

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 963

By COMMITTEE ON SUSTAINABILITY AND ECONOMIC DEVELOPMENT

May 29

- 1 On page 1 of the printed A-engrossed bill, line 5, after “100.409,” insert “100.410,”.
- 2 On page 16, line 17, after “association” delete the rest of the line and insert “or with the con-
3 sent of at least 75 percent of all owners solicited by any means the board of directors determines
4 is reasonable. If a meeting is held to conduct the vote, the meeting notice must include a
5 statement”.
- 6 In line 29, after “present” insert “and voting” and delete the period and insert “or with the
7 consent of at least a majority of all owners solicited by any means the board of directors determines
8 is reasonable. If a meeting is held to conduct the vote,”.
- 9 Delete lines 31 through 33.
- 10 In line 34, delete “(7)” and insert “(6)”.
- 11 In line 41, delete “(8)” and insert “(7)”.
- 12 On page 20, line 42, after “request” insert “given to the owner and any occupant”.
- 13 On page 27, line 2, delete “After con-” and insert “Subject to subsection (1) of this section, after
14 a review of”.
- 15 In line 3, delete “ducting” and delete “reviewing”.
- 16 On page 28, delete lines 18 through 23 and insert:
17 “(10)(a) Except as provided under paragraph (b) of this subsection, unless the board of directors
18 under subsection (3) of this section determines that the reserve account will be adequately funded
19 for the following year, the board of directors or the owners may not vote to eliminate funding a
20 reserve account required under this section or under the declaration or bylaws.
- 21 “(b) Following the turnover meeting described in ORS 94.609, on an annual basis, the board of
22 directors, with the approval of all owners, may elect not to fund the reserve account for the fol-
23 lowing year.”.
- 24 On page 29, line 31, restore “(11)” and delete “(12)”.
- 25 On page 30, line 40, after “association” insert “or with the consent of at least 75 percent of all
26 owners solicited by any means the board of directors determines is reasonable”.
- 27 In line 42, before “The meeting” insert “If a meeting is held to conduct the vote,”.
- 28 On page 31, line 18, after “present” insert “and”.
- 29 In line 20, delete the period and insert “or with consent of at least a majority of all owners
30 solicited by any means the board of directors determines is reasonable. If a meeting is held to con-
31 duct the vote,”.
- 32 Delete lines 22 through 24.
- 33 In lines 25 through 35, delete the boldfaced material and restore the bracketed material.
- 34 On page 32, line 2, restore the bracketed material and delete the boldfaced material.
- 35 In line 18, restore the bracketed material and delete the boldfaced material.

1 On page 33, after line 32, insert:

2 “**SECTION 26a.** ORS 100.410 is amended to read:

3 “100.410. (1) The declarant shall adopt on behalf of the association of unit owners the initial
4 bylaws that govern the administration of the condominium. The bylaws shall be recorded simul-
5 taneously with the declaration as an exhibit or as a separate instrument.

6 “(2) Unless otherwise provided in the declaration or bylaws, amendments to the bylaws may be
7 proposed by a majority of the board of directors or by at least 30 percent of the owners.

8 “(3) Subject to subsections (4) and (5) of this section and ORS 100.415 (1)(t), an amendment of
9 the bylaws is not effective unless the amendment is:

10 “(a) Approved by at least a majority of the unit owners; and

11 “(b) Certified by the chairperson and secretary of the association of unit owners as being
12 adopted in accordance with the bylaws and the provisions of this section, acknowledged in the
13 manner provided for acknowledgment of instruments and recorded.

14 “(4) In condominiums that are exclusively residential:

15 “(a) The bylaws may not provide that greater than a majority of the unit owners is required to
16 amend the bylaws except for amendments relating to age restrictions, pet restrictions, limitations
17 on the number of persons who may occupy units and limitations on the rental or leasing of units.

18 “(b) An amendment relating to a matter specified in paragraph (a) of this subsection is not ef-
19 fective unless approved by at least 75 percent of the owners or a greater percentage specified in the
20 bylaws.

21 “(5) The bylaws may not be amended to limit or diminish any special declarant right without the
22 consent of the declarant. However, the declarant may waive the declarant’s right of consent.

23 “(6)(a) For five years after the recording of the initial bylaws, before any amended bylaw may
24 be recorded, the amended bylaw must be approved by the Real Estate Commissioner. The commis-
25 sioner shall approve such amendment if the requirements of ORS 100.415 and this section have been
26 satisfied.

27 “(b) The approval by the commissioner under paragraph (a) of this subsection is not required for
28 bylaws restated under subsection (10) of this section unless the bylaws are restated during the
29 five-year period after the recording of the initial bylaws.

30 “(c) If the amended bylaw approved by the commissioner under this subsection is not recorded
31 as required in subsection (3) of this section within [*two years*] **one year** from the date of approval
32 by the commissioner, the approval automatically expires and the amended bylaw must be resubmit-
33 ted for approval as provided in this section. The commissioner’s approval shall set forth the date
34 on which the approval expires.

35 “(7) Before the commissioner approves amended bylaws or restated bylaws under this section,
36 the person submitting the amended bylaws or restated bylaws shall pay to the commissioner the fee
37 provided by ORS 100.670.

