

HB 2485-3
(LC 2877)
3/22/19 (RLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Oregon Condominium Working Group)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2485**

1 On page 1 of the printed bill, line 5, delete “100.665,”.

2 On page 2, line 18, after “declaration” insert “, a supplemental
3 declaration”.

4 On page 5, line 14, delete “or time period”.

5 In line 34, delete “property shall automatically be” and insert “variable
6 property is automatically”.

7 In line 39, after “nonwithdrawable” insert variable”.

8 On page 6, line 2, delete “such” and insert “the”.

9 Delete lines 15 through 19 and insert:

10 “(10)(a) Approval by the unit owners is not required for a declarant to
11 redesignate withdrawable variable property as ‘nonwithdrawable variable
12 property’ under ORS 100.150 (1) by supplemental declaration and supple-
13 mental plat, for any reason, including if the redesignation is required by the
14 local governing body to comply with any planning or zoning regulation or
15 ordinance.”.

16 In line 21, delete “or an amendment”.

17 Delete lines 26 through 29.

18 On page 8, line 4, delete “100.660 (3)(f)” and insert “section 19 (2)(d) of
19 this 2019 Act”.

20 In line 11, delete “accepted” and insert “issued”.

21 On page 10, delete lines 10 through 19 and insert:

1 “(10)(a) Subject to paragraph (c) of this subsection, floor plans of a con-
2 dominium for which floor plans were not required to be shown on a plat at
3 the time of creation of the condominium or at the time of the recording of
4 a supplemental declaration annexing property to the condominium may be
5 amended by:

6 “(A) An amendment of the declaration under paragraph (b) of this sub-
7 section; or

8 “(B) A plat amendment under subsections (3) to (5) of this section.

9 “(b) An amendment of the declaration must include:

10 “(A) References to recording index numbers and date of recording of the
11 declaration and any applicable supplemental declarations or amendments.

12 “(B) A description of the change to the floor plans.

13 “(C) A graphic depiction of any change to the boundaries of a unit or
14 common element and a statement by a registered architect, registered pro-
15 fessional land surveyor or registered professional engineer certifying that
16 such graphic depiction fully and accurately depicts the boundaries of the
17 unit or common element as it currently exists.

18 “(c) Notwithstanding that floor plans were not required to be shown on
19 a plat at the time of creation of the condominium or at the time of the re-
20 cording of a supplemental declaration annexing property to the condomin-
21 ium, if floor plans are shown on a plat, the plat may not be amended under
22 paragraph (b) of this subsection.”.

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

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

25 In line 26, delete “, if required,” and insert “by” and after “collector” in-
26 sert “, if required,”.

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

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

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

1 insert “or redesignation as provided in this section” and before “Variable”
2 begin a new paragraph and insert “(b) Withdrawable”.

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

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

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

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

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

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

9 In line 6, before the period insert “and any other information required
10 by rule of the Real Estate Commissioner”.

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

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

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

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

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

17 Delete lines 44 and 45.

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

19 **“SECTION 19. (1) Submission of any document to the Real Estate
20 Commissioner for approval under ORS 100.110, 100.135, 100.410 or 100.660
21 or section 2, 12, 13 or 20 of this 2019 Act or any other provision of this
22 chapter must include:**

23 **“(a) Any form prescribed and furnished by the commissioner for
24 submission of a specified document;**

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

26 **“(c) Any documents or information required for submission under
27 subsections (2) to (6) of this section.**

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

30 **“(a) The original executed declaration and the executed adopted**

1 bylaws of the condominium and a copy of the executed documents;

2 “(b) A statement from the county assessor or county surveyor that
3 the name of the condominium is acceptable under ORS 100.105;

4 “(c) A copy of the full size plat executed by the declarant and pre-
5 pared in conformance with ORS 100.115 and a certification of plat ex-
6 ecution required under ORS 100.110 (4) on a form prescribed and
7 furnished by the commissioner;

8 “(d) A copy of a preliminary title report, title insurance policy or
9 condominium guarantee that has been issued within the preceding 30
10 days, including a map showing the location of property described in
11 the report, policy or guarantee, or other evidence of title satisfactory
12 to the commissioner; and

13 “(e) Unless previously submitted to the commissioner under this
14 chapter, a copy of all restrictive covenants, reservations or other
15 documents that may create an encumbrance on or limit the use of the
16 property other than those restrictions contained in the declaration or
17 bylaws.

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

20 “(a) The original executed supplemental declaration and a copy of
21 the executed document;

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

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

27 “(4) For approval of an amendment to a declaration, supplemental
28 declaration or plat, a restated declaration or a restated assignment of
29 limited common elements, the following must be submitted:

30 “(a) The original executed amendment, the executed restated dec-

1 lation or the restated assignment of limited common elements and
2 a copy of the executed document;

3 “(b) For a plat amendment, a copy of the full size plat amendment
4 prepared in conformance with ORS 100.116 and a certification of plat
5 execution required under ORS 100.110 (4) on a form prescribed and
6 furnished by the commissioner;

7 “(c) For amendments requiring consent or approval of a specific
8 unit owner or mortgagee:

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

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

11 “(d) Any documents described in subsection (2) of this section that
12 were amended by the amendment to the declaration, supplemental
13 declaration or plat, the restated declaration or the restated assignment
14 of limited common elements or have otherwise changed since the
15 documents were previously filed under this section.

