

House Bill 2485 A-Engrossed
GENERAL SUMMARY
By Section

SEC	ORS	PG	GENERAL SUMMARY*
			Oregon Condominium Act ORS Chapter 100 (“OCA”)
1	Add In	1	Adds Section 2 to ORS chapter 100.
2	NEW	1	<i>Restated Declarations and Restated Assignment of Limited Common Elements:</i> <ul style="list-style-type: none"> • Moves current provisions in ORS 100.135 relating to restated declarations to this new Section 2. • Prescribes procedure to restate assignment of use of limited common elements. • Requires restated declaration or restated assignment of use of limited common elements to be approved by commissioner. • Makes related changes.
3	100.105	2	<i>Contents of Declaration:</i> <ul style="list-style-type: none"> • Clarifies that the requirement to state use of buildings and units relates to the “general nature” of use, residential or otherwise, to distinguish between “use restrictions” required to be included in the bylaws. • Unless prohibited by the declaration and subject to amendment requirements: <ul style="list-style-type: none"> ◆ For a staged condominium, provides not later than two years following the termination date (the date after which any right to annex additional property to condominium terminates), the termination date may be extended for a period not exceeding five years (currently two years). ◆ Provides before the termination date specified in the declaration or supplemental declaration (the date after which the rights of declarant regarding variable property will terminate) the termination date may be extended for a period not exceeding five years (currently two years). • For a flexible condominium, changes the maximum termination date from seven to 20 years for a condominium that consists exclusively of nonresidential units. • Deletes duplicative language. • Makes related, conforming and format changes.
4	100.110	6	<i>Governmental Approval of Condominium Documents:</i> <ul style="list-style-type: none"> • For clarification, provides if the requirements of applicable sections are met, the commissioner, county assessor and tax collector must approve the document and may not impose additional requirements not specified in section. • As a condition of approval by commissioner, requires that a copy of a reserve study be submitted if a disclosure statement was issued without the inclusion of a reserve study. (Corresponds with amendments to ORS 100.640 by Sec. 22 and to ORS 100.655 by Sec. 24). • Makes related changes.
5	100.116	8	<i>Plat Amendments:</i> <ul style="list-style-type: none"> • Provides in the discretion of the city or county surveyor, a change to graphically depicted information on a plat that changes the identity, nature or other descriptive information but does not change the graphic depiction, may be made by amendment to the declaration without a plat amendment described in subsections (3) to (5) of section. • Clarifies and revises procedure for amending floor plans (when no plat recorded).
6	100.117	11	<i>Correction Amendments to Condominium Documents:</i> <ul style="list-style-type: none"> • Provides that a correction amendment must include a reference to any provision in subsection (2) of section that authorizes the correction amendment. • Makes format and conforming amendments.

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7	100.120	12	<p>Supplemental Declarations:</p> <ul style="list-style-type: none"> • Adds procedure to “redesignate” withdrawable variable property as non-withdrawable variable property. • If withdrawable variable property is being redesignated as nonwithdrwable variable property, requires the supplemental declaration to include any other information required by rule of the commissioner.
8	100.130	13	<p>Relocation or Adjustment of Boundaries between Units:</p> <ul style="list-style-type: none"> • Amends information that must be specified in an amendment to the declaration that relocates or adjust boundaries between units. • Provides if the declaration provides that method of determining any of the reallocations specified in the amendment is based on the area of the unit, the reallocation must be calculated according to the area of the affected units as originally stated in the declaration, notwithstanding any change in total area of affected units. • Provides amendment may not change allocations of any other units. • Makes related changes.
9	100.135	14	<p>Declaration Amendments:</p> <ul style="list-style-type: none"> • Deletes provisions relating to restated declaration to correspond with creation of new Section 2. • Provides if an amendment creates an additional unit from common elements, association is initial grantee of additional unit and a subsequent conveyance of an additional unit must be made by deed certified by association and acknowledged. • Provides consent of lenders holding a security interest in a unit is required for an amendment that changes boundary of unit. • Revises format.
10	100.150	17	<p>Flexible Condominiums – Declarant Options before Termination Date:</p> <ul style="list-style-type: none"> • Provides that subject to requirements of ORS 100.105(7)(m)* before termination date and by recording a supplemental declaration and supplemental plat, a declarant may change the designation of all or portion of variable property designated withdrawable variable property in the declaration and on plat or in supplemental declaration and on supplemental plat to nonwithdrawable variable property. * Requires statement by local governing body or appropriate department that withdrawal of any withdrawable variable property will not violate any applicable planning or zoning regulations. • Makes technical and format changes.
		17	BYLAWS
11	Add In	17	Adds Sections 12 and 13 to ORS chapter 100.
12	New	18	<p>Restated Bylaws:</p> <ul style="list-style-type: none"> • Moves current provisions in ORS 100.410 to this new Section 12. • Conforms format.
13	New	18	<p>Approval of Bylaw Amendments and Restated Bylaws by Commissioner:</p> <ul style="list-style-type: none"> • Clarifies when bylaw amendments and restated bylaws must be approval by Commissioner by specifying dates that correspond to effective dates of related legislation. • Provides Commissioner’s approval is not required, notwithstanding provision in bylaws so requiring if statute does not require. • Provides bylaws recorded on or after effective date of this 2019 Act may require that any or all amendments be approved by Commissioner.

