

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3301**

1 On page 1 of the printed A-engrossed bill, line 2, after “94.550” insert “,  
2 94.572”.

3 On page 4, after line 22, insert:

4 **“SECTION 4.** ORS 94.572 is amended to read:

5 “94.572. (1)(a) A Class I or Class II planned community created before  
6 January 1, 2002, that was not created under ORS 94.550 to 94.783 is subject  
7 to this section and ORS 94.550, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630  
8 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652,  
9 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675, 94.676,  
10 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728,  
11 94.733, 94.770, 94.775, 94.777 and 94.780 **and section 3 of this 2013 Act** to the  
12 extent that those statutes are consistent with any governing documents. If  
13 the governing documents do not provide for the formation of an association,  
14 the requirements of this subsection are not effective until the formation of  
15 an association in accordance with paragraph (b) of this subsection. If a pro-  
16 vision of the governing documents is inconsistent with this subsection, the  
17 owners may amend the governing documents using the procedures in this  
18 subsection:

19 “(A) In accordance with the procedures for the adoption of amendments  
20 in the governing documents and subject to any limitations in the governing  
21 documents, the owners may amend the inconsistent provisions of the gov-  
22 erning documents to conform to the extent feasible with this section and

1 ORS 94.550, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4),  
2 94.639, 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652, 94.655, 94.657,  
3 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675, 94.676, 94.680, 94.690,  
4 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.770,  
5 94.775, 94.777 and 94.780 **and section 3 of this 2013 Act**. Nothing in this  
6 paragraph requires the owners to amend a declaration or bylaws to include  
7 the information required by ORS 94.580 or 94.635.

8 “(B) If there are no procedures for amendment in the governing docu-  
9 ments:

10 “(i) For an amendment to a recorded governing document other than by-  
11 laws, the owners may amend the inconsistent provisions of the document to  
12 conform to this section and ORS 94.550, 94.590, 94.595 (5) to (9), 94.625, 94.626,  
13 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.645, 94.647, 94.650,  
14 94.652, 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675,  
15 94.676, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723,  
16 94.728, 94.733, 94.770, 94.775, 94.777 and 94.780 **and section 3 of this 2013**  
17 **Act** by a vote of at least 75 percent of the owners in the planned community.

18 “(ii) For an amendment to the bylaws, the owners may amend the incon-  
19 sistent provisions of the bylaws to conform to this section and ORS 94.550,  
20 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640,  
21 94.641, 94.642, 94.645, 94.647, 94.650, 94.652, 94.655, 94.657, 94.658, 94.660,  
22 94.661, 94.662, 94.665, 94.670, 94.675, 94.676, 94.680, 94.690, 94.695, 94.704,  
23 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.770, 94.775, 94.777 and  
24 94.780 **and section 3 of this 2013 Act** by a vote of at least a majority of the  
25 owners in the planned community.

26 “(iii) An amendment may be adopted at a meeting held in accordance with  
27 the governing documents or by another procedure permitted by the governing  
28 documents following the procedures prescribed in ORS 94.647, 94.650 or  
29 94.660.

30 “(iv) An amendment to a recorded declaration shall be executed, certified

1 and recorded as provided in ORS 94.590 (2) and (3) and shall be subject to  
2 ORS 94.590 (5). An amendment to the bylaws and any other governing docu-  
3 ment shall be executed and certified as provided in ORS 94.590 (3) and shall  
4 be recorded in the office of the recording officer of every county in which  
5 the planned community is located if the bylaws or other governing document  
6 to which the amendment relates were recorded.

7 “(C) An amendment adopted pursuant to this paragraph shall include:

8 “(i) A reference to the recording index numbers and date of recording of  
9 the declaration or other governing document, if recorded, to which the  
10 amendment relates; and

11 “(ii) A statement that the amendment is adopted pursuant to the appli-  
12 cable subparagraph of this paragraph.

