

House Bill 2584

Sponsored by Representative BARNHART (Pre-session filed.)

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**.

Prohibits association of owners for, or declarant of, planned community or condominium from making records of association confidential or exempt from disclosure to owners of real property in planned community or condominium.

A BILL FOR AN ACT

1
2 Relating to communities established by declaration; amending ORS 94.550, 94.670, 100.005 and
3 100.480.

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

5 **SECTION 1.** ORS 94.550 is amended to read:

6 94.550. As used in ORS 94.550 to 94.783:

7 (1) "Assessment" means any charge imposed or levied by a homeowners association on or
8 against an owner or lot pursuant to the provisions of the declaration or the bylaws of the planned
9 community or provisions of ORS 94.550 to 94.783.

10 (2) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance,
11 mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than
12 one lot in a planned community, or an agreement affecting more than one lot by which the developer
13 holds such planned community under an option, contract to sell or trust agreement.

14 (3) "Class I planned community" means a planned community that:

15 (a) Contains at least 13 lots or in which the declarant has reserved the right to increase the
16 total number of lots beyond 12; and

17 (b) Has an estimated annual assessment, including an amount required for reserves under ORS
18 94.595, exceeding \$10,000 for all lots or \$100 per lot, whichever is greater, based on:

19 (A) For a planned community created on or after January 1, 2002, the initial estimated annual
20 assessment, including a constructive assessment based on a subsidy of the association through a
21 contribution of funds, goods or services by the declarant; or

22 (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost
23 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
24 of January 1, 2002.

25 (4) "Class II planned community" means a planned community that:

26 (a) Is not a Class I planned community;

27 (b) Contains at least five lots; and

28 (c) Has an estimated annual assessment exceeding \$1,000 for all lots based on:

29 (A) For a planned community created on or after January 1, 2002, the initial estimated annual
30 assessment, including a constructive assessment based on a subsidy of the association through a
31 contribution of funds, goods or services by the declarant; or

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 (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost
 2 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
 3 of January 1, 2002.

4 (5) "Class III planned community" means a planned community that is not a Class I or II
 5 planned community.

6 (6) "Common expenses" means expenditures made by or financial liabilities incurred by the
 7 homeowners association and includes any allocations to the reserve account under ORS 94.595.

8 (7) "Common property" means any real property or interest in real property within a planned
 9 community which is owned, held or leased by the homeowners association or owned as tenants in
 10 common by the lot owners, or designated in the declaration or the plat for transfer to the associ-
 11 ation.

12 (8) "Condominium" means property submitted to the provisions of ORS chapter 100.

13 (9) "Declarant" means any person who creates a planned community under ORS 94.550 to 94.785.

14 (10) "Declarant control" means any special declarant right relating to administrative control of
 15 a homeowners association, including but not limited to:

16 (a) The right of the declarant or person designated by the declarant to appoint or remove an
 17 officer or a member of the board of directors;

18 (b) Any weighted vote or special voting right granted to a declarant or to units owned by the
 19 declarant so that the declarant will hold a majority of the voting rights in the association by virtue
 20 of such weighted vote or special voting right; and

21 (c) The right of the declarant to exercise powers and responsibilities otherwise assigned by the
 22 declaration or bylaws or by the provisions of ORS 94.550 to 94.783 to the association, officers of the
 23 association or board of directors of the association.

24 (11) "Declaration" means the instrument described in ORS 94.580 which establishes a planned
 25 community, and any amendments to the instrument.

26 (12) "Electric vehicle charging station" or "charging station" means a facility designed to de-
 27 liver electrical current for the purpose of charging one or more electric motor vehicles.

28 (13) "Governing document" means an instrument or plat relating to common ownership or com-
 29 mon maintenance of a portion of a planned community and that is binding upon lots within the
 30 planned community.

31 (14) "Homeowners association" or "association" means the organization of owners of lots in a
 32 planned community, created under ORS 94.625, required by a governing document or formed under
 33 ORS 94.572.

34 (15) "Majority" or "majority of votes" or "majority of owners" means more than 50 percent of
 35 the votes in the planned community.