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			<ul style="list-style-type: none"> • Provides an association may request that commissioner approve a bylaws amendment or restated bylaws for which approval not required. • Includes existing provisions relocated from ORS 100.410. • Makes related changes.
14	100.123	19	<p><i>Authority to Amend Declaration or Bylaws to Comply with Certain Federal and State Laws:</i></p> <ul style="list-style-type: none"> • Prescribes procedure for current right of a declarant to amend specified documents in order to comply with certain lender and governmental requirements. • Prescribes content of amendment and manner of execution. • Clarifies that amendment must be approved by Commissioner.
15	100.410	19	<p><i>Adoption of Bylaws and Amendment:</i></p> <ul style="list-style-type: none"> • To reflect current statutory requirements, provides that provisions of the bylaws that regulate amendments to bylaws: <ul style="list-style-type: none"> ◆ Must be consistent with provisions of ORS chapter 100 in effect on date bylaws are recorded. ◆ Control amendment process. ◆ May be used to amend provision of bylaws related to amendment process as needed to be in compliance with provisions of ORS chapter 100 in effect on date amendment becomes effective. • Provides requirement that amendments relating to age restrictions, pet restrictions, limitation on number of persons who may occupy units and limitation on rental or leasing of units for exclusively residential condominiums are not effective unless approved by at least 75 percent of owners or greater percentage specified in bylaws also applies to any units (in a mixed-use condominium) that will be used for residential purposes. • Removes provisions relating to approval of amendments by commissioner to conform with new Section 13.
16	100.415	21	<p><i>Content of Bylaws:</i></p> <ul style="list-style-type: none"> • Provides that the bylaws may provide for the election of a chairperson or a president. Current law requires the election of a chairperson. • Requires that any qualifications of officers be specified. • Makes conforming changes.
17	100.530	23	<p><i>Allocation of Common Expenses and Profits:</i></p> <p>If the board determines that any loss or cost incurred by the association is fault of one or more owner, adds the requirement that notice and opportunity for hearing before the board must occur before the association may assess the amount of the lost or cost exclusively against the units of the responsible owners.</p>
		24	DOCUMENT FILING AND DISCLOSURES
18	Add-In	24	Adds Sections 19 and 20 to ORS chapter 100.
19	NEW	24	<p><i>Commissioner Approval Filing:</i></p> <ul style="list-style-type: none"> • Prescribes requirements and procedure for filing documents that must be approved by the commissioner. • Specifies documents that must be filed for approval of: <ul style="list-style-type: none"> ◆ Declaration and bylaw. ◆ Supplemental declaration. ◆ Amendment to declaration, supplemental declaration or plat. ◆ Restated declaration or restated assignment of limited common elements. ◆ Amendment to bylaws and restated bylaws.

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			<ul style="list-style-type: none"> • After review of filing and documents, authorizes commissioner to require declarant to submit other documents or information related to filing commissioner considers necessary to approve document under ORS chapter 100.
20	NEW	25	<p>Limited Residential Filing:</p> <ul style="list-style-type: none"> • Prescribes requirements and procedure for filing documents creating condominium for approval when declarant does not intend to sell units for which a disclosure statement filing is required under ORS 100.635. • Specifies form, fee and documents that must be submitted. • Requires declarant to submit an affidavit of compliance on a form prescribed and furnished by commissioner that requires declarant to agree to comply with specified sections of ORS chapter 100 before declarant sells any units in the condominium and to assert other understandings. • After review of filing, authorizes commissioner to require declarant to submit other documents or information related to filing commissioner considers necessary to approve document under ORS chapter 100.
21	100.635	26	<p>Disclosure Statement Filing:</p> <p>Authorizes the commissioner too require the filing to be on a form prescribed by commissioner.</p>
22	100.640	26	<p>Document Disclosure Filing:</p> <ul style="list-style-type: none"> • If copy of proposed plat is not available, requires copy of proposed site plan to show unit designations and locations. • Provides if disclosure statement is adopted and issued before creation of condominium, a reserve study is not required if disclosure statement includes explanatory information specified in ORS 100.655. (Corresponding amendments to ORS 100.110 in Section 4 and ORS 100.655 in Section 24.)
23	100.645	27	<p>Requirement to Keep Filed Information Current:</p> <ul style="list-style-type: none"> • Requires report of material change to information filed with commissioner to: <ul style="list-style-type: none"> ◆ Be on a form prescribed and furnished by commissioner. ◆ Include a revised disclosure statement that reflects any changes in the information. • After review of material change report, authorizes commissioner to: <ul style="list-style-type: none"> ◆ Require developer to submit other documents or information related to report commissioner considers necessary to determine material changes reported comply with ORS chapter 100. ◆ Require developer to make necessary changes to disclosure statement.
24	100.655	28	<p>Disclosure Statement Contents:</p> <ul style="list-style-type: none"> • Requires disclosure statement to include reference to recording index numbers and date of recording of declaration, bylaws and plat or a statement that proposed condominium is not yet submitted to the condominium form of ownership. • If reserve study is not submitted with disclosure filing, specifies notice to prospective purchasers that must be included in disclosure statement. (Corresponding amendments to ORS 100.110 in Section 4 and ORS 100.640 in Section 22.) • Requires disclosure statement to include any additional information required by the commissioner.

