

Requested by Representative VIAL

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3059**

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

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

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

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

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

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

16 “(c) The transferee executes an instrument disclaiming any right to exer-  
17 cise any special declarant rights and such instrument is recorded in the of-  
18 fice of the recording officer of every county in which the property is located.

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

21 “(a) The conveyance from the transferor or an instrument executed by the

1 transferor and the transferee evidences an intent to transfer less than all  
2 special declarant rights and states the specific rights being transferred, and  
3 such instrument is recorded in the office of the recording officer of every  
4 county in which the property is located; or

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

8 “(3) When a transferee acquires all of the declarant’s interest in the  
9 planned community in which the declarant has reserved the right to expand  
10 the planned community under ORS 94.580, the transferee shall not acquire  
11 the right to annex property unless the transferee simultaneously acquires  
12 from the declarant property adjacent to the planned community, or unless  
13 the conveyance evidences an intent to transfer such right to the transferee.

14 “(4) A declarant or a successor declarant may transfer all or less than  
15 all of the transferor’s special declarant rights to a transferee, whether or not  
16 any interest in real property is conveyed, by an instrument executed by the  
17 declarant or successor declarant and the transferee evidencing an intent to  
18 transfer all or specific special declarant rights, which instrument shall be  
19 recorded in the office of the recording officer of every county in which the  
20 property is located. If the transfer is not subject to subsection (1) of this  
21 section, it shall also bear the written consent of any holder of a blanket  
22 encumbrance on the planned community.

23 “(5) An instrument disclaiming or transferring special declarant rights  
24 shall be properly acknowledged as provided by law.

25 “(6)(a) **Upon transfer of any special declarant right under this sec-**  
26 **tion, any interest held by the transferor in the special declarant right**  
27 **is extinguished and the transferor has no right of recovery.**

28 “(b) **A transferor may only recover a transferred special declarant**  
29 **right through execution by both the transferor and the successor**  
30 **declarant of a subsequent conveyance or other instrument that evi-**

1 dences an intent to convey the special declarant right from the suc-  
2 cessor declarant to the transferor.

3 **“SECTION 3. The amendments to ORS 94.623 and 100.220 by sections**  
4 **1 and 2 of this 2017 Act apply to special declarant rights transferred**  
5 **on or after the effective date of this 2017 Act.”.**

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