13 “(b)(A) If the governing documents do not provide for the formation of  
14 an association of owners, at least 10 percent of the owners in the planned  
15 community or any governing entity may initiate the formation of an associ-  
16 ation as provided in this paragraph. The owners or the governing entity in-  
17 itiating the association formation shall call an organizational meeting for  
18 the purpose of voting whether to form an association described in ORS  
19 94.625. The notice of the meeting shall:

20 “(i) Name the initiating owners or governing entity;

21 “(ii) State that the organizational meeting is for the purpose of voting  
22 whether to form an association in accordance with the proposed articles of  
23 incorporation;

24 “(iii) State that if the owners vote to form an association, the owners may  
25 elect the initial board of directors provided for in the articles of incorpo-  
26 ration and may adopt the initial bylaws;

27 “(iv) State that to form an association requires an affirmative vote of at  
28 least a majority of the owners in the planned community, or, if a larger  
29 percentage is specified in the applicable governing document, the larger  
30 percentage;

1       “(v) State that to adopt articles of incorporation, to elect the initial board  
2 of directors pursuant to the articles of incorporation or to adopt the initial  
3 bylaws requires an affirmative vote of at least a majority of the owners  
4 present;

5       “(vi) State that if the initial board of directors is not elected, an interim  
6 board of directors shall be elected pursuant to bylaws adopted as provided  
7 in subparagraph (C) of this paragraph;

8       “(vii) State that a copy of the proposed articles of incorporation and by-  
9 laws will be available at least five business days before the meeting and state  
10 the method of requesting a copy; and

11       “(viii) Be delivered in accordance with the declaration and bylaws. If  
12 there is no governing document or the document does not include applicable  
13 provisions, the owners or governing entity shall follow the procedures pre-  
14 scribed in ORS 94.650 (4).

15       “(B) At least five business days before the organizational meeting, the  
16 initiating owners or governing entity shall cause articles of incorporation  
17 and bylaws to be drafted. The bylaws shall include, to the extent applicable,  
18 the information required by ORS 94.635.

19       “(C) At the organizational meeting:

20       “(i) Representatives of the initiating owners or governing entity shall, to  
21 the extent not inconsistent with the governing documents, conduct the  
22 meeting according to Robert’s Rules of Order as provided in ORS 94.657.

23       “(ii) The initiating owners or governing entity shall make available copies  
24 of the proposed articles of incorporation and the proposed bylaws.

25       “(iii) The affirmative vote of at least a majority of the owners of a  
26 planned community, or, if a larger percentage is specified in the applicable  
27 governing document, the larger percentage, is required to form an associ-  
28 ation under this paragraph.

29       “(iv) If the owners vote to form an association, the owners shall adopt  
30 articles of incorporation and may elect the initial board of directors as pro-

1 vided in the articles of incorporation, adopt bylaws and conduct any other  
2 authorized business by an affirmative vote of at least a majority of the  
3 owners present. If the owners do not elect the initial board of directors,  
4 owners shall elect an interim board of directors by an affirmative vote of at  
5 least a majority of the owners present to serve until the initial board of di-  
6 rectors is elected.

7 “(v) An owner may vote by proxy, or by written ballot, if approved, in the  
8 discretion of a majority of the initiating owners or governing entity.

9 “(D) Not later than 10 business days after the organizational meeting, the  
10 board of directors shall:

11 “(i) Cause the articles of incorporation to be filed with the Secretary of  
12 State under ORS chapter 65;

13 “(ii) Cause the notice of planned community described in subsection (4)  
14 of this section to be prepared, executed and recorded in accordance with  
15 subsection (4) of this section;

16 “(iii) Provide a copy of the notice of planned community to each owner,  
17 together with a copy of the adopted articles of incorporation and bylaws, if  
18 any, or a statement of the procedure and method for adoption of bylaws de-  
19 scribed in subparagraph (C) of this paragraph. The copies and any statement  
20 shall be delivered to each lot, mailed to the mailing address of each lot or  
21 mailed to the mailing addresses designated by the owners in writing; and

22 “(iv) Cause a statement of association information to be prepared, exe-  
23 cuted and recorded in accordance with ORS 94.667.

24 “(E) If the owners vote to form an association, all costs incurred under  
25 this paragraph, including but not limited to the preparation and filing of the  
26 articles of incorporation, drafting of bylaws, preparation of notice of meeting  
27 and the drafting, delivery and recording of all notices and statements shall  
28 be a common expense of the owners and shall be allocated as provided in the  
29 appropriate governing document or any amendment thereto.

