

HOUSE AMENDMENTS TO HOUSE BILL 3059

By COMMITTEE ON JUDICIARY

April 11

1 On page 1 of the printed bill, line 2, after “ORS” insert “94.623 and”.

2 On page 2, delete lines 18 and 19 and insert:

3 “**SECTION 2.** ORS 94.623 is amended to read:

4 “94.623. (1) Except as otherwise provided in subsections (2) and (3) of this section, a developer,
5 vendor under a land sale contract, mortgagee of a mortgage or beneficiary of a trust deed affecting
6 the declarant’s interest in the property shall acquire all special declarant rights of the transferor
7 upon transfer by the declarant or prior successor declarant of all of such transferor’s interest in a
8 planned community, unless:

9 “(a) The conveyance evidences an intent not to transfer any special declarant rights;

10 “(b) An instrument executed by the transferor and the transferee evidences an intent not to
11 transfer any special declarant rights and is recorded in the office of the recording officer of every
12 county in which the property is located; or

13 “(c) The transferee executes an instrument disclaiming any right to exercise any special
14 declarant rights and such instrument is recorded in the office of the recording officer of every
15 county in which the property is located.

16 “(2) A transferee under subsection (1) of this section shall acquire less than all special declarant
17 rights if:

18 “(a) The conveyance from the transferor or an instrument executed by the transferor and the
19 transferee evidences an intent to transfer less than all special declarant rights and states the spe-
20 cific rights being transferred, and such instrument is recorded in the office of the recording officer
21 of every county in which the property is located; or

22 “(b) The transferee executes an instrument disclaiming specific special declarant rights and the
23 instrument is recorded in the office of the recording officer of every county in which the property
24 is located.

25 “(3) When a transferee acquires all of the declarant’s interest in the planned community in
26 which the declarant has reserved the right to expand the planned community under ORS 94.580, the
27 transferee shall not acquire the right to annex property unless the transferee simultaneously ac-
28 quires from the declarant property adjacent to the planned community, or unless the conveyance
29 evidences an intent to transfer such right to the transferee.

30 “(4) A declarant or a successor declarant may transfer all or less than all of the transferor’s
31 special declarant rights to a transferee, whether or not any interest in real property is conveyed,
32 by an instrument executed by the declarant or successor declarant and the transferee evidencing
33 an intent to transfer all or specific special declarant rights, which instrument shall be recorded in
34 the office of the recording officer of every county in which the property is located. If the transfer
35 is not subject to subsection (1) of this section, it shall also bear the written consent of any holder

1 of a blanket encumbrance on the planned community.

2 “(5) An instrument disclaiming or transferring special declarant rights shall be properly ac-
3 knowledged as provided by law.

4 “(6)(a) Upon transfer of any special declarant right under this section, any interest held
5 by the transferor in the special declarant right is extinguished and the transferor has no
6 right of recovery.

7 “(b) A transferor may only recover a transferred special declarant right through exe-
8 cution by both the transferor and the successor declarant of a subsequent conveyance or
9 other instrument that evidences an intent to convey the special declarant right from the
10 successor declarant to the transferor.

11 “SECTION 3. The amendments to ORS 94.623 and 100.220 by sections 1 and 2 of this 2017
12 Act apply to special declarant rights transferred on or after the effective date of this 2017
13 Act.”.

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