36 (16) "Mortgagee" means any person who is:

37 (a) A mortgagee under a mortgage;

38 (b) A beneficiary under a trust deed; or

39 (c) The vendor under a land sale contract.

40 (17) "Owner" means the owner of any lot in a planned community, unless otherwise specified,
 41 but does not include a person holding only a security interest in a lot.

42 (18) "Percent of owners" or "percentage of owners" means the owners representing the specified
 43 voting rights as determined under ORS 94.658.

44 (19)(a) "Planned community" means any subdivision under ORS 92.010 to 92.192 that results in
 45 a pattern of ownership of real property and all the buildings, improvements and rights located on

1 or belonging to the real property, in which the owners collectively are responsible for the mainte-
 2 nance, operation, insurance or other expenses relating to any property within the planned commu-
 3 nity, including common property, if any, or for the exterior maintenance of any property that is
 4 individually owned.

5 (b) "Planned community" does not mean:

6 (A) A condominium under ORS chapter 100;

7 (B) A planned community that is exclusively commercial or industrial; or

8 (C) A timeshare plan under ORS 94.803 to 94.945.

9 (20) "Purchaser" means any person other than a declarant who, by means of a voluntary trans-
 10 fer, acquires a legal or equitable interest in a lot, other than as security for an obligation.

11 (21) "Purchaser for resale" means any person who purchases from the declarant more than two
 12 lots for the purpose of resale whether or not the purchaser for resale makes improvements to the
 13 lots before reselling them.

14 **(22) "Records of an association" or "records kept by or on behalf of an association"**
 15 **means information that is prepared, owned, used or retained by a member of the board of**
 16 **directors of a homeowners association, or by a member of a committee formed by an asso-**
 17 **ciation, in the course of exercising responsibilities to the planned community, including in-**
 18 **formation:**

19 **(a) Provided to or by a member of the board, or to or by a member of a committee**
 20 **formed by the association, concerning matters of the association;**

21 **(b) Submitted to a member of the board, or to a member of a committee, considering the**
 22 **adoption of policies; and**

23 **(c) Documenting communications to or from a member of the board, or to or from a**
 24 **member of a committee, concerning policies or practices of the association.**

25 [(22)] **(23)** "Special declarant rights" means any rights, in addition to the rights of the declarant
 26 as a lot owner, reserved for the benefit of the declarant under the declaration or ORS 94.550 to
 27 94.783, including but not limited to:

28 (a) Constructing or completing construction of improvements in the planned community which
 29 are described in the declaration;

30 (b) Expanding the planned community or withdrawing property from the planned community
 31 under ORS 94.580 (3) and (4);

32 (c) Converting lots into common property;

33 (d) Making the planned community subject to a master association under ORS 94.695; or

34 (e) Exercising any right of declarant control reserved under ORS 94.600.

35 [(23)] **(24)** "Successor declarant" means the transferee of any special declarant right.

36 [(24)] **(25)** "Turn over" means the act of turning over administrative responsibility pursuant to
 37 ORS 94.609 and 94.616.

38 [(25)] **(26)** "Unit" means a building or portion of a building located upon a lot in a planned
 39 community and designated for separate occupancy or ownership, but does not include any building
 40 or portion of a building located on common property.

41 [(26)] **(27)** "Votes" means the votes allocated to lots in the declaration under ORS 94.580 (2).

42 **SECTION 2.** ORS 94.670 is amended to read:

43 94.670. (1) A homeowners association shall retain within this state the documents, information
 44 and records delivered to the association under ORS 94.616 and all other records of the association
 45 for not less than the period specified for the record in ORS 65.771 or any other applicable law ex-

cept that:

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

(b) Proxies and ballots must be retained for one year from the date of determination of the vote, except that proxies and ballots relating to an amendment to the declaration, bylaws or other governing document must be retained for one year from the date the amendment is effective.

(2)(a) All assessments, including declarant subsidies and all other association funds, shall be deposited and maintained in the name of the association in one or more separate federally insured accounts, including certificates of deposit, at a financial institution, as defined in ORS 706.008, other than an extranational institution. Except as provided in paragraph (b) of this subsection, funds must be maintained in an association account until disbursed.