30 “(2)(a) The owners of lots in a Class I or Class II planned community that

1 are subject to the provisions of ORS chapter 94 specified in subsection (1)  
2 of this section may elect to be subject to any other provisions of ORS 94.550  
3 to 94.783 upon compliance with the procedures prescribed in subsection (1)  
4 of this section.

5 “(b) If the owners of lots in a Class I or Class II planned community elect  
6 to be subject to additional provisions of ORS 94.550 to 94.783, unless the  
7 notice of planned community otherwise required or permitted under sub-  
8 section (4) of this section includes a statement of the election pursuant to  
9 this paragraph, the board of directors of the association shall cause the no-  
10 tice of planned community described in subsection (4) of this section to be  
11 prepared, executed and recorded in accordance with subsection (4) of this  
12 section.

13 “(3)(a) The owners of lots in a Class III planned community created before  
14 January 1, 2002, may elect to be subject to provisions of ORS 94.550 to 94.783  
15 upon compliance with the applicable procedures in subsection (1) of this  
16 section.

17 “(b) If the owners of lots in a Class III planned community elect to be  
18 subject to provisions of ORS 94.550 to 94.783, the board of directors of the  
19 association shall cause the notice of planned community described in sub-  
20 section (4) of this section to be prepared, executed and recorded in accord-  
21 ance with subsection (4) of this section.

22 “(4) The notice of planned community required or permitted by this sec-  
23 tion shall be:

24 “(a) Titled ‘Notice of Planned Community under ORS 94.572’;

25 “(b) Executed by the president and secretary of the association; and

26 “(c) Recorded in the office of the recording officer of every county in  
27 which the property is located.

28 “(5) The notice of planned community shall include:

29 “(a) The name of the planned community and association as identified in  
30 the recorded declaration, conditions, covenants and restrictions or other

1 governing document and, if different, the current name of the association;

2 “(b) A list of the properties, described as required for recordation in ORS  
3 93.600, within the jurisdiction of the association;

4 “(c) Information identifying the recorded declaration, conditions,  
5 covenants and restrictions or other governing documents and a reference to  
6 the recording index numbers and date of recording of the governing docu-  
7 ments;

8 “(d) A statement that the property described in accordance with para-  
9 graph (b) of this subsection is subject to specific provisions of the Oregon  
10 Planned Community Act;

11 “(e) A reference to the specific provisions of the Oregon Planned Com-  
12 munity Act that apply to the subject property and a reference to the sub-  
13 section of this section under which the application is made; and

14 “(f) If an association is formed under subsection (1)(b)(A) of this section,  
15 a statement to that effect.

16 “(6) An amended statement shall include a reference to the recording in-  
17 dex numbers and the date of recording of prior statements.

18 “(7) The county clerk may charge a fee for recording a statement under  
19 this section according to the provisions of ORS 205.320 (4).

20 “(8) The board of directors of an association not otherwise required to  
21 cause a notice of planned community described in subsection (4) of this sec-  
22 tion to be prepared and recorded under this section may cause a notice of  
23 planned community to be prepared, executed and recorded as provided in  
24 subsection (4) of this section.

25 “(9) Title to a unit, lot or common property in a Class I or Class II  
26 planned community created before January 1, 2002, may not be rendered  
27 unmarketable or otherwise affected by a failure of the planned community  
28 to be in compliance with a requirement of this section.

29 “(10) As used in this section:

30 “(a) ‘Governing entity’ means an incorporated or unincorporated associ-

1 ation, committee, person or any other entity that has authority, under a  
2 governing document, to maintain commonly maintained property, impose as-  
3 sessments on lots or to act on behalf of lot owners within the planned com-  
4 munity on matters of common concern.

5 “(b) ‘Recorded declaration’ means an instrument recorded with the county  
6 recording officer of the county in which the planned community is located  
7 that contains conditions, covenants and restrictions binding lots in the  
8 planned community or imposes servitudes upon the real property.”.

9 In line 23, delete “4” and insert “5”.

10 On page 7, line 16, delete “5” and insert “6” and delete “6” and insert  
11 “7”.

12 In line 18, delete “6” and insert “7”.

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