

House Bill 3094

Sponsored by Representative VIAL (at the request of Legislative Action Committee of Community Associations Institute, Oregon Chapter, Condominium-HOA Working Group, HOA Working Group, Oregon Washington Community Association managers)

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**.

Establishes procedures for adoption of restated declaration, restated assignment of use of limited common element and restated bylaws.

Requires Real Estate Commissioner approval of amendments to bylaws and restated bylaws for first five years after recording bylaws of condominium.

Requires commissioner approval of restated declarations, limited residential condominium disclosure statements, nonresidential condominium documentation and amendments to declarations of condominiums. Establishes submission requirements and procedure for commissioner approval.

Eliminates requirement to provide paper copy of condominium documentation.

Requires amendment procedures contained in bylaws of condominium to be consistent with provisions of law in effect at time of recording.

A BILL FOR AN ACT

1
2 Relating to condominiums; creating new provisions; and amending ORS 100.005, 100.020, 100.110,
3 100.116, 100.117, 100.123, 100.130, 100.135, 100.405, 100.410, 100.415, 100.530, 100.600, 100.635,
4 100.640, 100.645, 100.655, 100.660, 100.665, 100.675 and 100.705.

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

6 **SECTION 1. Sections 2 to 6 of this 2017 Act are added to and made a part of ORS chapter**
7 **100.**

8 **SECTION 2. (1) The board of directors of an association of unit owners may adopt a re-**
9 **solution, without specific approval of unit owners, to cause a restated declaration to be pre-**
10 **pared and recorded pursuant to this section.**

11 **(2) A restated declaration prepared and recorded pursuant to subsection (1) of this sec-**
12 **tion must include:**

13 **(a) The words "Restated Declaration" in the title of the declaration.**

14 **(b) All previously adopted amendments that are recorded and in effect.**

15 **(c) A statement that the association has adopted a resolution in accordance with sub-**
16 **section (1) of this section and is causing the declaration to be restated and recorded pursuant**
17 **to this section.**

18 **(d) A reference to the recording index numbers and date of recording of the initial dec-**
19 **laration and of all previously recorded amendments that are in effect and are being codified.**

20 **(e) A certification by the chairperson or president of the association and by the secretary**
21 **of the association that:**

22 **(A) The restated declaration includes all previously adopted amendments that are re-**
23 **corded and in effect.**

24 **(B) No other changes were made to the declaration except, if applicable, to correct**
25 **scriveners' errors or to conform format and style.**

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 **(3) The board of directors of an association of unit owners may adopt a resolution,**
2 **without specific approval of unit owners, to cause a restated assignment of use of a limited**
3 **common element to be prepared and recorded pursuant to this section.**

4 **(4) A restated assignment of use of a limited common element prepared and recorded**
5 **pursuant to subsection (3) of this section:**

6 **(a) Must include the words “Restated Assignment of Use of Limited Common Element”**
7 **in the title of the declaration and the name of the condominium if the name is not part of**
8 **the title of the declaration.**

9 **(b) May include, in or following the title, the type of limited common element being as-**
10 **signed in the restatement.**

11 **(c) Must include an assignment of use of all limited common elements of the type as-**
12 **signed in the declaration, a supplemental declaration or an amendment to the declaration.**

13 **(d) Must include a reference to the recording index numbers and date of recording of the**
14 **initial declaration and of all supplemental declarations and amendments that are recorded**
15 **and in effect.**

16 **(e) State the unit to which the use of each limited common element is reserved.**

17 **(f) State an allocation, if any, of use of a limited common element assigned to more than**
18 **one unit.**

19 **(g) If the condominium is a flexible condominium or a staged condominium, identify the**
20 **location of each unit and limited common element assigned to the unit by state, supple-**
21 **mental declaration, applicable plat or other method.**

22 **(h) Must include a statement that the association has adopted a resolution in accordance**
23 **with subsection (3) of this section and is causing the restated assignment of use to be pre-**
24 **pared and recorded under this section.**

25 **(i) Must include a certification by the chairperson or president of the association and by**
26 **the secretary of the association that:**

27 **(A) The restated assignment of use includes all assignments of use of limited common**
28 **elements of the type assigned in the declaration, a supplemental declaration or an amend-**
29 **ment to the declaration or the supplemental declaration.**

30 **(B) All amendments were approved by the county assessor and tax collector if required**
31 **under ORS 100.110.**

32 **(C) No other changes were made to the restatement except, if applicable, to correct**
33 **scriveners’ errors or to conform format and style.**

34 **(5) In the preparation of a restated declaration or a restated assignment of use under**
35 **this section, the association may not make any changes to the declaration or the assignment**
36 **except as necessary to correct a scriveners’ error or to conform format and style.**

37 **(6) If the restated declaration or the restated assignment of use conflicts with the re-**
38 **corded and effective document by which the declaration or assignment of use was supple-**
39 **mented or amended, the document that supplemented or amended the declaration or**
40 **assignment of use controls.**

41 **(7) A restated declaration or a restated assignment of use prepared and recorded under**
42 **this section must be:**

43 **(a) Executed and acknowledged by the chairperson or president of the association and**
44 **by the secretary of the association;**

45 **(b) Approved by the Real Estate Commissioner, and by the county assessor and the tax**

1 collector under ORS 100.110 if the restated declaration includes any amendments required to
2 be approved by the county assessor and the tax collector under ORS 100.110 but not previ-
3 ously approved; and

4 (c) Recorded in the office of the recording officer of every county in which the condo-
5 minium is located.

6 (8) The association shall cause a copy of the recorded restated declaration or the restated
7 assignment of use to be filed with the commissioner with a reference to the recording index
8 numbers and date of recording.

9 **SECTION 3.** (1) The board of directors of an association of unit owners may adopt a re-
10 solution, without specific approval of the unit owners, to cause restated bylaws to be pre-
11 pared and recorded under this section.

12 (2) A restatement of bylaws prepared and recorded pursuant to subsection (1) of this
13 section must include:

14 (a) The words "Restated Bylaws" in the title of the bylaws;

15 (b) All previously adopted amendments that are recorded and in effect;

16 (c) A statement that the board has adopted a resolution in accordance with subsection
17 (1) of this section and is causing the bylaws to be restated and recorded pursuant to this
18 section;

19 (d) A reference to the recording index numbers and date of recording of the initial bylaws
20 and of all previously recorded amendments to the bylaws that are in effect and are being
21 codified; and

22 (e) A certification by the chairperson or president of the association and by the secretary
23 of the association that:

24 (A) The restated bylaws include all previously adopted amendments that are recorded and
25 in effect.

26 (B) Other changes were not made to the bylaws except, if applicable, to correct
27 scriveners' errors or to conform format and style.

28 (3) In the preparation of restated bylaws under this section, the board may not make any
29 changes to the bylaws except as necessary to correct a scriveners' error or to conform for-
30 mat and style.

31 (4) If the restated bylaws conflicts with the recorded and effective document by which
32 the bylaws were amended, the document that amended the bylaws controls.

33 (5) A restatement of bylaws prepared and recorded under this section must be:

34 (a) Executed and acknowledged by the chairperson or president of the association and
35 by the secretary of the association;

36 (b) Approved by the Real Estate Commissioner if required by section 5 of this 2017 Act;
37 and

38 (c) Recorded in the office of the recording officer of every county in which the condo-
39 minium is located.

40 **SECTION 4.** (1) A declarant that proposes to submit real property to the condominium
41 form of ownership under this chapter and does not intend to sell units in the condominium
42 for which the developer must file a disclosure statement under ORS 100.635 may request
43 approval of the declaration by:

44 (a) Filing a limited residential condominium disclosure statement described in subsection
45 (2) of this section with the Real Estate Commissioner; and

1 (b) Submitting the fee required by ORS 100.670.

2 (2) A limited residential condominium disclosure statement must include general infor-
3 mation, provided on a form prescribed and furnished by the commissioner, including:

4 (a) The name and address of the condominium and the county in which the condominium
5 is located.

6 (b) The name, address and telephone number of the declarant and any agent of the
7 declarant.

8 (c) The original and a copy of the adopted declaration and any supplemental declaration
9 of the condominium that complies with ORS 100.105 and 100.120, if applicable.

10 (d) The original and a copy of the adopted bylaws of the condominium that complies with
11 ORS 100.415.

12 (e) A copy of a preliminary title report, title insurance policy or condominium guarantee
13 that has been issued within the preceding 30 days, including a map showing the location of
14 property described in the report, policy or guarantee, or other evidence of title satisfactory
15 to the commissioner.

16 (f) Unless previously submitted to the commissioner, a copy of all restrictive covenants,
17 reservations and other encumbrances on the property not evidenced in the declaration or
18 bylaws.

19 (g) A statement from the county assessor that the name of the condominium is accept-
20 able under ORS 100.105.

21 (h) An affidavit of compliance, in a form prescribed and furnished by the commissioner
22 that requires the declarant to:

23 (A) Agree to comply with ORS 100.660, 100.705, 100.725 and 100.740 before the declarant
24 sells any unit in the condominium;

25 (B) Assert understanding that a sale in violation of ORS 100.660, 100.705, 100.725 or 100.740
26 is subject to civil penalties and sanctions under ORS 100.900 and 100.905 and criminal penal-
27 ties under ORS 100.990; and

28 (C) Assert understanding that a violation of ORS 100.705 is subject to ORS 646.605 to
29 646.656 in addition to any other sanctions provided by law.

30 (3) The declarant shall execute the affidavit described in subsection (2)(h) of this section
31 and cause the affidavit to be acknowledged in the manner provided for acknowledgement of
32 deeds.

33 (4) After review of the limited residential condominium disclosure statement filed under
34 this section, the commissioner may require the declarant to file additional documents and
35 information related to the limited residential condominium that the commissioner deems
36 necessary to review and approve the declaration under ORS 100.110.

37 **SECTION 5.** (1) For a period of five years after the recording of the bylaws of a condo-
38 minium, an amendment to the bylaws or restated bylaws must be approved by the Real Es-
39 tate Commissioner as provided in section 6 of this 2017 Act.

40 (2) An amendment or restated bylaws are void and unenforceable if:

41 (a) The amendment or restated bylaws are not approved by the commissioner; and

42 (b) Within one year of approval, the amendment or restated bylaws are not recorded in
43 the county in which the property is located.

44 (3) The commissioner shall approve:

45 (a) Amendments to the bylaws that comply with ORS 100.410 and 100.415.

1 (b) Restated bylaws that comply with section 3 of this 2017 Act.

2 (4) If the amendment or the restated bylaws approved by the commissioner under sub-
3 section (3) of this section are not recorded in each county where the property is located
4 within one year from the date of approval by the commissioner, the approval automatically
5 expires and the amendment or restated bylaws must be resubmitted for approval in accord-
6 ance with this section. The commissioner's approval shall state the date on which the ap-
7 proval expires.

8 (5) The bylaws of a condominium may require amendments and restated bylaws adopted
9 after the five-year period described in subsection (1) of this section to be approved by the
10 commissioner.

11 **SECTION 6.** (1) A submission of any document to the Real Estate Commissioner for ap-
12 proval under ORS 100.110, 100.135, 100.410 or section 2, 3, 4 or 5 of this 2017 Act or any other
13 provision of this chapter shall include:

14 (a) The original executed document and a copy of the executed document;

15 (b) Any form prescribed and furnished by the commissioner for submission of a specified
16 document;

17 (c) The fee required under ORS 100.670; and

18 (d) Any documents required for submission under subsections (2) to (5) of this section.

19 (2) For approval of a declaration, the following must be submitted:

20 (a) The original adopted bylaws of the condominium and a copy of the executed bylaws;

21 (b) A copy of the plat executed by the declarant and prepared in conformance with ORS
22 100.115 or plat amendment prepared in conformance with ORS 100.116 and a certification of
23 plat execution on a form prescribed and furnished by the commissioner;

24 (c) A copy of a preliminary title report, title insurance policy or condominium guarantee
25 that has been issued within the preceding 30 days, including a map showing the location of
26 property described in the report, policy or guarantee, or other evidence of title satisfactory
27 to the commissioner; and

28 (d) A copy of all restrictive covenants, reservations or other documents that may create
29 an encumbrance on or limit the use of the property other than those restrictions contained
30 in the declaration or bylaws.

31 (3) For approval of a supplemental declaration, any document described in subsection
32 (2)(b) to (d) of this section that was amended to reflect the effect of the supplemental de-
33 clarations must be submitted.

34 (4) For approval of an amendment to a declaration, restated declaration or plat, the fol-
35 lowing must be submitted:

36 (a) For amendments requiring consent or approval of a specific unit owner or mortgagee:

37 (A) Evidence of the required consent or approval; and

38 (B) Evidence of unit ownership or interest of the mortgagee; and

39 (b) Any document described in subsection (2)(b) to (d) of this section that was amended
40 to reflect the effect of the amendment.