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25	100.660	30	<i>Nonresidential Condominium Filing:</i> <ul style="list-style-type: none"> • Prescribes requirements and procedure for filing documents creating nonresidential condominium or amendments to document for approval. • Specifies form, fee and documents that must be submitted. • After review of filing, authorizes commissioner to require declarant to submit other documents or information related to filing commissioner considers necessary to approve document under ORS chapter 100.
26	100.675	31	<i>Inventory of Filings:</i> <ul style="list-style-type: none"> • Restructures provisions governing inventory of filings. • Prescribes procedure for processing incomplete filing. • Makes conforming amendments.
27	100.680	32	<i>Escrow Requirements:</i> Deletes provisions relating to unit sales agreements to correspond with creation of new Section 29.
28	Add In	33	Adds Sec. 29 to ORS chapter 100.
29	New	33	<i>Unit Sales Agreement:</i> Moves current provisions in ORS 100.680 relating to unit sales agreements to this new Section 29.
30	100.705	34	<i>Prohibition of Sales before Issuance of Disclosure Statement; Distribution:</i> Makes conforming amendments.
		34	MISCELLANEOUS PROVISIONS
31	100.405	34	<i>Association Formation; Powers:</i> <ul style="list-style-type: none"> • Provides if association is incorporated, the articles of incorporation must be consistent with declaration and bylaws. • Provides association of a condominium (consisting of more than four units, excluding units used for parking, storage or other use ancillary to a unit) must be incorporated before conveyance of first unit unless all units are conveyed or transferred to one person in one transaction.
32	100.600	39	<i>Termination of Condominium:</i> Makes conforming amendments relating to definition of “executed by the association” added to ORS 100.005 by Sec. 34.
33		40	Deleted. Subsequent sections were not renumbered.
34	100.005	40	<i>Definitions:</i> <ul style="list-style-type: none"> • Adds definitions of: <ul style="list-style-type: none"> ◆ “Acknowledged.” ◆ “Certified by the association: or “executed by the association.” ◆ “Recorded.” • Amends definition of “conversion condominium” to correct that term applies to property that a declarant intends to submit to the condominium form of ownership. • Makes conforming changes.
		44	CONFORMING AMENDMENTS
35	100.407	44	<i>Association Meetings.</i>
36	87.015	44	<i>Land and Interests Therein subject to lien; Leaseholds.</i>
37	100.020	45	<i>Condominium Provisions.</i>
38	100.102	46	<i>Leasehold Condominiums.</i>
39	100.125	46	<i>Annexation of Property.</i>
40	100.155	47	<i>Variable Property.</i>

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41	100.175	48	<p><i>Reserve Account; Maintenance Plan; Reserve Study:</i></p> <ul style="list-style-type: none"> • Adds to items (currently common elements) for which a reserve must be established, any property for which the association has responsibility for maintenance, repair or replacement all or part of which normally require major maintenance, repair or replacement in more than one and less than 30 years <i>Example:</i> roof or exterior of unit when roof or exterior is part of unit. • Revises format of amended provision.
42	100.260	51	<i>Condominium Information Report.</i>
43	100.275	52	<i>Application of ORS 100.250 to 100.280.</i>
44	100.550	52	<i>Service of Process.</i>
45	100.625	53	<i>Procedure for Converting or Dividing Units.</i>
		54	APPLICABILITY DATES
46	NEW	54	<i>Application.</i>
		54	UNIT CAPTIONS
47	NEW	54	<i>Captions.</i>

**This is a general summary to assist when reviewing the entire bill.*