

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO HOUSE BILL 2722

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 2

1 On page 1 of the printed bill, line 3, after “100.005” insert “and section 7, chapter ___, Oregon
2 Laws 2017 (Enrolled House Bill 3447); repealing sections 3, 4 and 6, chapter ___, Oregon Laws 2017
3 (Enrolled House Bill 3447)”.

4 On page 4, after line 42, insert:

5 **“SECTION 3a. If House Bill 3447 becomes law, sections 3 and 4, chapter ___, Oregon Laws
6 2017 (Enrolled House Bill 3447), are repealed.**

7 **“SECTION 3b.** If House Bill 3447 becomes law, section 3 of this 2017 Act is amended to read:

8 **“Sec. 3.** (1) A provision of a condominium’s governing document or landscaping or architectural
9 guidelines that imposes irrigation requirements on a unit owner or the association is void and
10 unenforceable while any of the following is in effect:

11 “(a) A declaration by the Governor that a severe, continuing drought exists or is likely to occur
12 in a political subdivision within which the condominium is located;

13 “(b) A finding by the Water Resources Commission that a severe, continuing drought exists or
14 is likely to occur in a political subdivision within which the condominium is located;

15 “(c) An ordinance adopted by the governing body of a political subdivision within which the
16 condominium is located that requires conservation or curtailment of water use; or

17 “(d) A rule adopted by the association under subsection (2) of this section to reduce or eliminate
18 irrigation water use.

19 “(2) Notwithstanding any provision of a condominium’s governing document or landscaping or
20 architectural guidelines imposing irrigation requirements on a unit owner or the association, an
21 association may adopt rules that:

22 “(a) Require the reduction or elimination of irrigation on any portion of the condominium.

23 “(b) Permit or require the replacement of turf or other landscape vegetation with xeriscape on
24 any portion of the condominium.

25 “(c) Require prior review and approval by the association or its designee of any plans by a unit
26 owner or the association to replace turf or other landscape vegetation with xeriscape.

27 “(d) Require the use of best practices and industry standards to reduce the landscaped areas and
28 minimize irrigation of existing landscaped general common elements where turf is necessary for the
29 function of the general common elements.

30 **“(3) Except as provided in subsections (4) and (5) of this section, the following provisions
31 of a condominium’s governing document are void and unenforceable:**

32 **“(a) A provision that prohibits or restricts the use of the unit owner’s condominium unit
33 or any limited common element designated for exclusive use by the occupants of the unit as
34 the premises of an exempt family child care provider participating in the subsidy program
35 under ORS 329A.500; or**

1 “(b) If the condominium unit does not share a wall, floor or ceiling surface in common
2 with another unit, a provision that prohibits or restricts the use of the unit owner’s condo-
3 minium unit or any limited common element designated for exclusive use by the occupants
4 of the unit as a certified or registered family child care home pursuant to ORS 329A.250 to
5 329A.450.

6 “(4) Subsection (3) of this section does not prohibit an association of unit owners from
7 adopting or enforcing a provision of the condominium’s governing document that regulates
8 parking, noise, odors, nuisance, use of common elements or activities that impact the cost
9 of insurance policies held by the condominium, provided the provision:

10 “(a) Is reasonable; and

11 “(b) Does not have the effect of prohibiting or restricting the use of a unit as the prem-
12 ises of an exempt family child care provider participating in the subsidy program under ORS
13 329A.500 or as a certified or registered family child care home pursuant to ORS 329A.250 to
14 329A.450.

15 “(5)(a) Subsection (3) of this section does not apply to condominiums that provide housing
16 for older persons.

17 “(b) As used in this subsection, ‘housing for older persons’ has the meaning given that
18 term in ORS 659A.421.”.

19 On page 10, after line 34, insert:

20 “**SECTION 7a.** If House Bill 3447 becomes law, section 6, chapter ___, Oregon Laws 2017
21 (Enrolled House Bill 3447) (amending ORS 94.630), is repealed.