41 (5) For approval of an amendment to the bylaws, if the amendment requires the consent
42 or approval of a specific unit owner or mortgagee, the following must be submitted:

43 (a) Evidence of the required consent or approval; and

44 (b) Evidence of unit ownership or interest of the mortgagee.

45 (6) After reviewing a submission under this section, the commissioner may require the

1 **filing of additional documents and information related to the submission that the commis-**
 2 **sioner deems necessary to review and approve the submission.**

3 **SECTION 7.** ORS 100.110 is amended to read:

4 100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be
 5 recorded, it must be approved as provided in this section by the county assessor of the county in
 6 which the property is located and the Real Estate Commissioner.

7 (b) Before a declaration, supplemental declaration or, if required under subsection (3) of this
 8 section, an amendment thereto may be recorded, it must be approved by the tax collector of the
 9 county in which the property is located.

10 (c) A declaration, supplemental declaration or amendment thereto may not be approved unless
 11 the requirements of subsections (2) to (7) of this section are met. Approval shall be evidenced by
 12 execution of the declaration or amendment or by a written approval attached thereto.

13 **(d) When the requirements of subsections (2) to (7) of this section are met, the commis-**
 14 **sioner, county assessor and tax collector, if applicable:**

15 **(A) Shall approve the declaration, supplemental declaration or amendment; and**

16 **(B) May not impose additional requirements not specified in subsections (2) to (7) of this**
 17 **section.**

18 (2) The county assessor of the county in which the property is located shall approve a declara-
 19 tion, supplemental declaration or amendment thereto if:

20 (a) The name complies with ORS 100.105 (5) and (6); and

21 (b) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with
 22 ORS 100.116.

23 (3) The tax collector of the county in which the property is located shall approve the declaration
 24 or supplemental declaration, or an amendment **to the declaration or supplemental declaration**
 25 **that adds property to the condominium, changes the boundary of a unit or creates an additional unit**
 26 **from all or parts of other units or from all or parts of other units and** common elements for
 27 which a plat amendment is required under ORS 100.116, if:

28 (a) All ad valorem taxes, special assessments, fees, or other charges required by law to be placed
 29 upon the tax roll *[which]* **for the affected units that** have or will become a lien upon the property
 30 during the tax year have been paid;

31 (b) Advance payment of ad valorem taxes, special assessments, fees or other charges *[which]* **for**
 32 **the affected units that** are not on the tax roll and for which payment is required under paragraph
 33 (a) of this subsection has been made to the tax collector utilizing the procedures contained in ORS
 34 92.095 and 311.370; and

35 (c) The additional taxes, penalty, and any interest attributable thereto, required because of dis-
 36 qualification of the *[property]* **affected units** from any special assessment have been paid.

37 (4) Subject to subsection (6) of this section, the commissioner shall approve the declaration or
 38 amendment thereto if:

39 (a) The declaration or the amendment thereto complies with the requirements of ORS 100.105
 40 and 100.135 **and other provisions of this chapter;**

41 (b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and
 42 100.415 **and other provisions of this chapter;**

43 (c) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with
 44 ORS 100.116 **and other provisions of this chapter;**

45 (d) The declaration is for a conversion condominium and the declarant has submitted:

1 (A) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and
 2 that the notice period has expired;

3 (B) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and
 4 copies of the written consent of any tenants as provided in ORS 100.305 (6) or a signed statement
 5 that no tenants were entitled to notice under ORS 100.305; or

6 (C) Any applicable combination of the requirements of subparagraphs (A) and (B) of this para-
 7 graph; and

8 (e) A [paper] copy of the plat executed by the declarant and prepared in conformance with ORS
 9 100.115 or plat amendment prepared in conformance with ORS 100.116 [and] **has been submitted;**

10 (f) A certification of plat execution, on a form prescribed and furnished by the commissioner,
 11 [have] **has been:**

12 **(A) Executed by the declarant, the professional land surveyor who signed the surveyor's**
 13 **certificate on the plat, the attorney for the declarant, a representative of the title insurance**
 14 **company that issued the information required under ORS 100.640 (1)(e) or 100.660 (3)(f) or**
 15 **another person authorized by the declarant in writing to execute the certification; and**

16 **(B) Submitted stating that the [paper] copy is a true copy of the plat signed by the declarant[.**
 17 *The certification may be executed by the declarant, the professional land surveyor who signed the*
 18 *surveyor's certificate on the plat, the attorney for the declarant, a representative of the title insurance*
 19 *company that issued the information required under ORS 100.640 (5) or 100.660 (2)(d) or another per-*
 20 *son authorized by the declarant in writing to execute the certification.]; and*

21 **(g) A copy of a reserve study has been submitted, if a disclosure statement was accepted**
 22 **under ORS 100.655 and the reserve study was not included pursuant to ORS 100.640 (1)(g).**

23 (5) The commissioner shall approve a supplemental declaration if:

24 (a) The supplemental declaration complies with the requirements of ORS 100.120 **and other**
 25 **provisions of this chapter;**

26 (b) The supplemental plat complies with the requirements of ORS 100.115;

27 (c) The supplemental declaration is for a conversion condominium and the declarant has com-
 28 plied with the requirements of subsection (4)(d) of this section; and

29 (d) A [paper] copy of the supplemental plat and a certification of plat execution described in
 30 subsection [(4)(e)] **(4)(f)** of this section have been submitted.

31 (6) Approval by the commissioner is not required for an amendment to a declaration transferring
 32 the right of use of a limited common element pursuant to ORS 100.515 (5).

33 (7) Before the commissioner approves the declaration, supplemental declaration or amendment
 34 thereto under this section:

35 (a) The declarant or other person requesting approval shall pay to the commissioner a fee de-
 36 termined by the commissioner under ORS 100.670; and

37 (b) For an amendment or supplemental declaration, the Condominium Information Report and
 38 the Annual Report described in ORS 100.260 shall be designated current by the Real Estate Agency
 39 as provided in ORS 100.255 and the fee required under ORS 100.670 shall be paid.

40 (8) If the declaration, supplemental declaration or amendment thereto approved by the commis-
 41 sioner under subsection (4) or (5) of this section is not recorded in accordance with ORS 100.115
 42 within one year from the date of approval by the commissioner, the approval automatically expires
 43 and the declaration, supplemental declaration or amendment thereto must be resubmitted for ap-
 44 proval in accordance with this section. The commissioner's approval shall set forth the date on
 45 which the approval expires.

SECTION 8. ORS 100.123 is amended to read:

100.123. (1) **As used in this section, “document” means a declaration, supplemental declaration or bylaws or an amendment thereto.**

[(1)] (2) A declarant may amend [*the declaration or bylaws*] **a document** in order to comply with requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, Rural Development or the Farm Service Agency of the United States Department of Agriculture, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a condominium or units in a condominium.

[(2)] (3) If [*the need to amend the declaration or the bylaws occurs*] **a need arises to amend a document** after turnover to the association of unit owners has occurred, the amendment must be approved by the association in accordance with the approval provisions of the declaration or bylaws and this chapter.

(4) An amendment adopted by the declarant under this section must include:

(a) A statement of the purpose of the amendment.

(b) A reference to the specific requirement of the entity specified in subsection (2) of this section with which the document does not comply.

(c) A reference to the recording index numbers and date of recording of the declaration, bylaws, plat, the document being amended and any other applicable supplemental declarations, supplemental plats or amendments to the documents.

(d) A statement that the amendment is adopted under this section.

(5) An amendment adopted under this section is not effective unless the amendment is:

(a) Approved by the Real Estate Commissioner under ORS 100.110 or section 6 of this 2017 Act, as applicable;

(b) Approved by the county tax assessor if required under ORS 100.110;

(c) Executed by the declarant and acknowledged in the manner provided for acknowledgement of deeds; and

(d) Recorded with the county recording officer in each county in which the condominium is located.

SECTION 9. ORS 100.130 is amended to read:

100.130. (1) Subject to any limitations contained in the declaration, the boundaries between adjoining units, including any intervening common elements, may be relocated or eliminated by an amendment to the declaration **under this section.**

(2)(a) The owners of the affected units shall submit to the board of directors of the association a proposed amendment [*which shall identify*] **that:**

(A) Includes a reference to the recording index numbers and date of recording of the declaration, bylaws, plat and any applicable amendments, supplemental declaration and supplemental plat;

(B) States that the amendment is adopted and recorded under this section;

(C) Identifies the units involved[, *state*];

(D) States any reallocations of common element interest, voting rights, common expense liability and right to common profits [*and contain*]; **and**

(E) Contains words of conveyance.

1 **(b) If the declaration provides that the method of determining any of the reallocation**
 2 **described in paragraph (a)(D) of this subsection is based on the area of the unit, the reallo-**
 3 **cation must be calculated according to the area of the affected units as originally stated in**
 4 **the declaration, notwithstanding any change in the total area of the affected units. The**
 5 **amendment may not change the allocations of any other units.**

6 (3) The board of directors shall approve the amendment unless it determines within 45 days that
 7 the reallocations are unreasonable or the relocation or elimination will impair the structural integ-
 8 rity or mechanical systems of the condominium or lessen the support of any portion of the condo-
 9 minium.

10 [(2)] (4) The board of directors of the association of unit owners may require the owners of the
 11 affected units to submit an opinion of a registered architect or registered professional engineer that
 12 the proposed relocation or elimination will not impair the structural integrity or mechanical systems
 13 of the condominium or lessen the support of any portion of the condominium.

14 [(3)] (5) The board of directors of the association or any agent appointed by the board of direc-
 15 tors may supervise the work necessary to effect the boundary relocation or elimination.

16 [(4)] (6) Any expenses incurred under subsections [(2)] (4) and [(3)] (5) of this section shall be
 17 charged to the owners of the units requesting the boundary relocation or elimination.

18 [(5) *The amendment shall be executed by the owners and mortgagees or trust deed beneficiaries of*
 19 *the affected units, certified by the chairperson and secretary of the association and approved and re-*
 20 *corded in accordance with ORS 100.135 (2)(b).]*

21 **(7) The amendment must be:**

22 **(a) Executed by the owners and approved by the mortgagees or trust deed beneficiaries**
 23 **of the affected units;**

24 **(b) Executed and certified by the chairperson or president of the association and by the**
 25 **secretary of the association as provided in ORS 100.135 (2);**

26 **(c) Approved by the Real Estate Commissioner, county tax collector and county tax**
 27 **assessor as required by ORS 100.110; and**

28 **(d) Recorded in the deed records of each county in which the condominium is located.**

29 [(6)] (8) An amendment to the plat and any floor plans necessary to show the altered boundaries
 30 between the adjoining units shall be recorded in accordance with ORS 100.116.

31 **SECTION 10.** ORS 100.135 is amended to read:

32 100.135. (1) Unless otherwise provided in the declaration, an amendment to the declaration may
 33 be proposed by a majority of the board of directors of the association of unit owners or by at least
 34 30 percent of the unit owners.

35 (2) Except as otherwise provided in ORS 100.005 to 100.627, an amendment of the declaration is
 36 not effective unless:

37 (a) The amendment is approved by the unit owners as provided in this section and the Real
 38 Estate Commissioner and county assessor according to ORS 100.110; and

39 (b) The amendment, certified by the chairperson [*and secretary*] **or president** of the association
 40 of unit owners **and by the secretary of the association** as being adopted in accordance with the
 41 declaration and the provisions of this section and acknowledged in the manner provided for ac-
 42 knowledgment of deeds, is recorded notwithstanding a provision in a declaration, including a decla-
 43 ration recorded before January 1, 2002, that requires amendments to be executed and acknowledged
 44 by all owners approving the amendment.

45 (3) Except as otherwise provided in ORS 100.105 or 100.130 or this section, the declaration may

1 be amended only with the approval of at least 75 percent of owners, or such greater percentage as
 2 may be required by the declaration.

3 (4) Unless the declaration requires a greater percentage:

4 (a) The declaration and plat may be amended to change a general common element to a limited
 5 common element or change the boundary of a limited common element with the approval of at least
 6 75 percent of owners and approval of the owners of all units to which the limited common element
 7 appertains.

8 (b) The declaration may be amended to change a limited common element, or portion thereof,
 9 to a general common element with the approval of the owners of all units to which the limited
 10 common element appertains and the board of directors.

11 (5)(a)(A) Except as otherwise provided in ORS 100.120, 100.130, 100.515, 100.600, 100.605 and
 12 100.625 and paragraph (b) of this subsection or other provisions of the Oregon Condominium Act,
 13 an amendment *[that changes the boundary of the property or a unit or creates an additional unit from*
 14 *common elements shall be approved by all unit owners.]* **must be approved by all unit owners if**
 15 **the amendment:**

16 (i) **Changes the boundary of the property submitted to the condominium form of owner-**
 17 **ship;**

18 (ii) **Changes the boundary of a unit; or**

19 (iii) **Creates an additional unit from common elements or part of one or more units or**
 20 **both.**

21 (B) *[The amendment]* **An amendment described in this paragraph** constitutes a conveyance
 22 and *[shall]* **must** include words of conveyance. *[and,]* If *[an additional unit is created from common*
 23 *elements, shall]* **the amendment creates an additional unit, the amendment must** state the name
 24 of the grantee and unit designation.