16 “(5) For approval of an amendment to the bylaws or restated by-
17 laws, the following must be submitted:

18 “(a) The original executed bylaw amendment or restated bylaws and
19 a copy of the executed document; and

20 “(b) If the amendment requires the consent or approval of a specific
21 unit owner or mortgagee:

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

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

24 “(6) After review of the filing and documents submitted under this
25 section, the commissioner may require the person submitting the fil-
26 ing to submit any other documents or information related to the filing
27 that the commissioner considers necessary to approve the document
28 under this chapter.”.

29 In line 38, after “declaration” insert “and bylaws or a supplemental dec-
30 laration”.

1 In line 40, delete “disclosure statement” and insert “filing”.
2 Delete lines 42 through 45.
3 On page 25, delete lines 1 through 17 and insert:
4 “(2) A limited residential condominium filing must include:
5 “(a) General information, provided on a form prescribed and furnished by
6 the commissioner, including:
7 “(A) The name and address of the condominium and the county in which
8 the condominium is located.
9 “(B) The name, address and telephone number of the declarant and any
10 agent of the declarant.
11 “(b) For approval of the declaration and bylaws or a supplemental decla-
12 ration, in addition to the documents and information required under section
13 19 (2) or (3) of this 2019 Act, an executed and acknowledged affidavit of
14 compliance, in a form prescribed and furnished by the commissioner, that
15 requires the declarant to:”.
16 In line 25, delete “disclosure statement” and insert “filing”.
17 In line 27, after “condominium” insert “filing”.
18 In line 28, delete “under ORS 100.110” and insert “and bylaws or a sup-
19 plemental declaration under this chapter”.
20 On page 27, line 9, before “must” insert “of material changes”.
21 In line 20, delete “report complies” and insert “material changes reported
22 comply”.
23 In line 22, delete “issue a revised” and insert “make necessary changes
24 to the”.
25 On page 29, line 30, delete “under ORS 100.675” and insert “by the com-
26 missioner”.
27 Delete lines 42 through 45.
28 On page 30, delete lines 1 through 35 and insert:
29 **“SECTION 25.** ORS 100.660 is amended to read:
30 “100.660. [*A developer of a condominium located in this state, that consists*

1 *exclusively of units to be used for nonresidential purposes or that consists of*
2 *units to be offered for sale as a security under ORS 59.005 to 59.505, 59.710 to*
3 *59.830, 59.991 and 59.995, shall submit to the Real Estate Commissioner a fil-*
4 *ing that consists of:]*

5 **“(1) As used in this section, ‘nonresidential condominium’ means a**
6 **condominium in which all units are available exclusively for nonresi-**
7 **dential uses or all units are to be offered for sale as a security under**
8 **ORS 59.005 to 59.505.**

9 **“(2) A declarant that proposes to submit real property to the con-**
10 **dominium form of ownership under this chapter as a nonresidential**
11 **condominium shall file with the Real Estate Commissioner nonresi-**
12 **dential condominium documentation described in subsection (3) of this**
13 **section and pay the fee required by ORS 100.670.**

14 **“[(1)] (3) The nonresidential condominium documentation must in-**
15 **clude:**

16 **“(a) General information on the condominium, provided on a form**
17 **prescribed and furnished by the commissioner, including:**

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

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

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

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

26 **“[(2) The following documentation:]**

27 **“[(a) The original executed declaration or supplemental declaration and a**
28 **copy thereof, drawn in conformance with ORS 100.105 and 100.120, if applica-**
29 **ble;]**

30 **“[(b) The original executed bylaws, and a copy thereof, drawn in conform-**

1 *ance with ORS 100.415;]*

2 *“(c) A copy of the full size plat prepared in conformance with ORS*
3 *100.115;]*

4 *“(d) A copy of a current preliminary title report or title insurance policy*
5 *or condominium guarantee that has been issued within the preceding 30 days,*
6 *including a map showing the location of property described therein, or other*
7 *evidence of title satisfactory to the commissioner;]*

8 *“(e) A copy of all restrictive covenants, reservations or other documents*
9 *containing provisions that may create an encumbrance on or limit the use of*
10 *the property other than those restrictions contained in the declaration, supple-*
11 *mental declaration or bylaws; and]*

12 *“(f) A statement from the county assessor that the name for the condo-*
13 *minium is acceptable under ORS 100.105 (5).]*

14 **“(4) After review of the nonresidential condominium documentation**
15 **filed under this section, the commissioner may require the declarant**
16 **to file additional documents and information related to the nonresi-**
17 **dential condominium documentation that the commissioner deems**
18 **necessary to review and approve the declaration and bylaws or a sup-**
19 **plemental declaration under this chapter.”.**

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

21 In line 35, delete “; or” and insert “or, if the filing is made under ORS
22 100.635, adopt and issue the disclosure statement;

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

24 “(c) If the filing is made under ORS 100.635, adopt and issue the disclo-
25 sure statement under ORS 100.655.”.

26 Delete line 36.

27 Delete lines 39 through 42 and insert:

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

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

1 In line 21, delete “2019 Act”.

2 On page 39, delete lines 40 through 45.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(c) The reserve account must be established in the name of the associ-

1 ation of unit owners. The association is responsible for administering the
2 account and for making periodic payments into the account.

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

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

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

8 “(C) Other reliable information.

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

11 “(f) The assessment under this subsection accrues from the time of the
12 conveyance of the first individual unit assessed as provided in ORS
13 100.530.”.

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