(b) Subject to any limitations imposed by the declaration or bylaws, funds of the association maintained in accounts established under this subsection may be used to purchase obligations of the United States government.

(c) All expenses of the association shall be paid from the association account.

(3) The association shall keep financial records sufficiently detailed for proper accounting purposes.

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

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

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

(5) Subject to ORS 94.671, the association of a planned community that has annual assessments exceeding \$75,000 shall cause the financial statement required under subsection (4) of this section to be reviewed within 180 days after the end of the fiscal year by an independent certified public accountant licensed in the State of Oregon in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

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

(7) An association subject to the requirements of subsection (5) of this section may elect, on an annual basis, not to comply with the requirements of subsection (5) of this section by an affirmative vote of at least 60 percent of the owners, not including the votes of the declarant with respect to lots owned by the declarant.

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

(A) The amount of assessments due from the owner and unpaid at the time the request was received, including:

(i) Regular and special assessments;

(ii) Fines and other charges;

(iii) Accrued interest; and

(iv) Late payment charges.

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

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

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

6 *[(9)(a) Except as provided in paragraph (b) of this subsection, the association shall make the doc-
7 uments, information and records described in subsections (1) and (4) of this section and all other re-
8 cords of the association reasonably available for examination and, upon written request, available for
9 duplication by an owner and any mortgagee of a lot that makes the request in good faith for a proper
10 purpose.]*

11 **(9)(a) An association, and the declarant during any period of declarant control, may not
12 make information confidential or exempt from disclosure to owners that is not made confi-
13 dential or exempt from disclosure by ORS 94.550 to 94.783.**

14 **(b) Except as provided in paragraph (c) of this subsection, within 10 days after receiving
15 a request for examination of records of the association, the association shall make the doc-
16 uments, information and records described in subsections (1) to (3) of this section and any
17 other records of the association reasonably available for examination and, upon written re-
18 quest, including written requests by electronic mail, facsimile or other electronic communi-
19 cations, available for duplication by an owner and any mortgagee of a lot that makes the
20 request in good faith for a proper purpose.**

21 *[(b)]* (c) Records kept by or on behalf of the association may be withheld from examination and
22 duplication to the extent the records concern:

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

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

26 (C) Communications with legal counsel that relate to matters specified in subparagraphs (A) and
27 (B) of this paragraph and the rights and duties of the association regarding existing or potential
28 litigation or criminal matters.

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

30 (E) Documents, correspondence or management or board reports compiled for or on behalf of the
31 association or the board of directors by its agents or committees for consideration by the board of
32 directors in executive session held in accordance with ORS 94.640 (8).

33 (F) Documents, correspondence or other matters considered by the board of directors in execu-
34 tive session held in accordance with ORS 94.640 (8).

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

37 (10) The association shall maintain a copy, suitable for the purpose of duplication, of the fol-
38 lowing:

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

41 (b) The most recent financial statement prepared pursuant to subsection (4) of this section.

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

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

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

45 (11) The association, within 10 business days after receipt of a written request by an owner,

1 shall furnish the requested information required to be maintained under subsection (10) of this sec-
 2 tion.

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

8 **SECTION 3.** ORS 100.005 is amended to read:

9 100.005. As used in this chapter, unless the context requires otherwise:

10 (1) "Assessment" means any charge imposed or levied by the association of unit owners on or
 11 against a unit owner or unit pursuant to provisions of the declaration or the bylaws of the condo-
 12 minium or provisions of ORS 100.005 to 100.910.

13 (2) "Association of unit owners" means the association provided for under ORS 100.405.

14 (3) "Association property" means any real property or interest in real property acquired, held
 15 or possessed by the association under ORS 100.405.

16 (4) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance,
 17 mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than
 18 one unit in a condominium, or an agreement affecting more than one such unit by which the devel-
 19 oper holds such condominium under an option, contract to sell or trust agreement.

20 (5) "Building" means a multiple-unit building or single-unit buildings, or any combination
 21 thereof, comprising a part of the property. "Building" also includes a floating structure described
 22 in ORS 100.020 (3)(b)(D).