25 (C) If **the amendment creates** an additional unit *[is created]* from common elements, the asso-
 26 ciation *[shall]* **must** be named as the initial grantee of the additional unit. **Any subsequent**
 27 **conveyance of the additional unit shall be executed by the owner and mortgagees or trust**
 28 **deed beneficiaries of the additional unit, certified by the chairperson or president of the as-**
 29 **sociation and by the secretary of the association and approved and recorded in accordance**
 30 **with subsection (2)(b) of this section.**

31 *[(C) In addition to the certification required under subsection (2)(b) of this section, an amendment*
 32 *to the boundary of a unit shall also be executed by the owners of all affected units.]*

33 (D) **An amendment that changes the boundary of a unit must also be executed by the**
 34 **owners of all affected units and approved by the holder of a mortgage on the unit.**

35 (b) An amendment that adds property owned by the association to the condominium as a com-
 36 mon element constitutes a conveyance and shall:

37 (A) Be approved by at least 75 percent of owners;

38 (B) Contain words of conveyance;

39 (C) Be executed by the chairperson **or president of the association** and **by the** secretary of
 40 the association on behalf of the unit owners and be certified in accordance with subsection (2)(b)
 41 of this section; and

42 (D) Be accompanied by a plat amendment in accordance with ORS 100.116.

43 (c) **When the association is the owner of the fee title interest in real property underlying**
 44 **a leasehold condominium, the association may submit the fee title interest to the require-**
 45 **ments of this chapter by amending the declaration as described in paragraph (b) of this**

1 **subsection. A plat amendment described in paragraph (b)(D) of this subsection is not re-**
 2 **quired unless the amendment includes changes that are inconsistent with the surveyor's**
 3 **certificate or other information on the plat, a supplemental plat or a plat amendment.**

4 [(c)] (d) [Nothing in] Paragraph (b) of this subsection [is intended to] **does not** require property
 5 acquired or held by the association pursuant to ORS 100.405 (4)(i) to be added to the condominium.

6 (6) Except as otherwise provided in ORS 100.005 to 100.627, an amendment may not change the
 7 allocation of undivided interest in the common elements, the method of determining liability for
 8 common expenses, the method of determining the right to common profits or the method of deter-
 9 mining voting rights of any unit unless such amendment has been approved by the owners of the
 10 affected units.

11 (7) The declaration may not be amended to limit or diminish any right of a declarant reserved
 12 under ORS 100.105 (2) or (7) or any other special declarant right without the consent of the
 13 declarant. However, the declarant may waive the declarant's right of consent.

14 (8) Nothing in this section shall affect any other approval that may be required by the declara-
 15 tion, bylaws or other instrument.

16 (9) During a period of declarant control reserved under ORS 100.200, voting on an amendment
 17 under this section must be without regard to any weighted vote or other special voting allocation
 18 reserved by the declarant unless the declaration provides that the declarant has the right to exer-
 19 cise the voting rights with respect to specifically described amendments. Nothing in this subsection
 20 prohibits a declarant from reserving the right that declarant's consent is required for an amendment
 21 during a period of declarant control reserved in the declaration.

22 (10) An amendment to a declaration or a supplemental declaration shall be conclusively pre-
 23 sumed to have been regularly adopted in compliance with all applicable procedures relating to such
 24 amendment unless an action is brought within one year after the date such amendment was recorded
 25 or the face of the recorded amendment indicates that the amendment received the approval of fewer
 26 votes than are required for such approval. However, nothing in this subsection shall prevent the
 27 further amendment of an amended declaration or plat in accordance with ORS 100.005 to 100.627.

28 [(11)(a) *The board of directors, by resolution and without the further approval of the unit owners,*
 29 *may cause a restated declaration to be prepared and recorded to codify individual amendments that*
 30 *have been adopted in accordance with this section.*]

31 [(b) *A declaration restated under this subsection must:*]

32 [(A) *Include all previously adopted amendments that are in effect and may not include any other*
 33 *changes except to correct scriveners' errors or to conform format and style;*]

34 [(B) *Include a statement that the board of directors has adopted a resolution in accordance with*
 35 *paragraph (a) of this subsection and is causing the declaration to be restated and recorded under this*
 36 *subsection;*]

37 [(C) *Include a reference to the recording index numbers and date of recording of the initial decla-*
 38 *ration and all previously recorded amendments that are in effect and are being codified;*]

39 [(D) *Include a certification by the chairperson and secretary of the association that the restated*
 40 *declaration includes all previously adopted amendments that are in effect, that amendments were ap-*
 41 *proved by the county assessor and tax collector if required under ORS 100.110 and that no other*
 42 *changes were made except, if applicable, to correct scriveners' errors or to conform format and style;*]

43 [(E) *Be executed and acknowledged by the chairperson and secretary of the association and re-*
 44 *corded in the deed records of each county in which the condominium is located; and]*

45 [(F) *Be approved by the commissioner, and by the county assessor and the tax collector under ORS*

1 100.110 if the restated declaration includes any amendments required to be approved by the county
 2 assessor and the tax collector under ORS 100.110 but not previously approved.]

3 [(c) The board of directors shall cause a copy of the recorded restated declaration, including the
 4 recording information, to be filed with the commissioner.]

5 **SECTION 11.** ORS 100.410 is amended to read:

6 100.410. (1) The declarant shall adopt **and execute** on behalf of the association of unit owners
 7 the initial bylaws that govern the administration of the condominium. The bylaws shall be recorded
 8 simultaneously with the declaration as an exhibit or as a separate instrument.

9 **(2) Provisions of the bylaws that regulate amendments to the bylaws must be consistent**
 10 **with the provisions of this chapter in effect on the date the bylaws are recorded.**

11 **(3) Provisions meeting the requirements of subsection (2) of this section:**

12 **(a) Shall control the amendment process; and**

13 **(b) May be used to amend provisions of the bylaws related to the amendment process as**
 14 **needed to be in compliance with the provisions of this chapter in effect on the date the**
 15 **amendment becomes effective.**

16 [(2)] **(4)** Unless otherwise provided in the declaration or bylaws, amendments to the bylaws may
 17 be proposed by a majority of the board of directors or by at least 30 percent of the owners.

18 [(3)] **(5)** [Subject to subsections (4) and (5) of this section and ORS 100.415 (1)(t),] An amendment
 19 of the bylaws is not effective unless the amendment is:

20 [(a) Approved by at least a majority of the unit owners; and]

21 [(b) Certified by the chairperson and secretary of the association of unit owners as being adopted
 22 in accordance with the bylaws and the provisions of this section, acknowledged in the manner provided
 23 for acknowledgment of instruments and recorded.]

24 **(a) In compliance with subsections (5), (6) and (7) of this section and ORS 100.415 (1)(t);**

25 **(b) Approved by at least a majority of the unit owners;**

26 **(c) Executed and certified by the chairperson or president of the association of unit**
 27 **owners and by the secretary of the association as being adopted in accordance with the by-**
 28 **laws and the provisions of this section and acknowledged in the manner provided for ac-**
 29 **knowledgment of instruments;**

30 **(d) Approved by the Real Estate Commissioner if required under section 5 of this 2017**
 31 **Act; and**

32 **(e) Recorded in the office of the recording officer of each county in which the condo-**
 33 **minium is located.**

34 **(6) In condominiums that contain residential units, an amendment to the bylaws relating**
 35 **to subsection (7)(a) of this section is not effective unless the amendment is approved by the**
 36 **greater of:**

37 **(a) The number of persons who are entitled to cast the percentage of votes in the con-**
 38 **dominium specified in the bylaws for amendments; or**

39 **(b) Seventy-five percent of the owners of units affected by the amendment.**

40 [(4)] **(7)** In condominiums that are exclusively residential:

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

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

1 bylaws.

2 [(5)] (8) The bylaws may not be amended to limit or diminish any special declarant right without
3 the consent of the declarant. However, the declarant may waive the declarant's right of consent.

4 [(6)(a) *For five years after the recording of the initial bylaws, before any amended bylaw may be*
5 *recorded, the amended bylaw must be approved by the Real Estate Commissioner. The commissioner*
6 *shall approve such amendment if the requirements of ORS 100.415 and this section have been*
7 *satisfied.*]

8 [(b) *The approval by the commissioner under paragraph (a) of this subsection is not required for*
9 *bylaws restated under subsection (10) of this section unless the bylaws are restated during the five-year*
10 *period after the recording of the initial bylaws.*]

11 [(c) *If the amended bylaw approved by the commissioner under this subsection is not recorded as*
12 *required in subsection (3) of this section within one year from the date of approval by the commissioner,*
13 *the approval automatically expires and the amended bylaw must be resubmitted for approval as pro-*
14 *vided in this section. The commissioner's approval shall set forth the date on which the approval ex-*
15 *pires.*]

16 [(7) *Before the commissioner approves amended bylaws or restated bylaws under this section, the*
17 *person submitting the amended bylaws or restated bylaws shall pay to the commissioner the fee pro-*
18 *vided by ORS 100.670.*]

19 [(8)] (9) Notwithstanding a provision in the bylaws, including bylaws adopted prior to July 14,
20 2003, that requires an amendment to be executed, or executed and acknowledged, by all owners ap-
21 proving the amendment, amendments to the bylaws under this section become effective after ap-
22 proval by the owners **pursuant to this section if the amendment is:**

23 (a) Executed and certified on behalf of the association by the chairperson and secretary in ac-
24 cordance with subsection [(3)(b)] (4)(c) of this section[.];

25 (b) **Approved by the commissioner if required under section 5 of this 2017 Act; and**

26 (c) **Recorded in the office of the recording office of each county in which the condomin-**
27 **ium is located.**

28 [(9)] (10) An amendment to the bylaws [*must be*] **is** conclusively presumed to have been regularly
29 adopted in compliance with all applicable procedures relating to the amendment unless **the**
30 **presumption is effectively rebutted in** an action [*is*] brought within one year after the effective
31 date of the amendment or the face of the amendment indicates that the amendment received the
32 approval of fewer votes than required for the approval. Nothing in this subsection prevents the
33 further amendment of an amended bylaw.

34 [(10)(a) *The board of directors, by resolution and without the further approval of unit owners, may*
35 *cause restated bylaws to be prepared and recorded to codify individual amendments that have been*
36 *adopted in accordance with this section.*]

37 [(b) *Bylaws restated under this subsection must:*]

38 [(A) *Include all previously adopted amendments that are in effect, state that the amendments were*
39 *approved by the commissioner as required under this section and state that no other changes were*
40 *made except, if applicable, to correct scribes' errors or to conform format and style;*]

41 [(B) *Include a statement that the board of directors has adopted a resolution in accordance with*
42 *paragraph (a) of this subsection and is causing the bylaws to be restated and recorded under this*
43 *subsection;*]

44 [(C) *Include a reference to the recording index numbers and date of recording of the initial bylaws*
45 *and all previously recorded amendments that are in effect and are being codified;*]

1 *[(D) Include a certification by the chairperson and secretary of the association that the restated*
 2 *bylaws include all previously adopted amendments that are in effect, that amendments were approved*
 3 *by the commissioner if required under this section and that no other changes were made except, if ap-*
 4 *plicable, to correct scriveners' errors or to conform format and style;]*

5 *[(E) Be executed and acknowledged by the chairperson and secretary of the association and re-*
 6 *corded in the deed records of each county in which the condominium is located; and]*

7 *[(F) If required under subsection (6) of this section, be approved by the commissioner.]*

8 *[(c) The board of directors shall cause a copy of the recorded restated bylaws, including the re-*
 9 *recording information, to be filed with the commissioner.]*

10 **SECTION 12.** ORS 100.640 is amended to read:

11 100.640. **(1)** The following documents and information shall be submitted to the Real Estate
 12 Commissioner as part of the filing required under ORS 100.635:

13 *[(1) (a) A copy of the proposed or recorded declaration or supplemental declaration of condo-*
 14 *minium ownership drawn in conformance with ORS 100.105 or 100.120, or the law applicable in the*
 15 *state where the condominium was created[;].*

16 *[(2) (b) A copy of the proposed or recorded bylaws drawn in conformance with ORS 100.415 or*
 17 *the law applicable in the state where the condominium was created[;].*

18 *[(3) (c)(A) A copy of the full size plat prepared in conformance with ORS 100.115 (1) or the law*
 19 *applicable in the state where the condominium was created, or a copy of the site plan; or*

