

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
HOUSE BILL 2722**

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

5 On page 4, after line 42, insert:

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7 chapter ___, Oregon Laws 2017 (Enrolled House Bill 3447), are repealed.**

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

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

14 “(a) A declaration by the Governor that a severe, continuing drought ex-
15 ists or is likely to occur in a political subdivision within which the condo-
16 minium is located;

17 “(b) A finding by the Water Resources Commission that a severe, contin-
18 uing drought exists or is likely to occur in a political subdivision within
19 which the condominium is located;

20 “(c) An ordinance adopted by the governing body of a political subdivision
21 within which the condominium is located that requires conservation or

1 curtailment of water use; or

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

4 “(2) Notwithstanding any provision of a condominium’s governing docu-
5 ment or landscaping or architectural guidelines imposing irrigation require-
6 ments on a unit owner or the association, an association may adopt rules
7 that:

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

10 “(b) Permit or require the replacement of turf or other landscape vege-
11 tation with xeriscape on any portion of the condominium.

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

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

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

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

27 **“(b) If the condominium unit does not share a wall, floor or ceiling**
28 **surface in common with another unit, a provision that prohibits or**
29 **restricts the use of the unit owner’s condominium unit or any limited**
30 **common element designated for exclusive use by the occupants of the**

1 unit as a certified or registered family child care home pursuant to
2 ORS 329A.250 to 329A.450.

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

9 “(a) Is reasonable; and

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

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

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

19 On page 10, after line 34, insert:

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

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

25 “**Sec. 7.** (1) A provision of a planned community’s governing document
26 or landscaping or architectural guidelines that imposes irrigation require-
27 ments on an owner or the association is void and unenforceable while any
28 of the following is in effect:

29 “(a) A declaration by the Governor that a severe, continuing drought ex-
30 ists or is likely to occur in a political subdivision within which the planned

1 community is located;

2 “(b) A finding by the Water Resources Commission that a severe, contin-
3 uing drought exists or is likely to occur in a political subdivision within
4 which the planned community is located;

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

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

10 “(2) Notwithstanding any provision of a planned community’s governing
11 documents or landscaping or architectural guidelines imposing irrigation
12 requirements on an owner or the association, an association may adopt rules
13 that:

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

16 “(b) Permit or require the replacement of turf or other landscape vege-
17 tation with xeriscape on any portion of the planned community.

18 “(c) Require prior review and approval by the association or its designee
19 of any plans by an owner or the association to replace turf or other land-
20 scape vegetation with xeriscape.

21 “(d) Require the use of best practices and industry standards to reduce
22 the landscaped areas and minimize irrigation of existing landscaped areas
23 of common property where turf is necessary for the function of the land-
24 scaped area.

25 **“(3) Except as provided in subsections (4) and (5) of this section, the**
26 **following provisions of a planned community’s governing document**
27 **are void and unenforceable:**

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

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

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

11 “(a) Is reasonable; and

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

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

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

21 “SECTION 7c. The amendments to sections 3 and 7 of this 2017 Act
22 by sections 3b and 7b of this 2017 Act become operative on January 1,
23 2018.

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

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

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

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

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