

## HOUSE AMENDMENTS TO HOUSE BILL 2485

By COMMITTEE ON JUDICIARY

March 29

- 1 On page 1 of the printed bill, line 5, delete “100.665.”.
- 2 On page 2, line 18, after “declaration” insert “, a supplemental declaration”.
- 3 On page 5, line 14, delete “or time period”.
- 4 In line 34, delete “property shall automatically be” and insert “variable property is automat-
- 5 ically”.
- 6 In line 39, after “nonwithdrawable” insert “variable”.
- 7 On page 6, line 2, delete “such” and insert “the”.
- 8 Delete lines 15 through 19 and insert:
- 9 “(10)(a) Approval by the unit owners is not required for a declarant to redesignate withdrawable
- 10 variable property as ‘nonwithdrawable variable property’ under ORS 100.150 (1) by supplemental
- 11 declaration and supplemental plat, for any reason, including if the redesignation is required by the
- 12 local governing body to comply with any planning or zoning regulation or ordinance.”.
- 13 In line 21, delete “or an amendment”.
- 14 Delete lines 26 through 29.
- 15 On page 8, line 4, delete “100.660 (3)(f)” and insert “section 19 (2)(d) of this 2019 Act”.
- 16 In line 11, delete “accepted” and insert “issued”.
- 17 On page 10, delete lines 10 through 19 and insert:
- 18 “(10)(a) Subject to paragraph (c) of this subsection, floor plans of a condominium for which floor
- 19 plans were not required to be shown on a plat at the time of creation of the condominium or at the
- 20 time of the recording of a supplemental declaration annexing property to the condominium may be
- 21 amended by:
- 22 “(A) An amendment of the declaration under paragraph (b) of this subsection; or
- 23 “(B) A plat amendment under subsections (3) to (5) of this section.
- 24 “(b) An amendment of the declaration must include:
- 25 “(A) References to recording index numbers and date of recording of the declaration and any
- 26 applicable supplemental declarations or amendments.
- 27 “(B) A description of the change to the floor plans.
- 28 “(C) A graphic depiction of any change to the boundaries of a unit or common element and a
- 29 statement by a registered architect, registered professional land surveyor or registered professional
- 30 engineer certifying that such graphic depiction fully and accurately depicts the boundaries of the
- 31 unit or common element as it currently exists.
- 32 “(c) Notwithstanding that floor plans were not required to be shown on a plat at the time of
- 33 creation of the condominium or at the time of the recording of a supplemental declaration annexing
- 34 property to the condominium, if floor plans are shown on a plat, the plat may not be amended under
- 35 paragraph (b) of this subsection.”.

1 In line 20, delete “(10)” and insert “(10)(b)”.

2 On page 11, line 25, after the second comma insert “by”.

3 In line 26, delete “, if required,” and insert “by” and after “collector” insert “, if required,”.

4 On page 12, line 10, delete “(1)” and insert “(1)(a)”.

5 In line 11, before “variable” insert “or redesignate” and after “100.150” insert “(1)”.

6 In line 13, delete “or” and insert a comma and after “reclassification” insert “or redesignation

7 as provided in this section” and before “Variable” begin a new paragraph and insert “(b)

8 Withdrawable”.

9 In line 14, after “property” insert “under this chapter”.

10 In line 27, delete the first “the” and insert “a”.

11 In line 38, after “of” insert “withdrawable”.

12 In line 41, delete “shall” and insert “must”.

13 On page 13, line 2, after “reclassified” insert “, redesignated”.

14 In line 5, after “any” insert “withdrawable”.

15 In line 6, before the period insert “and any other information required by rule of the Real Estate

16 Commissioner”.

17 On page 14, line 6, delete “must be” and insert “is not effective unless”.

18 On page 15, line 4, after “subsection” insert “constitutes a conveyance and”.

19 In line 14, restore “constitutes a conveyance and”.

20 On page 21, line 37, delete “shall” and insert “must”.

21 On page 23, line 36, after “and” insert “an opportunity for”.

22 Delete lines 44 and 45.

23 On page 24, delete lines 1 through 34 and insert:

24 **“SECTION 19. (1) Submission of any document to the Real Estate Commissioner for ap-**

25 **proval under ORS 100.110, 100.135, 100.410 or 100.660 or section 2, 12, 13 or 20 of this 2019 Act**

26 **or any other provision of this chapter must include:**

27 **“(a) Any form prescribed and furnished by the commissioner for submission of a specified**

28 **document;**

29 **“(b) The deposit fee required under ORS 100.670; and**

30 **“(c) Any documents or information required for submission under subsections (2) to (6)**

31 **of this section.**

32 **“(2) For approval of a declaration and bylaws, the following must be submitted:**

33 **“(a) The original executed declaration and the executed adopted bylaws of the condo-**

34 **minium and a copy of the executed documents;**

35 **“(b) A statement from the county assessor or county surveyor that the name of the**