20 **(B) If the full size plat described in subparagraph (A) of this paragraph is not prepared**
 21 **at the time of submission, a copy of the proposed unit designs.**

22 *[(4) (d) A statement from the county assessor or county surveyor that the name for the condo-*
 23 *minium is acceptable under ORS 100.105 [(6);].*

24 *[(5) (e) A copy of a preliminary title report, title insurance policy or condominium guarantee*
 25 *that has been issued within the preceding 30 days, including a map showing the location of property*
 26 *described in the report, policy or guarantee or other evidence of title satisfactory to the*
 27 *commissioner[;].*

28 *[(6) (f) A copy of all restrictive covenants, reservations or other documents that may create an*
 29 *encumbrance on or limit the use of the property other than those restrictions contained in the*
 30 *declaration or bylaws[;].*

31 *[(7) (g) **Subject to subsection (2) of this section,** a copy of the reserve study required by ORS*
 32 *100.175 and other sources of information that serve as a basis for calculating reserves in accordance*
 33 *with ORS 100.175, unless the information is contained in the disclosure statement[;].*

34 *[(8) The following sample forms:]*

35 *[(a) (h) **A sample form of a** unit sales agreement, including the notice to purchaser of can-*
 36 *cellation rights in accordance with ORS 100.730 and 100.740, the statement required by ORS 93.040*
 37 *(2) and any warranty required under ORS 100.185[; and].*

38 *[(b) (i) **A sample form of** a receipt for documents required under ORS 100.725[;].*

39 *[(9) (j) If required by ORS 100.680:*

40 *[(a) (A) A copy of the escrow agreement drawn in conformance with ORS 100.680 and executed*
 41 *by both the declarant and the escrow agent. If individual escrow agreements or instructions are to*
 42 *be executed by the purchaser, other than the standard escrow instruction required by the escrow*
 43 *agent, submit sample form and a letter from the escrow agent, agreeing to the establishment of the*
 44 *escrows and the procedure set forth in the sample form; and*

45 *[(b) (B) A unit sales agreement drawn in conformance with ORS 100.680[;].*

1 [(10)] (k) If any of the sales will be by means of an installment contract of sale:

2 [(a)] (A) A copy of the escrow agreement or escrow instructions executed by the developer and
 3 the escrow agent providing for the establishment of collection escrows and the deposit of documents
 4 in accordance with ORS 100.720; and

5 [(b)] (B) The proposed installment contract of sale form, if available[;].

6 [(11)] (L) Any other documents by which the purchasers will be bound[;].

7 [(12)] (m) Any report or disclosure statement issued for the condominium, by the federal gov-
 8 ernment and any other state[; and].

9 [(13)] (n) A statement of any additional facts or information which the developer desires to
 10 submit to the commissioner.

11 **(2) When a disclosure statement is required under ORS 100.635:**

12 **(a) The statement must be reviewed and approved by the commissioner before real**
 13 **property may be submitted to the condominium form of ownership under this chapter; and**

14 **(b) A reserve study otherwise required by ORS 100.175 is not required if the disclosure**
 15 **statement includes the information specified under ORS 100.655 (1)(g)(C).**

16 **SECTION 13.** ORS 100.645 is amended to read:

17 100.645. (1) The information required by ORS 100.635 shall be kept current by the developer.
 18 Any material change in the information furnished to the Real Estate Commissioner shall be reported
 19 by the developer within 10 days after the change occurs. The report *[shall be]* **must:**

20 **(a) Be on a form prescribed and furnished by the commissioner for submission of speci-**
 21 **fied information.**

22 **(b) Include a revised disclosure statement to reflect any changes to the disclosure**
 23 **statement described in ORS 100.655.**

24 **(c) Be** accompanied by a filing fee as required by ORS 100.670.

25 (2) A developer *[shall be]* **is** responsible for the accuracy of and for providing all information
 26 required by ORS 100.635 and any information required under this section for as long as the devel-
 27 oper retains any unsold interest in the condominium to which the information pertains.

28 **(3) After review of the report submitted under this section, the commissioner may:**

29 **(a) Require the developer to submit any other documents and information relating to the**
 30 **report the commissioner considers necessary in order to determine the report complies with**
 31 **this chapter.**

32 **(b) Issue a revised disclosure statement.**

33 **SECTION 14.** ORS 100.660 is amended to read:

34 100.660. *[A developer of a condominium located in this state, that consists exclusively of units to*
 35 *be used for nonresidential purposes or that consists of units to be offered for sale as a security under*
 36 *ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, shall submit to the Real Estate Commis-*
 37 *sioner a filing that consists of:]*

38 **(1) As used in this section, “nonresidential condominium” means a condominium in which**
 39 **all units are available exclusively for nonresidential uses or all units are to be offered for sale**
 40 **as security under ORS 59.005 to 59.451, 59.991 and 59.995.**

41 **(2) A declarant that proposes to submit real property to the condominium form of own-**
 42 **ership under this chapter as a nonresidential condominium shall file with the Real Estate**
 43 **Commissioner nonresidential condominium documentation described in subsection (3) of this**
 44 **section and the fee required by ORS 100.670.**

45 [(1)] **(3) The nonresidential condominium documentation must include** general information

1 on the condominium, **provided on a form prescribed and furnished by the commissioner**, in-
 2 cluding:

3 (a) The name and address of the condominium and the county in which the condominium is lo-
 4 cated; *[and]*

5 (b) The name, address and telephone number of the *[developer]* **declarant** and any agent of the
 6 *[developer; and]* **declarant;**

7 *[(2) The following documentation:]*

8 *[(a)]* (c) The original executed declaration *[or supplemental declaration]* and a copy *[thereof,*
 9 *drawn in conformance]* **that complies** with ORS 100.105 and 100.120, if applicable;

10 *[(b)]* (d) The original executed bylaws*[,]* and a copy *[thereof, drawn in conformance]* **that com-**
 11 **plies** with ORS 100.415;

12 *[(c)]* (e) A copy of the full size plat prepared in conformance with ORS 100.115 **and accompa-**
 13 **nied by a certificate of plat execution as required under ORS 100.110;**

14 *[(d)]* (f) A copy of a current preliminary title report or title insurance policy or condominium
 15 guarantee that has been issued within the preceding 30 days, including a map showing the location
 16 of property *[described therein,]* **that conforms to the description in the surveyor's certificate**
 17 **on the plat** or other evidence of title satisfactory to the commissioner;

18 *[(e)]* (g) A copy of all restrictive covenants, reservations or other documents containing pro-
 19 visions that may create an encumbrance on or limit the use of the property other than those re-
 20 strictions contained in the declaration, supplemental declaration or bylaws; and

21 *[(f)]* (h) A statement from the county assessor that the name for the condominium is acceptable
 22 under ORS 100.105 *[(5)].*

23 **(4) After review of the nonresidential condominium documentation filed under this sec-**
 24 **tion, the commissioner may require the declarant to file additional documents and informa-**
 25 **tion related to the nonresidential condominium documentation that the commissioner deems**
 26 **necessary to review and approve the documentation.**

27 **SECTION 15.** ORS 100.665 is amended to read:

28 100.665. *[A vendor under a land sale contract, a mortgagee of a mortgage or a beneficiary of a*
 29 *trust deed who becomes a developer by reason of acquiring a unit or units in a condominium through*
 30 *foreclosure of its lien or acceptance of a deed in lieu thereof, is not required to submit a filing to the*
 31 *Real Estate Commissioner under ORS 100.635, or to distribute a disclosure statement under ORS*
 32 *100.705 or provide the notice to purchaser required under ORS 100.740 if the vendor, mortgagee or*
 33 *beneficiary sells, in a single sale, all of the units so acquired to a developer who agrees to comply with*
 34 *the provisions of ORS 100.635 and 100.705 before negotiating a sale of the unit or units to others.]* (1)

35 **If a mortgagee acquires a unit in a condominium from the developer through foreclosure of**
 36 **a lien, by other judicial procedure or by acceptance of a deed in lieu of foreclosure, the**
 37 **mortgagee may sell the unit to another developer without:**

38 (a) **Filing a disclosure statement with the Real Estate Commissioner pursuant to ORS**
 39 **100.635;**

40 (b) **Distributing the disclosure statement pursuant to ORS 100.705; or**

41 (c) **Providing notice to a purchaser pursuant to ORS 100.740.**

42 **(2) A declarant may sell a unit to a developer without performing the acts listed in sub-**
 43 **section (1)(a) to (c) of this section.**

44 **SECTION 16.** ORS 100.675 is amended to read:

45 100.675. *[(1)(a) Upon receipt of an informational filing, submitted as required under ORS 100.005*

1 to 100.910 and the prescribed filing fee, within five working days after receipt of the filing the Real
 2 Estate Commissioner shall inventory the filing and acknowledge whether the filing contains all required
 3 documents and information. If the filing contains all required documents and information, the com-
 4 missioner shall issue a notice acknowledging their receipt.]

5 [(b) If the filing under paragraph (a) of this subsection does not contain the required documents
 6 and information, the commissioner shall issue a notice of receipt of a partial filing, a statement item-
 7 izing the required documents and information that must be submitted, and a statement that the filing
 8 will not be acknowledged as containing all required documents and information until the itemized
 9 documents and information have been received and inventoried by the commissioner.]

10 [(c) Within 45 days from the date that the filing has been inventoried and acknowledged as con-
 11 taining all the required documents and information, the commissioner shall review the filing to deter-
 12 mine whether the documents and information submitted conform to the statutory requirements of ORS
 13 100.005 to 100.910 and, upon determination of their conformity shall adopt and issue the disclosure
 14 statement filed under ORS 100.655.]

15 [(2) For any document filed with the commissioner that requires the commissioner's approval under
 16 ORS 100.005 to 100.910, the commissioner shall issue a notice of receipt for the filing within five days
 17 following receipt by the commissioner of the document. The document shall be considered approved by
 18 the commissioner on the expiration of 45 days following issuance by the commissioner of the notice of
 19 receipt, unless within the 45-day period:]

20 [(a) The commissioner notifies the person making the filing in writing of the portions of the docu-
 21 ment that do not comply with the applicable requirements of ORS 100.005 to 100.910; or]

22 [(b) The commissioner notifies the person making the filing in writing that the document complies
 23 with the applicable requirements of ORS 100.005 to 100.910 and is approved.]

24 **(1) Within five working days after receipt of the prescribed filing fee under ORS 100.670**
 25 **and information filed under ORS 100.635, nonresidential condominium documentation filed**
 26 **under ORS 100.660, commissioner approval documentation filed under section 6 of this 2017**
 27 **Act or a limited residential condominium disclosure statement filed under section 4 of this**
 28 **2017 Act, the Real Estate Commissioner shall inventory the filing to determine whether the**
 29 **filing includes all required information and documentation and designate the filing as:**

30 **(a) Complete, if the commissioner determines that all required information and docu-**
 31 **mentation is included; or**

32 **(b) Partially complete, if the commissioner determines that all required information and**
 33 **documentation is not included.**

34 **(2) If the commissioner designates the filing as complete under subsection (1)(a) of this**
 35 **section, the commissioner shall issue a notice of complete filing to the declarant.**

36 **(3) If the commissioner designates the filing as partially complete under subsection (1)(b)**
 37 **of this section, the commissioner shall issue to the declarant a notice of partial filing that:**

38 **(a) Itemizes the information and documentation that must be filed; and**

39 **(b) States that the filing will not be designated as complete until the commissioner re-**
 40 **ceives the information and documentation itemized under paragraph (a) of this subsection.**

41 **(4) Within 45 days after the commissioner designates a filing received under ORS 100.635**
 42 **as complete under subsection (1)(a) of this section, the commissioner shall review the filing**
 43 **and:**

44 **(a) Notify the declarant if any information or documentation in the filing does not meet**
 45 **the applicable requirements or if any additional information or documentation is necessary**

1 to renew and approve the disclosure statement described under ORS 100.655; or

2 (b) Upon a determination that the filing complies with this chapter, review and approve
3 the disclosure statement described under ORS 100.655.

4 (5) Within 45 days after the commissioner designates a filing received under ORS 100.660
5 or section 4 or 6 of this 2017 Act as complete under subsection (1)(a) of this section, the
6 commissioner shall review the filing and:

7 (a) Notify the person making the filing in writing if any part of the filing, or other re-
8 quired document submitted related to the filing, does not comply with the applicable re-
9 quirements of this chapter or if any additional information or documents are necessary to
10 approve the document under ORS 100.110, 100.410 or 100.660 or section 4 or 6 of this 2017 Act;
11 or

12 (b) Upon determining that the filing complies with this chapter, approve the document
13 and notify the person making the filing in writing that the filing is approved.

14 (6) If the commissioner does not comply with subsection (4) or (5) of this section within
15 45 days after the date the filing is designated a complete filing, the filing is deemed approved.

