and manner of examination and duplication of association records and the
6 imposition of a reasonable fee for furnishing copies of any documents, information or records de-
7 scribed in this section. The fee may include reasonable personnel costs for furnishing the docu-
8 ments, information or records.

9 **SECTION 2.** ORS 100.480 is amended to read:

10 100.480. (1) An association of unit owners shall retain within this state the documents, infor-
11 mation and records delivered to the association under ORS 100.210 and all other records of the as-
12 sociation for not less than the period specified for the record in ORS 65.771 or any other applicable
13 law, except that:

14 (a) The documents specified in ORS 100.210 (5)(j), if received, must be retained as permanent
15 records of the association.

16 (b) Proxies and ballots must be retained for one year from the date of determination of the vote.

17 (2) The association of unit owners shall keep financial records sufficient for proper accounting
18 purposes. All assessments shall be deposited in a separate **federally insured** bank account[, *located*
19 *within this state,*] in the name of the association. All expenses of the association shall be paid from
20 the association bank account.

21 (3) Within 90 days after the end of the fiscal year, the board of directors shall:

22 (a) Prepare or cause to be prepared an annual financial statement consisting of a balance sheet
23 and income and expenses statement for the preceding fiscal year; and

24 (b) Distribute to each unit owner a copy of the annual financial statement.

25 (4) Subject to section 26, chapter 803, Oregon Laws 2003, the association of unit owners of a
26 condominium that has annual assessments exceeding \$75,000 shall cause the financial statement re-
27 quired under subsection (3) of this section to be reviewed within 180 days after the end of the fiscal
28 year by an independent certified public accountant licensed in the State of Oregon in accordance
29 with the Statements on Standards for Accounting and Review Services issued by the American In-
30 stitute of Certified Public Accountants.

31 (5) The association of unit owners of a condominium that has annual assessments of \$75,000 or
32 less shall cause the most recent financial statement required by subsection (3) of this section to be
33 reviewed in the manner described in subsection (4) of this section within 180 days after the board
34 of directors receives the petition requesting review signed by at least a majority of the owners.

35 (6) An association of unit owners subject to the requirements of subsection (4) of this section
36 may elect, on an annual basis, not to comply with the requirements of subsection (4) of this section
37 by an affirmative vote of at least 60 percent of the owners, not including the votes of the declarant
38 with respect to units owned by the declarant.

39 (7)(a) The association shall provide, within 10 business days of receipt of a written request from
40 an owner, a written statement that provides:

41 (A) The amount of assessments due from the owner and unpaid at the time the request was re-
42 ceived, including:

43 (i) Regular and special assessments;

44 (ii) Fines and other charges;

45 (iii) Accrued interest; and

1 (iv) Late payment charges.

2 (B) The percentage rate at which interest accrues on assessments that are not paid when due.

3 (C) The percentage rate used to calculate the charges for late payment or the amount of a fixed
4 charge for late payment.

5 (b) The association is not required to comply with paragraph (a) of this subsection if the asso-
6 ciation has commenced litigation by filing a complaint against the owner and the litigation is
7 pending when the statement would otherwise be due.

8 (8)(a) Except as provided in paragraph (b) of this subsection, the documents, information and
9 records described in subsections (1) to (3) of this section and all other records of the association of
10 unit owners must be reasonably available for examination and, upon written request, available for
11 duplication by a unit owner and any mortgagee of a unit that makes the request in good faith for
12 a proper purpose.

13 (b) Records kept by or on behalf of the association may be withheld from examination and du-
14 plication to the extent the records concern:

15 (A) Personnel matters relating to a specific identified person or a person's medical records.

16 (B) Contracts, leases and other business transactions that are currently under negotiation to
17 purchase or provide goods or services.

18 (C) Communications with legal counsel that relate to matters specified in subparagraphs (A) and
19 (B) of this paragraph.

20 (D) Disclosure of information in violation of law.

21 (E) Documents, correspondence or management or board reports compiled for or behalf of the
22 association or the board of directors by its agents or committees for consideration by the board of
23 directors in executive session held in accordance with ORS 100.420 (1).

24 (F) Documents, correspondence or other matters considered by the board of directors in execu-
25 tive session held in accordance with ORS 100.420 (1).

26 (G) Files of individual owners, other than those of a requesting owner or requesting mortgagee
27 of an individual owner, including any individual owner's file kept by or on behalf of the association.

28 (9) The association of unit owners shall maintain a copy, suitable for the purpose of duplication,
29 of the following:

30 (a) The declaration and bylaws, including amendments or supplements in effect, the recorded
31 plat, if feasible, and the association rules and regulations currently in effect;

32 (b) The most recent annual financial statement prepared in accordance with subsection (3) of
33 this section;

34 (c) The current operating budget of the association;

35 (d) The reserve study, if any, described in ORS 100.175; and

36 (e) Architectural standards and guidelines, if any.

37 (10) The association, within 10 business days after receipt of a written request by an owner,
38 shall furnish the requested information required to be maintained under subsection (9) of this sec-
39 tion.

40 (11) The board of directors, by resolution, may adopt reasonable rules governing the frequency,
41 time, location, notice and manner of examination and duplication of association records and the
42 imposition of a reasonable fee for furnishing copies of any documents, information or records de-
43 scribed in this section. The fee may include reasonable personnel costs incurred to furnish the in-
44 formation.

45 (12) Subsection (3) of this section first applies to property submitted to the provisions of this

1 chapter before January 1, 1982, when the board of directors of the association of unit owners re-
2 ceives a written request from at least one unit owner that a copy of the annual financial statement
3 be distributed in accordance with subsection (3) of this section.

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