23 (6) "Commissioner" means the Real Estate Commissioner.

24 (7) "Common elements" means the general common elements and the limited common elements.

25 (8) "Common expenses" means:

26 (a) Expenses of administration, maintenance, repair or replacement of the common elements;

27 (b) Expenses agreed upon as common by all the unit owners; and

28 (c) Expenses declared common by ORS 100.005 to 100.627 or by the declaration or the bylaws
 29 of the particular condominium.

30 (9) "Condominium" means:

31 (a) With respect to property located within this state:

32 (A) The land, if any, whether fee simple, leasehold, easement or other interest or combination
 33 thereof, and whether contiguous or noncontiguous;

34 (B) Any buildings, improvements and structures on the property; and

35 (C) Any easements, rights and appurtenances belonging to the property submitted to the pro-
 36 visions of ORS 100.005 to 100.627; and

37 (b) With respect to property located outside this state, the property that has been committed to
 38 the condominium form of ownership in accordance with the jurisdiction within which the property
 39 is located.

40 (10) "Conversion condominium" means a condominium in which there is a building, improvement
 41 or structure that was occupied prior to any negotiation and that is:

42 (a) Residential in nature, at least in part; and

43 (b) Not wholly commercial or industrial, or commercial and industrial, in nature.

44 (11) "Declarant" means a person who records a declaration under ORS 100.100 or a supple-
 45 mental declaration under ORS 100.110.

1 (12) "Declaration" means the instrument described in ORS 100.100 by which the condominium
 2 is created and as modified by any amendment recorded in accordance with ORS 100.135 or supple-
 3 mental declaration recorded in accordance with ORS 100.120.

4 (13) "Developer" means a declarant or any person who purchases an interest in a condominium
 5 from declarant, successor declarant or subsequent developer for the primary purpose of resale.

6 (14) "Electric vehicle charging station" or "charging station" means a facility designed to de-
 7 liver electrical current for the purpose of charging one or more electric motor vehicles.

8 (15) "Flexible condominium" means a condominium containing property that may be reclassified
 9 or withdrawn from the condominium pursuant to ORS 100.150 (1).

10 (16) "General common elements," unless otherwise provided in a declaration, means all portions
 11 of the condominium that are not part of a unit or a limited common element, including but not
 12 limited to the following:

13 (a) The land, whether fee simple, leasehold, easement, other interest or combination thereof,
 14 together with any rights and appurtenances;

15 (b) The foundations, columns, girders, beams, supports, bearing and shear walls, windows, except
 16 glazing and screening, unit access doors, except glazing and screening, roofs, halls, corridors, lob-
 17 bies, stairs, fire escapes, entrances and exits of a building;

18 (c) The basements, yards, gardens, parking areas and outside storage spaces;

19 (d) Installations of central services such as power, light, gas, hot and cold water, heating, re-
 20 frigeration, air conditioning, waste disposal and incinerating;

21 (e) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus
 22 and installations existing for common use;

23 (f) The premises for the lodging of janitors or caretakers of the property; and

24 (g) All other elements of a building and the condominium necessary or convenient to their ex-
 25 istence, maintenance and safety, or normally in common use.

26 (17) "Leasehold" means the interest of a person, firm or corporation who is the lessee under a
 27 lease from the owner in fee and who files a declaration creating a condominium under ORS 100.100.

28 (18) "Limited common elements" means those common elements designated in the declaration,
 29 as reserved for the use of a certain unit or number of units, to the exclusion of the other units.

30 (19) "Majority" or "majority of unit owners" means more than 50 percent of the voting rights
 31 allocated to the units by the declaration.

32 (20) "Mortgagee" means any person who is:

33 (a) A mortgagee under a mortgage;

34 (b) A beneficiary under a trust deed; or

35 (c) The vendor under a land sale contract.

36 (21) "Negotiation" means any activity preliminary to the execution by either developer or pur-
 37 chaser of a unit sales agreement, including but not limited to advertising, solicitation and promotion
 38 of the sale of a unit.

39 (22) "Nonwithdrawable property" means property which pursuant to ORS 100.150 (1)(b):

40 (a) Is designated nonwithdrawable in the declaration and on the plat; and

41 (b) Which may not be withdrawn from the condominium without the consent of all of the unit
 42 owners.