16 **SECTION 17.** ORS 100.005 is amended to read:

17 100.005. As used in this chapter, unless the context requires otherwise:

18 (1) "Assessment" means any charge imposed or levied by the association of unit owners on or
19 against a unit owner or unit pursuant to provisions of the declaration or the bylaws of the con-
20 dminium or provisions of [ORS 100.005 to 100.910] **this chapter**.

21 (2) "Association of unit owners" or "**association**" means the association provided for under
22 ORS 100.405.

23 (3) "Association property" means any real property or interest in real property acquired, held
24 or possessed by the association **as provided for** under ORS 100.405.

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

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

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

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

34 (8) "Common expenses" means:

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

36 [(b) Expenses agreed upon as common by all the unit owners;] and

37 [(c)] (b) Expenses declared common by ORS 100.005 to 100.627 or by the declaration or the by-
38 laws of the particular condominium.

39 (9) "Condominium" means:

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

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

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

44 (C) Any easements, rights and appurtenances belonging to the property submitted to the [*pro-*
45 *visions of ORS 100.005 to 100.627*] **condominium form of ownership under this chapter**; and

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

4 (10) "Conversion condominium" means [*a condominium in*] **real property on** which there is a
 5 building, improvement or structure that was occupied prior to any negotiation **that is submitted**
 6 **to the condominium form of ownership under this chapter** and that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (a) A mortgagee under a mortgage;

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

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

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

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

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

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

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

11 (24) "Purchaser" means an actual or prospective purchaser of a condominium unit pursuant to
 12 a sale.

13 **(25) "Recorded" means caused to be recorded by the recording officer of each county in**
 14 **which the condominium is located.**

15 [(25)] (26) "Recording officer" means the county officer charged with the duty of filing and re-
 16 cording deeds and mortgages or any other instruments or documents affecting the title to real
 17 property.

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

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

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

32 [(29)] (30) "Staged condominium" means a condominium which provides for annexation of addi-
 33 tional property pursuant to ORS 100.115 and 100.120.

34 [(30)] (31) "Successor declarant" means the transferee of any special declarant right.

35 [(31)] (32) "Termination date" means that date described in ORS 100.105 (2)(b) or (7)(d).

36 [(32)] (33) "Transitional committee" means the committee provided for under ORS 100.205.

37 [(33)] (34) "Turnover meeting" means the meeting provided for under ORS 100.210.

38 [(34)] (35) "Unit" or "condominium unit" means a part of the property which:

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

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

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

42 [(35)] (36) "Unit designation" means the number, letter or combination thereof designating a unit
 43 in the declaration and on the plat.

44 [(36)] (37) "Unit owner" means, except to the extent the declaration or bylaws provide other-
 45 wise, the person owning fee simple interest in a unit, the holder of a vendee's interest in a unit

1 under a recorded installment contract of sale and, in the case of a leasehold condominium, the
 2 holder of the leasehold estate in a unit.

3 [(37)] (38) "Unit sales agreement" means a written offer or agreement for the sale of a condo-
 4 minium unit which when fully executed will be binding on all parties. "Unit sales agreement" in-
 5 cludes but is not limited to an earnest money receipt and agreement to purchase and other such
 6 agreements which serve as an agreement of sale for a cash transaction or which are preliminary to
 7 the execution of an installment contract of sale, but does not include a reservation agreement.

8 [(38)] (39) "Variable property" means property described in ORS 100.150 (2) and designated as
 9 variable property in the declaration and on the plat.

10 [(39)] (40) "Voting rights" means the portion of the votes allocated to a unit by the declaration
 11 in accordance with ORS 100.105 (1)(j).

12 **SECTION 18.** ORS 100.020 is amended to read:

13 100.020. (1) Except as otherwise provided in subsections (2) and (3) of this section, ORS 100.100
 14 to 100.625 apply only to property located within this state which a person elects to submit to the
 15 condominium form of ownership as provided in ORS 100.005 to 100.627.

16 (2) Unless the declarant elects otherwise, ORS 100.175, 100.185, 100.200 (2), 100.205, 100.210,
 17 100.300, 100.305, 100.310, 100.315 and 100.320 apply only to condominiums that include units to be
 18 used for residential purposes.

19 (3) Property may not be submitted to the condominium form of ownership under ORS 100.005 to
 20 100.627 unless:

21 (a) Each unit has legal access to a public street or highway or, if the unit has such access only
 22 by virtue of common ownership with other units, the declaration executed under ORS 100.110 pro-
 23 hibits conveyance of the unit unless after conveyance the unit will continue to have legal access to
 24 a public street or highway;

25 (b) Subject to paragraph (c) of this subsection, each unit consists of:

26 (A) A building or part of a building;

27 (B) A space used for the parking or storage of automobiles, trucks, boats, campers or other ve-
 28 hicles or equipment;

29 (C) A space for the moorage of a watercraft, floating home or other structure; or

30 (D) A floating structure, including a structure formerly used as a ship or other vessel that:

31 (i) Is permanently moored to structures in a river, lake or other waterway pursuant to a long-
 32 term lease with a remaining term at the time the declaration and plat are recorded of not less than
 33 15 years;

34 (ii) Contains two or more residential units with a combined floor space of not less than 2,000
 35 square feet; and

36 (iii) Has upland common elements owned in fee or by leasehold having a remaining term of not
 37 less than the remaining term of the leasehold on the submerged or submersible land. The units in
 38 a condominium described in this subparagraph shall be considered real property for purposes of the
 39 Oregon Condominium Act; and

40 (c) Each unit has an interest in the common elements in accordance with ORS 100.515. However,
 41 a unit may not include any portion of the land. A declaration may not provide that there are no
 42 common elements.

43 (4)(a) Except as otherwise provided in subsection (5) of this section, ORS 100.015 and 100.635 to
 44 100.910 apply to condominiums having units to be used for residential purposes which are not offered
 45 for sale as a security pursuant to ORS 59.005 to 59.451.

1 (b) ORS 100.635 (2), 100.640 [(8) to (12)] **(1)(h) to (1)(m)**, 100.655, 100.705, 100.720, 100.725,
 2 100.730, 100.735, 100.740 and 100.745 do not apply to the sale of units to be used for nonresidential
 3 purposes as provided in subsection (5) of this section unless the units, including units used for
 4 parking or storage, are ancillary to the sale of units to be used for residential purposes.

5 (5)(a) ORS 100.650, 100.660, 100.670, 100.675, 100.750, 100.770, 100.775, 100.780, 100.900, 100.905
 6 and 100.990 apply to a condominium located in this state that consists exclusively of units to be used
 7 for nonresidential purposes or that consists of units to be offered for sale as a security under ORS
 8 59.005 to 59.451.

9 (b) As used in this subsection, “nonresidential purposes” includes apartments within a condo-
 10 minium in which the apartments are not separate units or units that are restricted in use by the
 11 unit owner to less than full-time residential purposes.

12 (6) The units in a condominium described in subsection (3)(b)(C) and (D) of this section shall be
 13 considered real property for purposes of this chapter.

14 (7) Unless the declaration or bylaws provide otherwise, a condominium unit may be submitted
 15 to the condominium form of ownership under ORS 100.005 to 100.627.

16 (8) If an association creates not more than two additional units from common elements by an
 17 amendment to the declaration under ORS 100.135, then ORS 100.635 (2), 100.640 [(8) to (12)] **(1)(h)**
 18 **to (1)(m)**, 100.655, 100.705, 100.720, 100.725, 100.730, 100.735 and 100.745 do not apply to the sale of
 19 the units by the association.

20 **SECTION 19.** ORS 100.116 is amended to read:

21 100.116. (1) A plat, including any floor plans that are a part of a plat, recorded before October
 22 15, 1983, may be amended as provided in this section.

23 (2)(a) Except as otherwise provided in ORS 100.600, the following must be made by a plat enti-
 24 tled “Plat Amendment”:

25 (A) A change to the boundary of the property, a unit or a limited common element;

26 (B) The creation of an additional unit from common elements; or

27 (C) A change to the configuration of other information required to be graphically depicted on
 28 the plat.

29 (b) The plat amendment shall reference in the title of the amendment the recording information
 30 of the original plat and any previous plat amendments.

31 (3) The plat amendment shall comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080 and 92.120
 32 and shall include:

33 (a) A graphic depiction of the change;

34 (b) For a change to the boundary of the property, a surveyor’s certificate that complies with
 35 ORS 92.070;

36 (c) If the plat amendment is an amendment by correction under ORS 100.118, a statement that
 37 the plat amendment is an amendment by correction under ORS 100.118;

38 (d) A certification, including signature and official seal, of a registered professional land sur-
 39 veyor that:

40 (A) The plat amendment accurately depicts the amendments to the plat described in the decla-
 41 ration amendment recorded under subsection (5) of this section; and

42 (B) Any construction that changes the boundaries of a unit or limited common element or the
 43 construction of any additional unit or limited common element has been completed; and

44 (e) A declaration by the chairperson and secretary on behalf of the association of unit owners
 45 that the plat is being amended pursuant to this section. If the amendment to the declaration required

1 under subsection (5) of this section is a correction amendment under ORS 100.117, the declaration
 2 shall be by the declarant if the declarant adopts the correction amendment under ORS 100.117.

3 (4) The declaration required under subsection (3)(e) of this section shall be executed and ac-
 4 knowledged in the manner provided for acknowledgment of deeds.

5 (5) The plat amendment shall be accompanied by an amendment to the declaration authorizing
 6 the plat amendment. The declaration amendment shall be executed, approved and recorded in ac-
 7 cordance with ORS 100.110 and 100.135 or [ORS 100.117], if the declaration amendment is a cor-
 8 rection amendment under ORS 100.117, **with ORS 100.117.**

9 (6) Before a plat amendment may be recorded, it must be approved by the city or county sur-
 10 veyor as provided in ORS 92.100. The surveyor shall approve the plat amendment if it complies with
 11 the requirements of this subsection. The person offering the plat amendment shall:

12 (a) Submit a copy of the proposed amendment to the declaration required under subsections (3)
 13 to (5) of this section when the plat amendment is submitted.

14 (b) Submit the original or a copy of the executed amendment to the declaration approved by the
 15 Real Estate Commissioner if required by law prior to approval of the plat amendment.

16 (c) Upon request of the county assessor or county surveyor, file an exact copy, certified by the
 17 surveyor who made the plat to be an exact copy of the plat amendment, with the county assessor
 18 and the county surveyor. The exact copy shall be made on suitable drafting material having the
 19 strength, stability and transparency required by the county surveyor.

20 (7) A change to a restriction or other information not required to be graphically depicted on the
 21 plat, **or, in the discretion of the city or county surveyor, a change to graphically depicted**
 22 **information that changes the identity, nature or other descriptive information but does not**
 23 **change the graphic depiction,** may be made by amendment of the declaration without a plat
 24 amendment described in subsections (3) to (5) of this section. A declaration amendment under this
 25 subsection shall include:

26 (a) References to recording index numbers and date of recording of the declaration or plat and
 27 any applicable supplemental declarations, amendments, supplemental plats or plat amendments.

28 (b) A description of the change to the plat.

29 (c) A statement that the amendment was approved in accordance with the declaration and ORS
 30 100.135.

31 (8) The declaration amendment described in subsection (7) of this section shall be executed, ap-
 32 proved and recorded in accordance with ORS 100.110 and 100.135.

33 (9) Before the declaration amendment described in subsection (7) of this section may be re-
 34 corded, it must be approved by the city or county surveyor as provided in ORS 92.100. The surveyor
 35 shall approve the declaration amendment if it complies with subsection (7) of this section. [Such]
 36 **The** approval shall be evidenced by execution of the amendment or by written approval attached
 37 thereto.

38 (10) Floor plans of a condominium for which a plat was not required at the time of creation may
 39 be amended by amendment of the declaration. An amendment under this subsection shall include:

40 (a) References to recording index numbers and date of recording of the declaration and any
 41 applicable supplemental declarations or amendments.

42 (b) A description of the change to the floor plans.

43 (c) A graphic depiction of any change to the boundaries of a unit or common element and a
 44 statement by a registered architect, registered professional land surveyor or registered professional
 45 engineer certifying that such graphic depiction fully and accurately depicts the boundaries of the

1 unit or common element as it currently exists.

2 (11) The declaration amendment described in subsection (10) of this section shall be approved
 3 and recorded in accordance with ORS 100.110 and 100.135 except that any change to the floor plans
 4 need only comply with the requirements of the unit ownership laws in effect at the time the floor
 5 plans were initially recorded.