36 **condominium is acceptable under ORS 100.105;**

37 **“(c) A copy of the full size plat executed by the declarant and prepared in conformance**

38 **with ORS 100.115 and a certification of plat execution required under ORS 100.110 (4) on a**

39 **form prescribed and furnished by the commissioner;**

40 **“(d) A copy of a preliminary title report, title insurance policy or condominium guarantee**

41 **that has been issued within the preceding 30 days, including a map showing the location of**

42 **property described in the report, policy or guarantee, or other evidence of title satisfactory**

43 **to the commissioner; and**

44 **“(e) Unless previously submitted to the commissioner under this chapter, a copy of all**

45 **restrictive covenants, reservations or other documents that may create an encumbrance on**

1 or limit the use of the property other than those restrictions contained in the declaration  
2 or bylaws.

3 **“(3) For approval of a supplemental declaration, the following must be submitted:**

4 **“(a) The original executed supplemental declaration and a copy of the executed document;**

5 **“(b) The documents specified in subsection (2)(c) and (d) of this section relating to a  
6 supplemental declaration; and**

7 **“(c) Any documents described in subsection (2) of this section that were amended by the  
8 supplemental declaration or have otherwise changed since the documents were previously  
9 filed under this section.**

10 **“(4) For approval of an amendment to a declaration, supplemental declaration or plat, a  
11 restated declaration or a restated assignment of limited common elements, the following  
12 must be submitted:**

13 **“(a) The original executed amendment, the executed restated declaration or the restated  
14 assignment of limited common elements and a copy of the executed document;**

15 **“(b) For a plat amendment, a copy of the full size plat amendment prepared in conform-  
16 ance with ORS 100.116 and a certification of plat execution required under ORS 100.110 (4)  
17 on a form prescribed and furnished by the commissioner;**

18 **“(c) For amendments requiring consent or approval of a specific unit owner or  
19 mortgagee:**

20 **“(A) Evidence of the required consent or approval; and**

21 **“(B) Evidence of unit ownership or interest of the mortgagee; and**

22 **“(d) Any documents described in subsection (2) of this section that were amended by the  
23 amendment to the declaration, supplemental declaration or plat, the restated declaration or  
24 the restated assignment of limited common elements or have otherwise changed since the  
25 documents were previously filed under this section.**

26 **“(5) For approval of an amendment to the bylaws or restated bylaws, the following must  
27 be submitted:**

28 **“(a) The original executed bylaw amendment or restated bylaws and a copy of the exe-  
29 cuted document; and**

30 **“(b) If the amendment requires the consent or approval of a specific unit owner or  
31 mortgagee:**

32 **“(A) Evidence of the required consent or approval; and**

33 **“(B) Evidence of unit ownership or interest of the mortgagee.**

34 **“(6) After review of the filing and documents submitted under this section, the commis-  
35 sioner may require the person submitting the filing to submit any other documents or in-  
36 formation related to the filing that the commissioner considers necessary to approve the  
37 document under this chapter.”.**

38 In line 38, after “declaration” insert “and bylaws or a supplemental declaration”.

39 In line 40, delete “disclosure statement” and insert “filing”.

40 Delete lines 42 through 45.

41 On page 25, delete lines 1 through 17 and insert:

42 **“(2) A limited residential condominium filing must include:**

43 **“(a) General information, provided on a form prescribed and furnished by the commissioner, in-  
44 cluding:**

45 **“(A) The name and address of the condominium and the county in which the condominium is**

1 located.

2 “(B) The name, address and telephone number of the declarant and any agent of the declarant.

3 “(b) For approval of the declaration and bylaws or a supplemental declaration, in addition to the  
4 documents and information required under section 19 (2) or (3) of this 2019 Act, an executed and  
5 acknowledged affidavit of compliance, in a form prescribed and furnished by the commissioner, that  
6 requires the declarant to:”.

7 In line 25, delete “disclosure statement” and insert “filing”.

8 In line 27, after “condominium” insert “filing”.

9 In line 28, delete “under ORS 100.110” and insert “and bylaws or a supplemental declaration  
10 under this chapter”.

11 On page 27, line 9, before “must” insert “of material changes”.

12 In line 20, delete “report complies” and insert “material changes reported comply”.

13 In line 22, delete “issue a revised” and insert “make necessary changes to the”.

14 On page 29, line 30, delete “under ORS 100.675” and insert “by the commissioner”.

15 Delete lines 42 through 45.

16 On page 30, delete lines 1 through 35 and insert:

17 “**SECTION 25.** ORS 100.660 is amended to read:

18 “100.660. [A developer of a condominium located in this state, that consists exclusively of units to  
19 be used for nonresidential purposes or that consists of units to be offered for sale as a security under  
20 ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, shall submit to the Real Estate Commis-  
21 sioner a filing that consists of:]

22 “(1) As used in this section, ‘nonresidential condominium’ means a condominium in which  
23 all units are available exclusively for nonresidential uses or all units are to be offered for sale  
24 as a security under ORS 59.005 to 59.505.