22 “**SECTION 7b.** If House Bill 3447 becomes law, section 7 of this 2017 Act is amended to read:

23 “**Sec. 7.** (1) A provision of a planned community’s governing document or landscaping or archi-
24 tectural guidelines that imposes irrigation requirements on an owner or the association is void and
25 unenforceable while any of the following is in effect:

26 “(a) A declaration by the Governor that a severe, continuing drought exists or is likely to occur
27 in a political subdivision within which the planned community is located;

28 “(b) A finding by the Water Resources Commission that a severe, continuing drought exists or
29 is likely to occur in a political subdivision within which the planned community is located;

30 “(c) An ordinance adopted by the governing body of a political subdivision within which the
31 planned community is located that requires conservation or curtailment of water use; or

32 “(d) A rule adopted by the association under subsection (2) of this section to reduce or eliminate
33 irrigation water use.

34 “(2) Notwithstanding any provision of a planned community’s governing documents or land-
35 scaping or architectural guidelines imposing irrigation requirements on an owner or the association,
36 an association may adopt rules that:

37 “(a) Require the reduction or elimination of irrigation on any portion of the planned community.

38 “(b) Permit or require the replacement of turf or other landscape vegetation with xeriscape on
39 any portion of the planned community.

40 “(c) Require prior review and approval by the association or its designee of any plans by an
41 owner or the association to replace turf or other landscape vegetation with xeriscape.

42 “(d) Require the use of best practices and industry standards to reduce the landscaped areas and
43 minimize irrigation of existing landscaped areas of common property where turf is necessary for the
44 function of the landscaped area.

45 “**(3) Except as provided in subsections (4) and (5) of this section, the following provisions**

1 of a planned community's governing document are void and unenforceable:

2 “(a) A provision that prohibits or restricts the use of the owner’s unit or lot as the
3 premises of an exempt family child care provider participating in the subsidy program under
4 ORS 329A.500; or

5 “(b) If the unit does not share a wall, floor or ceiling surface in common with another
6 unit, a provision that prohibits or restricts the use of the owner’s unit or lot as a certified
7 or registered family child care home pursuant to ORS 329A.250 to 329A.450.

8 “(4) Subsection (3) of this section does not prohibit a homeowners association from
9 adopting or enforcing a provision of the planned community’s governing document that reg-
10 ulates parking, noise, odors, nuisance, use of common property or activities that impact the
11 cost of insurance policies held by the planned community, provided the provision:

12 “(a) Is reasonable; and

13 “(b) Does not have the effect of prohibiting or restricting the use of a unit or lot as the
14 premises of an exempt family child care provider participating in the subsidy program under
15 ORS 329A.500 or as a certified or registered family child care home pursuant to ORS 329A.250
16 to 329A.450.

17 “(5)(a) Subsection (3) of this section does not apply to planned communities that provide
18 housing for older persons.

19 “(b) As used in this subsection, ‘housing for older persons’ has the meaning given that
20 term in ORS 659A.421.

21 “SECTION 7c. The amendments to sections 3 and 7 of this 2017 Act by sections 3b and
22 7b of this 2017 Act become operative on January 1, 2018.

23 “SECTION 7d. If House Bill 3447 becomes law, section 7, chapter __, Oregon Laws 2017
24 (Enrolled House Bill 3447), is amended to read:

25 “**Sec. 7.** [*Section 4 of this 2017 Act and*] The amendments to ORS 93.270 [*and 94.630*] by [*sections*
26 *1 and 6 of this 2017 Act*] **section 1, chapter __, Oregon Laws 2017 (Enrolled House Bill 3447),**
27 **and the amendments to sections 3 and 7 of this 2017 Act by sections 3b and 7b of this 2017**
28 **Act** apply to:

29 “(1) Instruments conveying fee title to real property executed on or after [*the effective date of*
30 *this 2017 Act*] **January 1, 2018;** and

31 “(2) Provisions of governing documents and guidelines adopted on or after [*the effective date of*
32 *this 2017 Act*] **January 1, 2018.”.**