6 (12) After recording [of] any declaration amendment or plat amendment pursuant to this section,
 7 the county surveyor [shall, upon] **may make appropriate changes to** the surveyor’s copy of all
 8 previously recorded plats relating to the condominium and any copies filed under ORS 92.120 (3)],
 9 *make such appropriate marks or notations, including the date and the surveyor’s name or initials, with*
 10 *archival quality black ink in such manner as to denote the changes. The recording index numbers and*
 11 *date of recording of the declaration amendment and any plat amendment shall also be referenced on*
 12 *the copy of each plat]. The original plat may not be changed or corrected after the plat is recorded.*

13 (13) For performing the services described in subsections (6), (9) and (12) of this section, the
 14 county surveyor shall collect from the person offering the plat amendment or declaration amendment
 15 for approval a fee established by the county governing body.

16 **SECTION 20.** ORS 100.117 is amended to read:

17 100.117. (1) As used in this section and ORS 100.118, “document” means the declaration, sup-
 18 plemental declaration or bylaws of a condominium.

19 (2) Notwithstanding a provision in a document or [*this chapter*] **ORS chapter 100**, a document
 20 or an amendment to a document may be corrected by a correction amendment under this section to:

- 21 (a) Correct the omission of an exhibit to a document.
- 22 (b) Correct a mathematical mistake, including, but not limited to:
 - 23 (A) The calculation of the stated interest of affected units in the common elements;
 - 24 (B) The area in square feet of a unit specified in the declaration or supplement declaration; and
 - 25 (C) Liability of a unit for common expenses or right to common profits.
- 26 (c) Correct an inconsistency within a document or between or among the documents or a plat,
 27 supplemental plat or plat amendment.
- 28 (d) Correct an ambiguity, inconsistency or error with respect to an objectively verifiable fact.
- 29 (e) Authorize a plat amendment by correction under ORS 100.118 or an affidavit of correction
 30 under ORS 100.118.
- 31 (f) Correct a provision that was inconsistent with this chapter at the time the document was
 32 recorded.

33 (g) Correct the omission of a provision required under this chapter.

34 (3) A correction amendment adopted under subsection (4) of this section shall include:

- 35 (a) The words “Correction Amendment” in or after the title;
- 36 (b) A reference to the recording index numbers and date of recording of the declaration, bylaws,
 37 plat, the document being corrected and any other applicable supplemental declarations, supplemental
 38 plats or amendments to the documents;
- 39 (c) A statement of the purpose of the correction; and
- 40 (d) A reference to **the paragraph in subsection (2) of this section that authorizes the cor-**
 41 **rection.**

42 (4) The board of directors may adopt a correction amendment under this section after giving
 43 notice as provided in subsection (8) of this section. No action by the unit owners is required.

44 (5) The declarant of the condominium may unilaterally adopt a correction amendment under this
 45 section to:

1 (a) A document or an amendment to a document, before the conveyance of the first unit in the
2 condominium.

3 (b) A supplemental declaration or an amendment to the supplemental declaration, before
4 conveyance of the first unit created by the supplemental declaration.

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

6 (a) The amendment is approved by the Real Estate Commissioner under ORS 100.110 and, to the
7 extent required, ORS 100.410, the county assessor in accordance with ORS 100.110 and, if required,
8 the county tax collector;

9 (b) The amendment is certified by the chairperson and secretary of the association of unit
10 owners as being adopted in accordance with subsection (4) of this section or is certified by the
11 declarant under subsection (5) of this section and acknowledged in the manner provided for ac-
12 knowledgement of deeds; and

13 (c) Is recorded.

14 (7) A correction amendment **to a declaration or a supplemental declaration** that corrects the
15 boundary of a unit, common element, variable property or other property interest constitutes a
16 conveyance to the extent necessary to effectuate the correction.

17 (8)(a) Except for a correction amendment adopted by a declarant under subsection (5) of this
18 section, the notice of any meeting of the board of directors at which the board intends to consider
19 adoption of a correction amendment under this section must:

20 (A) State that the board intends to consider the adoption of a correction amendment.

21 (B) Specify the document to be corrected.

22 (C) Include a description of the nature of the correction.

23 (b) At least three days before the meeting of the board of directors, a notice of the meeting must
24 be given to all owners in the manner described in ORS 100.420 (4).

25 (9) The owner of a unit materially affected by the correction must be given notice of the meeting
26 of the board of directors under subsection (8) of this section in the manner required under ORS
27 100.407 (4).

28 (10) The board of directors shall provide a copy of the recorded correction amendment and any
29 plat amendment by correction or by affidavit of correction under ORS 100.118 recorded concurrently
30 with the correction amendment to any owner described under subsection (9) of this section and to
31 any owner if the correction changes that owner's:

32 (a) Allocation of voting rights;

33 (b) Liability for common expenses that changes the amount of any assessment; or

34 (c) Allocation of interest in the common elements.

35 **SECTION 21.** ORS 100.405 is amended to read:

36 100.405. (1)(a) An association of unit owners shall be organized to serve as a means through
37 which the unit owners may take action with regard to the administration, management and opera-
38 tion of the condominium.

39 (b) The association of a condominium created on or after September 27, 2007, shall be organized:

40 (A) As a corporation for profit or a nonprofit corporation; or

41 (B) If the condominium consists of four or fewer units, excluding units used for parking, storage
42 or other use ancillary to a unit, as an unincorporated association, corporation for profit or a
43 nonprofit corporation.

44 (c) If the association is incorporated[,]:

45 (A) The name of the association [*shall*] **must** include the complete name of the condominium.

1 **(B) The articles of incorporation must be consistent with the declaration and bylaws.**

2 **(d) For an association described in paragraph (b)(A) of this subsection, the association**
 3 **must be incorporated before conveyance of the first individual unit unless all units in the**
 4 **condominium are conveyed or transferred to one person in one transaction.**

5 [(d)] (e) Notwithstanding a provision in the declaration or bylaws of a condominium created
 6 before September 27, 2007, that states that the association shall be unincorporated or that requires
 7 approval of owners to incorporate as a nonprofit corporation under ORS chapter 65, an
 8 unincorporated association may be incorporated as a nonprofit corporation under ORS chapter 65
 9 if the board of directors adopts a resolution that states the association will be incorporated.

10 (e) A separate association is not created when an unincorporated association formed under this
 11 section is incorporated, reinstated after administrative dissolution under ORS 60.654 or 65.654 or
 12 again incorporated following dissolution. The association automatically continues and, without any
 13 further action by incorporators, directors or officers that may otherwise be required under Oregon
 14 corporation laws:

15 (A) The incorporated association has all of the property, powers and obligations of the associ-
 16 ation that existed immediately prior to incorporation in addition to the powers and obligations under
 17 Oregon corporation laws.

18 (B) The bylaws in effect immediately prior to incorporation or reinstatement constitute the by-
 19 laws of the incorporated association.

20 (C) The members of the board of directors and the officers continue to serve as directors and
 21 officers.

22 (f) If an incorporated association is at any time dissolved, whether inadvertently or deliberately:

23 (A) The association continues as an unincorporated association under the same name.

24 (B) The unincorporated association has all of the property, powers and obligations of the in-
 25 corporated association existing immediately prior to dissolution.

26 (C) The unincorporated association shall be governed by the bylaws, and to the extent applica-
 27 ble, the articles of incorporation of the incorporated association.

28 (D) The board of directors and the officers serving immediately prior to the dissolution continue
 29 to serve as the directors and officers of the unincorporated association.

30 (2) Membership in the association of unit owners shall be limited to unit owners.

31 (3) The affairs of the association shall be governed by a board of directors as provided for in
 32 the bylaws adopted under ORS 100.410.

33 (4) Subject to the provisions of the condominium's declaration and bylaws, and whether or not
 34 the association is unincorporated, the association may:

35 (a) Adopt and amend bylaws and rules and regulations;

36 (b) Adopt and amend budgets for revenues, expenditures and reserves and levy and collect as-
 37 sessments for common expenses from unit owners;

38 (c) Hire and terminate managing agents and other employees, agents and independent contrac-
 39 tors;

40 (d) Defend against any claims, proceedings or actions brought against it;

41 (e) Subject to subsection (11) of this section, initiate or intervene in litigation or administrative
 42 proceedings in its own name, and without joining the individual unit owners, in the following:

43 (A) Matters relating to the collection of assessments and the enforcement of declarations and
 44 bylaws;

45 (B) Matters arising out of contracts to which the association is a party;

1 (C) Actions seeking equitable or other nonmonetary relief regarding matters that affect the
 2 common interests of the unit owners, including but not limited to the abatement of nuisance;

3 (D) Matters relating to or affecting common elements, including but not limited to actions for
 4 damage, destruction, impairment or loss of use of any common element;

5 (E) Matters relating to or affecting the units or interests of unit owners including but not lim-
 6 ited to damage, destruction, impairment or loss of use of a unit or portion thereof, if:

7 (i) Resulting from a nuisance or a defect in or damage to a common element; or

8 (ii) Required to facilitate repair to any common element; and

9 (F) Any other matter to which the association has standing under law or pursuant to the dec-
 10 laration, bylaws or any articles of incorporation;

11 (f) Make contracts and incur liabilities;

12 (g) Regulate the use, maintenance, repair, replacement and modification of common elements;

13 (h) Cause additional improvement to be made as a part of the common elements;

14 (i) Acquire by purchase, lease, devise, gift or voluntary grant real or personal property or any
 15 interest therein and take, hold, possess and convey real or personal property or any interest therein;

16 (j) Impose and receive any payments, fees or charges for the use, rental or operation of the
 17 common elements;

18 (k) Impose charges for late payments of assessments, attorney fees for collection of assessments
 19 and, after giving written notice and an opportunity to be heard, levy reasonable fines for violations
 20 of the declaration, bylaws and rules and regulations of the association, provided that the charge
 21 imposed or fine levied by the association is based:

22 (A) On a schedule contained in the declaration or bylaws, or an amendment to either that is
 23 delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing addresses
 24 designated in writing by the owners; or

25 (B) On a resolution adopted by the board of directors or the association that is delivered to each
 26 unit, mailed to the mailing address of each unit or mailed to the mailing addresses designated by the
 27 owners in writing;

28 (L) Adopt rules regarding the termination of utility services paid for out of assessments of the
 29 association and access to and use of recreational and service facilities available to unit owners that
 30 must provide for written notice and an opportunity to be heard before the association may terminate
 31 the rights of any owners to receive such benefits or services until the correction of any violation
 32 covered by the rule has occurred;

33 (m) Impose reasonable charges for the preparation and recordation of amendments to the dec-
 34 laration or statements of assessments;

35 (n) Assign its right to future income, including the right to receive common expense assess-
 36 ments;

37 (o) Provide for the indemnification of its officers and executive board, as may be limited by ORS
 38 61.218 (3)(d) (1987 Replacement Part), and maintain directors' and officers' liability insurance;

39 (p) Exercise any other powers conferred by the declaration or bylaws;

40 (q) Exercise all other powers that may be exercised in this state by any such association; and

41 (r) Exercise any other powers determined by the association to be necessary and proper for the
 42 governance and operation of the association.

43 (5) Subject to subsection (6) of this section, unless expressly limited or prohibited by the decla-
 44 ration, the association has the authority to grant, execute, acknowledge and deliver on behalf of the
 45 unit owners leases, easements, rights of way, licenses and other similar interests affecting the gen-

1 eral common elements and consent to vacation of roadways within and adjacent to the condominium.

2 (6)(a)(A) Except as provided in subparagraph (B) of this paragraph, the granting of a lease,
 3 easement, right of way, license or other similar interest pursuant to subsection (5) of this section
 4 shall be first approved by at least 75 percent of owners present at a meeting of the association or
 5 with the consent of at least 75 percent of all owners solicited by any means the board of directors
 6 determines is reasonable. If a meeting is held to conduct the vote, the meeting notice must include
 7 a statement that the approval of the grant will be an item of business on the agenda of the meeting.

8 (B) Unless the declaration otherwise provides:

9 (i) The granting of a lease, easement, right of way, license or other similar interest affecting the
 10 general common elements for a term of two years or less shall require the approval of a majority
 11 of the board of directors.

12 (ii) The granting of a lease, easement, right of way, license or other similar interest affecting
 13 the general common elements for a term of more than two years to a public body, as defined in ORS
 14 174.109, [or] to a utility [or], **to a communications company or to any other person** for installation
 15 and maintenance of power, gas, electric, water or other utility and communication lines and services
 16 requires the approval of a majority of the board of directors.

17 (iii) The granting of a lease, easement, license or other similar interest to an owner for the ex-
 18 clusive use of a part of the general common elements to which the owner's unit provides primary
 19 access requires the approval of a majority of the board of directors. If the approval by the board
 20 of directors includes the right of the owner to make improvements to the general common elements
 21 to which the owner is being granted exclusive use, ORS 100.535 applies to the general common el-
 22 ements to the same extent that ORS 100.535 applies to a unit, including the right of the board under
 23 ORS 100.535 to require an owner, at owner's expense, to submit an opinion of a registered architect
 24 or registered professional engineer that the proposed improvement will not impair the structural
 25 integrity or mechanical systems of the condominium.