43 (23) "Percent of owners" or "percentage of owners" means the percent of the voting rights de-
 44 termined under ORS 100.525.

45 (24) "Purchaser" means an actual or prospective purchaser of a condominium unit pursuant to

1 a sale.

2 (25) "Recording officer" means the county officer charged with the duty of filing and recording
 3 deeds and mortgages or any other instruments or documents affecting the title to real property.

4 (26) "Records of an association" or "records kept by or on behalf of an association"
 5 means information that is prepared, owned, used or retained by a member of the board of
 6 directors of an association of unit owners, or by a member of a committee formed by an
 7 association, in the course of exercising responsibilities to the condominium, including infor-
 8 mation:

9 (a) Provided to or by a member of the board, or to or by a member of a committee
 10 formed by the association, concerning matters of the association;

11 (b) Submitted to a member of the board, or to a member of a committee, considering the
 12 adoption of policies; and

13 (c) Documenting communications to or from a member of the board, or to or from a
 14 member of a committee, concerning policies or practices of the association.

15 [(26)] (27) "Reservation agreement" means an agreement relating to the future sale of a unit
 16 which is not binding on the purchaser and which grants purchaser the right to cancel the agreement
 17 without penalty and obtain a refund of any funds deposited at any time until purchaser executes a
 18 unit sales agreement.

19 [(27)] (28) "Sale" includes every disposition or transfer of a condominium unit, or an interest
 20 or estate therein, by a developer, including the offering of the property as a prize or gift when a
 21 monetary charge or consideration for whatever purpose is required by the developer. "Interest or
 22 estate" includes a lessee's interest in a unit for more than three years or less than three years if
 23 the interest may be renewed under the terms of the lease for a total period of more than three years.
 24 "Interest or estate" does not include any interest held for security purposes or a timeshare regu-
 25 lated or otherwise exempt under ORS 94.803 and 94.807 to 94.945.

26 [(28)] (29) "Special declarant right" means any right, in addition to the regular rights of the
 27 declarant as a unit owner, reserved for the benefit of or created by the declarant under the decla-
 28 ration, bylaws or the provisions of this chapter.

29 [(29)] (30) "Staged condominium" means a condominium which provides for annexation of addi-
 30 tional property pursuant to ORS 100.115 and 100.120.

31 [(30)] (31) "Successor declarant" means the transferee of any special declarant right.

32 [(31)] (32) "Termination date" means that date described in ORS 100.105 (2)(b) or (7)(d).

33 [(32)] (33) "Transitional committee" means the committee provided for under ORS 100.205.

34 [(33)] (34) "Turnover meeting" means the meeting provided for under ORS 100.210.

35 [(34)] (35) "Unit" or "condominium unit" means a part of the property which:

36 (a) Is described in ORS 100.020 (3);

37 (b) Is intended for any type of independent ownership; and

38 (c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

39 [(35)] (36) "Unit designation" means the number, letter or combination thereof designating a unit
 40 in the declaration and on the plat.

41 [(36)] (37) "Unit owner" means, except to the extent the declaration or bylaws provide other-
 42 wise, the person owning fee simple interest in a unit, the holder of a vendee's interest in a unit
 43 under a recorded installment contract of sale and, in the case of a leasehold condominium, the
 44 holder of the leasehold estate in a unit.

45 [(37)] (38) "Unit sales agreement" means a written offer or agreement for the sale of a condo-

1 minium unit which when fully executed will be binding on all parties. "Unit sales agreement" in-
 2 cludes but is not limited to an earnest money receipt and agreement to purchase and other such
 3 agreements which serve as an agreement of sale for a cash transaction or which are preliminary to
 4 the execution of an installment contract of sale, but does not include a reservation agreement.

5 [(38)] (39) "Variable property" means property described in ORS 100.150 (2) and designated as
 6 variable property in the declaration and on the plat.

7 [(39)] (40) "Voting rights" means the portion of the votes allocated to a unit by the declaration
 8 in accordance with ORS 100.105 (1)(j).