25 “(2) A declarant that proposes to submit real property to the condominium form of  
26 ownership under this chapter as a nonresidential condominium shall file with the Real Estate  
27 Commissioner nonresidential condominium documentation described in subsection (3) of this  
28 section and pay the fee required by ORS 100.670.

29 “[1] (3) The nonresidential condominium documentation must include:

30 “(a) General information on the condominium, provided on a form prescribed and furnished  
31 by the commissioner, including:

32 “[a] (A) The name and address of the condominium and the county in which the condominium  
33 is located; and

34 “[b] (B) The name, address and telephone number of the [developer] declarant and any agent  
35 of the [developer; and] declarant.

36 “(b) For approval of the declaration and bylaws, the documents and information required  
37 under section 19 (2) of this 2019 Act.

38 “(c) For approval of a supplemental declaration, the documents and information required  
39 under section 19 (3) of this 2019 Act.

40 “[2] The following documentation:]

41 “[a] The original executed declaration or supplemental declaration and a copy thereof, drawn in  
42 conformance with ORS 100.105 and 100.120, if applicable;]

43 “[b] The original executed bylaws, and a copy thereof, drawn in conformance with ORS  
44 100.415;]

45 “[c] A copy of the full size plat prepared in conformance with ORS 100.115;]

1       “(d) A copy of a current preliminary title report or title insurance policy or condominium guar-  
2       antee that has been issued within the preceding 30 days, including a map showing the location of  
3       property described therein, or other evidence of title satisfactory to the commissioner;]

4       “[(e) A copy of all restrictive covenants, reservations or other documents containing provisions that  
5       may create an encumbrance on or limit the use of the property other than those restrictions contained  
6       in the declaration, supplemental declaration or bylaws; and]

7       “[(f) A statement from the county assessor that the name for the condominium is acceptable under  
8       ORS 100.105 (5).]

9       **“(4) After review of the nonresidential condominium documentation filed under this sec-  
10       tion, the commissioner may require the declarant to file additional documents and informa-  
11       tion related to the nonresidential condominium documentation that the commissioner deems  
12       necessary to review and approve the declaration and bylaws or a supplemental declaration  
13       under this chapter.”.**

14       On page 31, line 17, delete “13 or 20” and insert “19”.

15       In line 35, delete “; or” and insert “or, if the filing is made under ORS 100.635, adopt and issue  
16       the disclosure statement;

17       “(b) Approve the document filed for approval; or

18       “(c) If the filing is made under ORS 100.635, adopt and issue the disclosure statement under ORS  
19       100.655.”.

20       Delete line 36.

21       Delete lines 39 through 42 and insert:

22       “(6) Upon approving the filing under this section, the commissioner shall provide written notice  
23       of the approval to the person making the filing.”.

24       On page 33, line 20, delete the boldfaced material.

25       In line 21, delete “2019 Act”.

26       On page 39, delete lines 40 through 45.

27       On page 40, delete lines 1 through 10 and insert:

28       **“NOTE:** Section 33 was deleted by amendment. Subsequent sections were not renumbered.”.

29       On page 41, line 21, after “containing” insert “variable” and after “be” insert “redesignated,”.

30       On page 42, line 13, after “Nonwithdrawable” insert “variable”.

31       On page 47, line 36, delete “as provided in” and insert “if required under”.

32       In line 37, after “fund” insert a colon and delete the rest of the line and lines 38 through 45.

33       On page 48, delete lines 1 through 14 and insert:

34       “(A) Major maintenance, repair or replacement of those common elements or other property to  
35       be maintained by the association under the declaration or bylaws, all or part of which will normally  
36       require major maintenance, repair or replacement in more than one and less than 30 years;

37       “(B) Exterior painting if the common elements or other property required to be maintained by  
38       the association under the declaration or bylaws include exterior painted surfaces; and

39       “(C) Any other items for which a reserve is required under the declaration or bylaws.

40       “(b) The reserve account required under paragraph (a) of this subsection need not include:

41       “(A) Items that can reasonably be funded from the general budget or other funds or accounts  
42       of the association; or

43       “(B) A reserve for limited common elements for which maintenance and replacement are the  
44       responsibility of one or more, but less than all, unit owners under the provisions of the declaration  
45       or bylaws.

1           “(c) The reserve account must be established in the name of the association of unit owners. The  
2 association is responsible for administering the account and for making periodic payments into the  
3 account.

4           “(d) The reserve portion of the initial assessment determined by the declarant must be based  
5 on:

6           “(A) The reserve study described in subsection (3) of this section;

7           “(B) In the case of a conversion condominium, the statement described in ORS 100.655 (1)(h); or

8           “(C) Other reliable information.

9           “(e) The reserve account must be funded by assessments against the individual units for the  
10 purposes for which the reserve account is established.

11           “(f) The assessment under this subsection accrues from the time of the conveyance of the first  
12 individual unit assessed as provided in ORS 100.530.”.

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