26 (b) Unless the declaration otherwise provides, the consent to vacation of roadways within and
 27 adjacent to the condominium must be approved first by at least a majority of unit owners present
 28 and voting at a meeting of the association or with consent of at least a majority of all owners so-
 29 licited by any means the board of directors determines is reasonable. If a meeting is held to conduct
 30 the vote, the meeting notice must include a statement that the roadway vacation will be an item
 31 of business on the agenda of the meeting.

32 (7) The instrument granting an interest or consent pursuant to subsection (5) of this section
 33 shall be executed by the chairperson and secretary of the association and acknowledged in the
 34 manner provided for acknowledgment of such instruments by such officers and shall state that such
 35 grant or consent was approved, if appropriate, by at least the percent of owners required under
 36 subsection (6) of this section.

37 (8)(a) Unless expressly prohibited by the declaration, any action permitted under subsections (5)
 38 and (6) of this section regarding a general common element may be taken with respect to any limited
 39 common element as provided in this subsection.

40 (b) Except as provided in paragraph (c) of this subsection, the easement, lease or other action
 41 under this section requires the approval or consent of the owner of the unit to which the use of the
 42 limited common element is reserved and the holder of a first mortgage or first trust deed affecting
 43 the unit. However, if the use of the limited common element is reserved for five or more units:

44 (A) When the action is for more than two years, the owners of 75 percent of the units to which
 45 the use of the limited common element is reserved must approve or consent.

1 (B) When the action is for two years or less, the owners of a majority of the units to which the
2 use of the limited common element is reserved must approve or consent.

3 (c) The instrument granting an interest or consent under this section must:

4 (A) Be executed by the chairperson and secretary of the association and acknowledged in the
5 manner provided for acknowledgment of the instruments by the officers.

6 (B) State that the grant or consent is given pursuant to this subsection.

7 (C) Include a certification by the chairperson and secretary that the action was approved by the
8 owners in accordance with this subsection.

9 (9) Except as otherwise provided in the association's declaration or bylaws, the board of direc-
10 tors of the association may modify, close, remove, eliminate or discontinue the use of a general
11 common element facility or improvement or portion of the common element landscaping, regardless
12 of whether such facility, improvement or landscaping is mentioned in the declaration or shown on
13 the plat provided that:

14 (a) Nothing in this subsection shall be construed as limiting the authority of the board of di-
15 rectors, in its discretion, to seek approval of such modification, closure, removal, elimination or
16 discontinuance by the unit owners; and

17 (b) Modification, closure, removal, elimination or discontinuance other than on a temporary ba-
18 sis of any swimming pool, spa or recreation or community building must be approved by at least a
19 majority of the unit owners voting on such matter at a meeting or by written ballot held in ac-
20 cordance with the declaration, bylaws or ORS 100.425.

21 (10)(a) A permit or authorization issued by the board of directors pursuant to authority granted
22 to the board under law, the declaration or the bylaws, may be recorded in the deed records of the
23 county where the condominium is located. An instrument recorded under this subsection shall:

24 (A) Include the name of the condominium and a reference to where the declaration and any
25 applicable supplemental declarations are recorded;

26 (B) Identify, by the designations stated in the declaration or applicable supplemental declaration,
27 all affected units and common elements;

28 (C) Include such other information and signatures as may be required by law, under the decla-
29 ration or bylaws or as the board of directors may desire; and

30 (D) Be executed by the chairperson and secretary of the association and acknowledged in the
31 manner provided for acknowledgment of such instruments by the officers.

32 (b) The board of directors may record an amendment, modification, termination or other instru-
33 ment relating to the permit or authorization described in this subsection. Any such instrument shall
34 include a reference to the location of the recorded instrument and be executed by the chairperson
35 and secretary of the association and acknowledged in the manner provided for acknowledgment of
36 such instruments.

37 (11)(a) Subject to paragraph (f) of this subsection, before initiating litigation or an administrative
38 proceeding in which the association and an owner have an adversarial relationship, the party that
39 intends to initiate litigation or an administrative proceeding shall offer to use any dispute resolution
40 program available within the county in which the condominium is located that is in substantial
41 compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be
42 hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the
43 records of the association, for the other party.

44 (b) If the party receiving the offer does not accept the offer within 10 days after receipt by
45 written notice hand-delivered or mailed by certified mail, return receipt requested, to the address,

1 contained in the records of the association, for the other party, the initiating party may commence
 2 the litigation or the administrative proceeding. The notice of acceptance of the offer to participate
 3 in the program must contain the name, address and telephone number of the body administering the
 4 dispute resolution program.

5 (c) If a qualified dispute resolution program exists within the county in which the condominium
 6 is located and an offer to use the program is not made as required under paragraph (a) of this sub-
 7 section, litigation or an administrative proceeding may be stayed for 30 days upon a motion of the
 8 noninitiating party. If the litigation or administrative action is stayed under this paragraph, both
 9 parties shall participate in the dispute resolution process.

10 (d) Unless a stay has been granted under paragraph (c) of this subsection, if the dispute resol-
 11 ution process is not completed within 30 days after receipt of the initial offer, the initiating party
 12 may commence litigation or an administrative proceeding without regard to whether the dispute
 13 resolution is completed.

14 (e) Once made, the decision of the court or administrative body arising from litigation or an
 15 administrative proceeding may not be set aside on the grounds that an offer to use a dispute resol-
 16 ution program was not made.

17 (f) The requirements of this subsection do not apply to circumstances in which irreparable harm
 18 to a party will occur due to delay or to litigation or an administrative proceeding initiated to collect
 19 assessments, other than assessments attributable to fines.

20 **SECTION 22.** ORS 100.415 is amended to read:

21 100.415. (1) The bylaws shall include a reference to the declaration to which the bylaws relate
 22 and shall provide for:

23 (a) The organization of the association of unit owners in accordance with ORS 100.405, when the
 24 initial meeting shall be held and the method of calling that meeting.

25 (b) If required under ORS 100.205, the formation of a transitional committee in accordance with
 26 such section.

27 (c) The turnover meeting required under ORS 100.210, including when the meeting shall be
 28 called, the method of calling the meeting, the right of a unit owner under ORS 100.210 (3) to call
 29 the meeting and a statement of the purpose of the meeting.

30 (d)(A) The method of calling the annual meeting and all other meetings of the unit owners in
 31 accordance with ORS 100.407; and

32 (B) The percentage of owners that constitutes a quorum under ORS 100.408.

33 (e)(A) The election of a board of directors and the number of persons constituting the board;

34 (B) The terms of office of directors;

35 (C) The powers and duties of the board;

36 (D) The compensation, if any, of the directors;

37 (E) The method of removal from office of directors **as provided in ORS 100.417**; and

38 (F) The method of filling vacancies on the board.

39 (f) The method of calling meetings of the board of directors in accordance with ORS 100.420 and
 40 a statement that all meetings of the board of directors of the association of unit owners shall be
 41 open to unit owners.

42 (g) The election of a chairperson[,] **or president**, a secretary, a treasurer and any other officers
 43 of the association.

44 (h) The preparation and adoption of a budget in accordance with ORS 100.412.

45 (i)(A) The maintenance, repair and replacement of the common elements and association prop-

1 erty;

2 (B) Payment for the expense of maintenance, repair and replacement of common elements and
 3 association property and other expenses of the condominium in accordance with ORS 100.530; and

4 (C) The method of approving payment vouchers.

5 (j) The employment of personnel necessary for the maintenance and repair of the common ele-
 6 ments.

7 (k) The manner of collecting assessments from the unit owners.

8 (L) Insurance coverage in accordance with ORS 100.435 and the responsibility for payment of
 9 the amount of the deductible in an association insurance policy.

10 (m) The preparation and distribution of the annual financial statement in accordance with ORS
 11 100.480.

12 (n) The reserve account and the preparation, review and update of the reserve study and the
 13 maintenance plan required under ORS 100.175.

14 (o) The filing of an Annual Report and any amendment with the Real Estate Agency in accord-
 15 ance with ORS 100.250.

16 (p) The method of adopting and of amending administrative rules and regulations governing the
 17 details of the operation of the condominium and use of the common elements.

18 (q) Restrictions on and requirements respecting the enjoyment and maintenance of the units and
 19 the common elements as are designed to prevent unreasonable interference with the use of their
 20 respective units and of the common elements by the several unit owners.

21 (r) Any restrictions on use or occupancy of units. Any such restrictions created by documents
 22 other than the bylaws may be incorporated by reference in the bylaws to the official records of the
 23 county in which the property is located.

24 (s) The method of amending the bylaws in accordance with ORS 100.410[.] **and section 5 of this**
 25 **2017 Act. When a condominium is exclusively residential, the bylaws may not require ap-**
 26 **proval by a supermajority of the unit owners to amend the bylaws except for amendments**
 27 **relating to age restrictions, pet restrictions, limitations on the number of individuals who**
 28 **may occupy units and limitations on the rental or leasing of units as provided under ORS**
 29 **100.410.**

30 (t) Any other details regarding the property that the declarant considers desirable. However, if
 31 a provision required to be in the declaration under ORS 100.105 is included in the bylaws, the voting
 32 requirements for amending the declaration shall also govern the amendment of the provision in the
 33 bylaws.

34 (u) In the event additional units are proposed to be annexed or created pursuant to ORS 100.125
 35 or 100.150, the method of apportioning common expenses in the event new units are added during
 36 the course of the fiscal year.

37 (2) The bylaws may provide that the responsibility for payment of the amount of the deductible
 38 may be prescribed by resolution adopted by the board of directors.

39 **SECTION 23.** ORS 100.530 is amended to read:

40 100.530. (1) Unless otherwise provided in the declaration, the common profits of the property
 41 shall be distributed among, and the common expenses shall be charged to, the unit owners according
 42 to the allocation of undivided interest of each unit in the common elements. **A charge described**
 43 **in this subsection that is past due bears interest at a rate established by resolution of the**
 44 **association of unit owners.**

45 (2) No unit owner by the owner's own action may claim exemption from liability for contribution

1 toward the common expenses by waiver by the owner of the use or enjoyment of any of the common
 2 elements or by abandonment by the owner of the owner's unit. An owner may not claim an offset
 3 against an assessment for failure of the association to perform its obligations.

4 (3) Subject to subsection (4) of this section:

5 (a) The declarant shall pay assessments due for operating expenses on all unsold units:

6 (A) From the date of conveyance of the first unit in the condominium; and

7 (B) For a staged or flexible condominium, from the date of recording the applicable supplemental
 8 declaration and supplemental plat recorded pursuant to ORS 100.120.

9 (b) From the date of conveyance of the first unit in the condominium, the declarant shall pay
 10 assessments due for reserves on all unsold units.

11 (c) The declarant may defer payment of accrued assessments for reserves required under ORS
 12 100.175 for a unit until the date the unit is conveyed. However, the declarant may not defer payment
 13 of accrued assessments for reserves:

14 (A) Beyond the date of the turnover meeting provided for in the bylaws in accordance with ORS
 15 100.210; or

16 (B) If a turnover meeting is not held, the date the owners assume administrative control of the
 17 association.

18 (d) Failure of the declarant to deposit the balance due within 30 days after the due date con-
 19 stitutes a violation under ORS 100.545.

20 (e) The books and records of the association shall reflect the amount the declarant owes for all
 21 reserve account assessments.

22 (4)(a) The association may not assess units owned by the declarant for additional capital im-
 23 provements without the written consent of the declarant as long as:

24 (A) In a single stage condominium, the declarant owns more than two units or five percent of
 25 the units, whichever is greater.

26 (B) In a staged or flexible condominium, the declarant owns more than two units or five percent
 27 of the units submitted to the provisions of this chapter, whichever is greater, or the termination date
 28 has not expired.

29 (b) The declarant may waive the declarant's right of consent provided in paragraph (a) of this
 30 subsection.

31 (5)(a) Except with respect to assessments for reserves required by ORS 100.175, a declaration
 32 or bylaws may provide that, until the turnover meeting, the declarant may elect to defer com-
 33 mencement of all or part of common expense assessments as to all units in a condominium or as to
 34 all units in a stage of a condominium or as to all units created by a supplemental declaration and
 35 plat pursuant to ORS 100.150.

36 (b) If a declarant so elects to defer commencement of all or part of common expense assess-
 37 ments, declarant shall pay as they accrue and be responsible for all or part of the common expenses
 38 attributable to the condominium or attributable to the stage of the condominium or the units and
 39 common elements created by such supplemental declaration and plat for which assessments have
 40 been deferred, until assessments commence for all common expenses.

41 (c) The declarant shall give not less than 10 days' written notice to all affected unit owners
 42 prior to the commencement of common expense assessments if such a deferral occurs.