9 **SECTION 4.** 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 except proxies and ballots relating to an amendment to the declaration, supplemental declaration
 18 plat, supplemental plat or bylaws must be retained for one year from the date the amendment is
 19 recorded.

20 (2) The association of unit owners shall keep financial records sufficient for proper accounting
 21 purposes.

22 (3)(a) All assessments and other association funds shall be deposited and maintained in the name
 23 of the association in one or more separate federally insured accounts, including certificates of de-
 24 posit, at a financial institution, as defined in ORS 706.008, other than an extranational institution.
 25 Except as provided in paragraph (b) of this subsection, funds must be maintained in an association
 26 account until disbursed.

27 (b) Subject to any limitations imposed by the declaration or bylaws, association funds maintained
 28 in accounts established under this subsection may be used to purchase obligations issued by the
 29 United States government.

30 (c) All expenses of the association shall be paid from the association account.

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

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

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

35 (5) Subject to ORS 100.481, the association of unit owners of a condominium that has annual
 36 assessments exceeding \$75,000 shall cause the financial statement required under subsection (4) of
 37 this section to be reviewed within 180 days after the end of the fiscal year by an independent cer-
 38 tified public accountant licensed in the State of Oregon in accordance with the Statements on
 39 Standards for Accounting and Review Services issued by the American Institute of Certified Public
 40 Accountants.

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

45 (7) An association of unit owners subject to the requirements of subsection (5) of this section

1 may elect, on an annual basis, not to comply with the requirements of subsection (5) of this section
 2 by an affirmative vote of at least 60 percent of the owners, not including the votes of the declarant
 3 with respect to units owned by the declarant.

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

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

- 8 (i) Regular and special assessments;
- 9 (ii) Fines and other charges;
- 10 (iii) Accrued interest; and
- 11 (iv) Late payment charges.

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

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

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

18 *[(9)(a) Except as provided in paragraph (b) of this subsection, the documents, information and re-
 19 cords described in subsections (1) to (4) of this section and all other records of the association of unit
 20 owners must be reasonably available for examination and, upon written request, available for dupli-
 21 cation by a unit owner and any mortgagee of a unit that makes the request in good faith for a proper
 22 purpose.]*

23 **(9)(a) An association of unit owners, and the declarant during any period of declarant
 24 control, may not make information confidential or exempt from disclosure to unit owners
 25 that is not made confidential or exempt from disclosure by ORS chapter 100.**

26 **(b) Except as provided in paragraph (c) of this subsection, within 10 days after receiving
 27 a request for examination of records of the association, the association shall make the doc-
 28 uments, information and records described in subsections (1) to (3) of this section and any
 29 other records of the association reasonably available for examination and, upon written re-
 30 quest, including written requests by electronic mail, facsimile or other electronic communi-
 31 cations, available for duplication by a unit owner and any mortgagee of a unit that makes
 32 the request in good faith for a proper purpose.**

33 *[(b)]* (c) Records kept by or on behalf of the association may be withheld from examination and
 34 duplication to the extent the records concern:

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

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

38 (C) Communications with legal counsel that relate to matters specified in subparagraphs (A) and
 39 (B) of this paragraph and the rights and duties of the association regarding existing or potential
 40 litigation or criminal matters.

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

42 (E) Documents, correspondence or management or board reports compiled for or behalf of the
 43 association or the board of directors by its agents or committees for consideration by the board of
 44 directors in executive session held in accordance with ORS 100.420 (1) and (2).

45 (F) Documents, correspondence or other matters considered by the board of directors in execu-

1 tive session held in accordance with ORS 100.420 (1) and (2).

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

4 (10) The association of unit owners shall maintain a copy, suitable for the purpose of dupli-
5 cation, of the following:

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

8 (b) The most recent annual financial statement prepared in accordance with subsection (4) of
9 this section;

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

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

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

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

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

21 (13) Subsection (4) of this section first applies to property submitted to the provisions of this
22 chapter before January 1, 1982, when the board of directors of the association of unit owners re-
23 ceives a written request from at least one unit owner that a copy of the annual financial statement
24 be distributed in accordance with subsection (4) of this section.

25