38 “(8) Notwithstanding a provision in the bylaws, including bylaws adopted prior to July 14, 2003,
39 that requires an amendment to be executed, or executed and acknowledged, by all owners approving
40 the amendment, amendments to the bylaws under this section become effective after approval by the
41 owners if executed and certified on behalf of the association by the chairperson and secretary in
42 accordance with subsection (3)(b) of this section.

43 “(9) An amendment to the bylaws must be conclusively presumed to have been regularly adopted
44 in compliance with all applicable procedures relating to the amendment unless an action is brought
45 within one year after the effective date of the amendment or the face of the amendment indicates

1 that the amendment received the approval of fewer votes than required for the approval. Nothing
2 in this subsection prevents the further amendment of an amended bylaw.

3 “(10)(a) The board of directors, by resolution and without the further approval of unit owners,
4 may cause restated bylaws to be prepared and recorded to codify individual amendments that have
5 been adopted in accordance with this section.

6 “(b) Bylaws restated under this subsection must:

7 “(A) Include all previously adopted amendments that are in effect, state that the amendments
8 were approved by the commissioner as required under this section and state that no other changes
9 were made except, if applicable, to correct scriveners’ errors or to conform format and style;

10 “(B) Include a statement that the board of directors has adopted a resolution in accordance with
11 paragraph (a) of this subsection and is causing the bylaws to be restated and recorded under this
12 subsection;

13 “(C) Include a reference to the recording index numbers and date of recording of the initial
14 bylaws and all previously recorded amendments that are in effect and are being codified;

15 “(D) Include a certification by the chairperson and secretary of the association that the restated
16 bylaws include all previously adopted amendments that are in effect, that amendments were ap-
17 proved by the commissioner if required under this section and that no other changes were made
18 except, if applicable, to correct scriveners’ errors or to conform format and style;

19 “(E) Be executed and acknowledged by the chairperson and secretary of the association and
20 recorded in the deed records of each county in which the condominium is located; and

21 “(F) If required under subsection (6) of this section, be approved by the commissioner.

22 “(c) The board of directors shall cause a copy of the recorded restated bylaws, including the
23 recording information, to be filed with the commissioner.”.

24 On page 40, line 32, after “request” insert “given to the owner and any occupant”.

25 On page 43, line 15, restore “(8)” and delete “(9)”.

26 On page 47, line 12, after “or” insert “, if required under subsection (3) of this section,”.

27 In line 20, delete “and floor plans comply” and insert “complies” and after “100.115” insert “or
28 the plat amendment complies with section 43 of this 2009 Act”.

29 In line 22, delete the third “or” and insert a comma.

30 In line 23, after “unit” insert “or creates an additional unit from common elements” and after
31 “plat” insert “amendment”.

32 In line 33, delete “(5)(b)” and insert “(6)”.

33 In line 39, after “100.115” insert “or the plat amendment complies with section 43 of this 2009
34 Act”.

35 In line 44, after “tenants” delete the rest of the line and line 45 and insert “as provided in ORS
36 100.305 (6) or a signed statement that no tenants were entitled to notice under ORS 100.305; or”.

37 On page 48, line 4, after “100.115” insert “or plat amendment prepared in conformance with
38 section 43 of this 2009 Act”.

39 In line 15, after “plat” insert “and a certification of plat execution”.

40 In line 16, delete “has” and insert “have”.

41 In line 23, after “amendment” insert “or supplemental declaration”.

42 In line 26, after “declaration” insert “, supplemental declaration”.

43 In line 27, after “(4)” insert “or (5)” and delete “two years” and insert “one year”.

44 In line 40, after the period delete the rest of the line and lines 41 through 44 and insert “The
45 plat or supplemental”.

1 On page 50, line 7, delete “subsections (3)”.

2 In line 8, delete “to (5)” and insert “subsection (3)”.

3 On page 54, line 4, delete “sub-”.

4 In line 5, delete “section (3)” and insert “subsections (3) to (5)”.

5 In line 8, after “request” insert “of the county assessor or county surveyor”.

6 In line 14, delete “subsection (3)” and insert “subsections (3) to (5)”.

7 On page 55, line 6, after “subsections” insert “(6),”.

8 Delete line 24 and insert:

9 “(e) Authorize a plat amendment by correction under”.

10 In line 25, delete “43” and insert “43b”.

11 In line 26, delete “is” and insert “was” and after “chapter” insert “at the time the document

12 was recorded”.

13 In line 43, after “unit” delete the rest of the line and insert “created by the supplemental dec-

14 laration.”.

15 Delete lines 44 and 45.

16 On page 56, delete line 1 and insert:

17 “(6) A correction amendment under this section is not effective unless:

18 “(a) The amendment is approved by the Real Estate Commissioner under ORS 100.110 and, to

19 the extent required, ORS 100.410, the county assessor in accordance with ORS 100.110 and, if re-

20 quired, the county tax collector;

21 “(b) The amendment is certified by the chairperson and secretary of the association of unit

22 owners as being adopted in accordance with subsection (4) of this section or is certified by the

23 declarant under subsection (5) of this section and acknowledged in the manner provided for ac-

24 knowledgement of deeds; and

25 “(c) Is recorded.”.

26 In line 10, delete “general”.

27 On page 57, line 19, delete “(7)(a)” and insert “(7)”.

28 On page 59, line 18, after “ORS” delete the rest of the line and line 19 and insert “100.115.”.

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