43 (6) If the board of directors determines that any loss or cost incurred by the association is the
 44 fault of one or more owners, the association may assess the amount of the loss or cost exclusively
 45 against the units of the responsible owners.

SECTION 24. ORS 100.600 is amended to read:

100.600. (1)(a) Subject to ORS 100.605, the condominium may be terminated if all of the unit owners remove the property from the provisions of this chapter by executing and recording an instrument to that effect and the holders of all liens affecting the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the undivided interest of the unit owner in the property after the termination. The instrument shall state the interest of each unit owner and lienholder as determined under ORS 100.610.

(b) The recording of an instrument of termination shall vacate the plat but shall not vacate or terminate any recorded covenants, restrictions, easements or other interests not imposed under the declaration or bylaws or any easement granted by the plat unless the instrument of termination otherwise provides.

(c) Before the instrument of termination may be recorded, it must be signed by the county assessor for the purpose of acknowledging that the county assessor has been notified of the proposed termination.

(d) The person offering the instrument of termination for recording shall cause a copy of the recorded instrument, including the recording information, to be filed with the commissioner, the county assessor and the county surveyor. Upon receipt of the instrument of termination, the county surveyor *[shall]* **may** make appropriate annotations~~[, including the date and surveyor's name or initials, with archival quality black ink]~~ on the surveyor's copy of the plat and any copies filed under ORS 92.120. Corrections or changes are not allowed on the original plat once it is recorded with the county clerk.

(e) Failure to file the copies as required under paragraph (d) of this subsection does not invalidate the termination.

(2) A portion of the property may be removed from the provisions of this chapter by recording simultaneously with the recording officer an amendment to the declaration and an amended plat approved as required under ORS 100.110, 100.116 and 100.135. The amendment to the declaration shall:

(a) Include a metes and bounds legal description of the property being removed;

(b) Include a metes and bounds legal description of the resulting boundaries of the condominium after the removal;

(c) State the interest of each owner in the property being removed;

(d) State the allocation of interest of each unit in the common elements after the removal;

(e) Be approved and executed by the owner of any unit being removed and the owner of any unit to which a limited common element being removed pertains and acknowledged in the manner provided for acknowledgment of deeds;

(f) Be approved by the holder of any first mortgage on a unit or limited common element being removed;

(g) Be approved by at least 90 percent of owners, including any owner whose approval is required under paragraph (e) of this subsection;

(h) Be approved by any other mortgagees whose approval is required under the declaration or bylaws;

(i) Include any other approvals required by the declaration or bylaws; and

(j) Include a statement by the local governing body or appropriate department thereof that the removal will not violate any applicable planning or zoning regulation or ordinance. The statement may be attached as an exhibit to the amendment.

1 (3) The amended plat required under subsection (2) of this section shall:

2 (a) Comply with ORS 100.116;

3 (b) Include a "Statement of Removal" that the property described on the amended plat is re-
4 moved from the condominium and that the condominium exists as described and depicted on the
5 amended plat. The statement shall be made by the chairperson and secretary of the association and
6 acknowledged in the manner provided for acknowledgment of deeds; and

7 (c) Include such signatures of approval as may be required by local ordinance or regulation.

8 (4) The tax collector for any taxing unit having a lien for taxes or assessments shall have au-
9 thority to consent to such a transfer of any tax or assessment lien under subsection (1) of this sec-
10 tion or the removal of a portion of the property under subsection (2) of this section.

11 **SECTION 25.** ORS 100.635 is amended to read:

12 100.635. Except as provided by ORS 100.660 and 100.665, prior to negotiating within this state
13 for the sale of a condominium unit located in another state, or prior to the sale of any condominium
14 unit located within this state, the developer shall file [*the following information*] with the Real Estate
15 Commissioner:

16 (1) General information on the condominium, including:

17 (a) The name and address of the condominium and the county in which the condominium is lo-
18 cated; and

19 (b) The name, address and telephone number of the developer.

20 (2) Two copies of the disclosure statement for the condominium prepared in accordance with
21 ORS 100.655.

22 (3) The documents for and other information on the condominium as required by ORS 100.640.

23 (4) The [*filing shall be accompanied by a*] fee as provided in ORS 100.670.

24 **SECTION 26.** ORS 100.655 is amended to read:

25 100.655. (1) The disclosure statement submitted to the Real Estate Commissioner as part of a
26 filing under ORS 100.635 [*shall*] **must** contain the following information:

27 (a) The name and address of the condominium, and the name, address and telephone number of
28 the developer[;].

29 (b) A general narrative description of the condominium stating the total number of units, a de-
30 scription of the types of units, the total number of units that may be included in the condominium
31 pursuant to ORS 100.105 (2), and a precise statement of the nature of the interest which is being
32 offered[;].

33 (c) If at the time of filing:

34 (A) The construction of the project is not completed, general disclosure of the status of con-
35 struction and the actual or scheduled dates of completion of buildings, recreational facilities and
36 other common elements, including a statement describing any recreational facilities or improvements
37 to the common elements that the developer reserves the right to develop or promises to develop, or
38 a statement that there are no such facilities or improvements; or

39 (B) The construction of the project is completed, the actual dates of completion of buildings,
40 recreational facilities and other common elements if known by the developer[;].

41 (d) The nature and significant terms of any financing offered by the developer to purchasers of
42 the condominium units[;].

43 (e) Copies of any warranties for structural elements and mechanical and other systems or a brief
44 description of such warranties[;].

45 (f)(A) A current or projected budget of the association of unit owners for the operation and

1 maintenance and any other common expenses of the condominium, including an amount for a subsidy
2 of the association by the declarant, if any, by a contribution of funds, goods or services;

3 (B) A brief statement of the method of determining liability for common expenses and the right
4 to common profits; and

5 (C) The following notice in at least 12-point type that is either all capitals or boldface:
6

7
8 NOTICE TO PROSPECTIVE PURCHASERS

9
10 THE PROJECTION OF THE BUDGET OF THE ASSOCIATION OF UNIT OWNERS FOR THE
11 OPERATION AND MAINTENANCE AND OTHER COMMON EXPENSES OF THE CONDOMIN-
12 IUM IS ONLY AN ESTIMATE, PREPARED WITH DUE CARE.
13

14
15 (g) If a provision for reserves under ORS 100.175 is included in the budget disclosed under par-
16 agraph (f) of this subsection:

17 (A) A statement identifying the information constituting the basis for the reserve assessment
18 under ORS 100.175; [and]

19 (B) A statement that the information constituting the basis for the reserve assessment identified
20 under ORS 100.175 is available for review upon written request to the declarant or the designated
21 person, unless included in the disclosure statement; and

22 (C) **If the reserve study is not submitted with the filing required by ORS 100.635, the**
23 **following notice in at least 12-point type that is either all capitals or boldface:**
24

25
26 NOTICE TO PROSPECTIVE PURCHASERS

27
28 **THE RESERVE STUDY IS NOT CURRENTLY AVAILABLE FOR REVIEW. THE REAL ES-**
29 **TATE COMMISSIONER MAY NOT APPROVE THE DECLARATION FOR RECORDING UN-**
30 **LESS THE RESERVE STUDY HAS BEEN SUBMITTED. WHEN COMPLETED, THE**
31 **RESERVE STUDY WILL BE AVAILABLE FOR REVIEW AT THE OFFICE OF THE REAL**
32 **ESTATE COMMISSIONER OR UPON WRITTEN REQUEST TO THE DECLARANT OR DES-**
33 **IGNATED PERSON. PROSPECTIVE PURCHASERS SHOULD CONTACT THE DECLARANT**
34 **REGARDING THE ANTICIPATED AVAILABILITY OF THE RESERVE STUDY OR ANY**
35 **OTHER INFORMATION ABOUT THE PROPOSED CONDOMINIUM.**
36

37
38 (h) In the case of a conversion condominium, a statement of:

39 (A) The present condition of all structural components and major mechanical and utility instal-
40 lations in the condominium, including the approximate date of construction and a reasonable esti-
41 mate of the remaining useful life of, at a minimum, the roof, siding, plumbing, electrical, HVAC
42 system, asphalt, sidewalks and decks;

43 (B) Whether or not the assessment of conditions under subparagraph (A) of this paragraph,
44 which shall be in at least 12-point type that is all capitals or boldface, was prepared by a registered
45 engineer, registered architect or certified home inspector; and

1 (C) The statutory procedure required to create a conversion condominium[;].

2 (i) A cross-reference to the portions of the declaration, any supplemental declaration and bylaws
 3 containing the general power and authority of the board of directors, the method of apportionment
 4 of voting rights among the members of the association of unit owners and a statement of the nature
 5 and extent of control of the board of directors retained by the developer by voting rights or
 6 otherwise[;].

7 (j) A list of the documents by which purchasers may be bound, including the declaration, bylaws,
 8 ground leases, management agreement, easements, covenants, restrictions and conditions[;].

9 (k) A statement of whether there are any restrictions on alienation of units or any use or oc-
 10 cupancy restrictions, such as limitations on residential or commercial use, pets, age of occupants
 11 or number of occupants, and a cross-reference to those portions of the declaration, any supplemental
 12 declaration, bylaws or any other document containing the principal provisions relating to those
 13 restrictions[; *and*].

14 (L) If the condominium is a staged condominium:

15 (A) Whether the declarant reserves the right to annex additional property to the condominium
 16 pursuant to ORS 100.125 and, if so:

17 (i) The maximum number of units;

18 (ii) The date after which annexation right terminates;

19 (iii) The description of additional common elements declarant reserves right to annex to the
 20 property and whether such common elements might substantially increase the proportionate amount
 21 of common expenses by current unit owners; and

22 (iv) The effect of annexation of additional units on allocation of interest in the common elements
 23 and voting rights.

24 (B) If the condominium or any stage being filed under ORS 100.635 contains or may contain any
 25 variable property, a statement of the rights reserved by the declarant under ORS 100.150 (1) and the
 26 results specified in ORS 100.155 if such rights are not exercised.

27 (2) In lieu of the disclosure statement required under subsection (1) of this section, the com-
 28 missioner may accept a disclosure report issued or approved by another state or governmental
 29 agency.

30 (3) *[No disclosure statement is required for condominiums described in ORS 100.660.]* **The dis-**
 31 **closure statement required under subsection (1) of this section shall include all information**
 32 **requested by the commissioner under ORS 100.675.**

33 (4) The declarant is not liable to the association or the owners with respect to a statement of
 34 condition or estimate of useful life contained in the disclosure statement if:

35 (a) The declarant did not have actual knowledge of any inaccuracies in the statement at the
 36 time of delivery of the disclosure statement to the purchaser; and

37 (b) The declarant relied upon reports prepared by registered engineers or registered architects
 38 in making the statement or, if the condominium has four or fewer units, reports prepared by regis-
 39 tered engineers, registered architects or certified home inspectors.

40 **SECTION 27.** ORS 100.705 is amended to read:

41 100.705. (1) Except as provided in ORS 100.665[, *no developer or agent of a*] **or section 4 of this**
 42 **2017 Act, a developer, or an agent of the developer** [*shall*] **may not** enter into a unit sales
 43 agreement prior to the issuance of the disclosure statement for the condominium.

44 (2) A copy of the disclosure statement for a condominium shall be given to the prospective
 45 purchaser of a unit in the condominium by the developer or an agent of the developer, not later than

1 the date the unit sales agreement is fully executed by all parties. The developer shall take a receipt
2 from the prospective purchaser upon delivery of a copy of the disclosure statement, and such re-
3 cepts shall be kept on file within this state in the possession of the developer or the agent of the
4 developer subject to inspection by the Real Estate Commissioner for a period of three years from
5 the date the receipt is taken.

6 (3) The disclosure statement [*shall*] **may** not be used for advertising purposes unless it is used
7 in its entirety. [*No*] **A** portion of the disclosure statement [*shall*] **may not** be underscored, high-
8 lighted, italicized or printed in larger or heavier type than the balance of the statement unless the
9 true copy of the statement so emphasizes such portion.

10 (4) The commissioner may furnish at cost copies of the disclosure statement for the use of de-
11 velopers.

12 (5) Violations of this section [*shall be*] **are** subject to the provisions of ORS 336.184 and 646.605
13 to 646.656, in addition to other sanctions provided by law.

14 **SECTION 28. Sections 2 to 6 of this 2017 Act and the amendments to statutes by sections**
15 **7 to 27 of this 2017 Act apply to:**

16 (1) **Declarations, supplemental declarations, restated declarations, bylaws, restated by-**
17 **laws and amendments thereto adopted on or after the effective date of this 2017 Act.**

18 (2) **Information, documentation and other filings submitted to the Real Estate Commis-**
19 **sioner, a county assessor or the tax collector of a county on or after the effective date of**
20 **this 2017 Act.**

21 _____