

# B-Engrossed House Bill 3746

Ordered by the Senate June 4  
Including House Amendments dated April 15 and Senate Amendments  
dated June 4

Sponsored by COMMITTEE ON HOUSING AND HOMELESSNESS (at the request of Representative Pam Marsh)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: For condos and homes in an HOA, this Act changes how construction defects and damages are handled. (Flesch Readability Score: 74.2).

Reduces the statute of limitations for construction defect actions *[for units in]* by a planned community or condominium. Imposes notice requirements before homeowners or condominium association owners may bring or join a construction defect action. Requires the declarant and board of directors of a condominium association to conduct moisture inspections.

**Creates special procedural requirements for giving notice to contractors prior to filing construction defect claims if the action is brought by a homeowners association or association of unit owners. Extends the time for a sender of a secondary notice of defect to bring an action against the recipient of the secondary notice of defect.**

## A BILL FOR AN ACT

1  
2 Relating to real property; creating new provisions; and amending ORS 12.135, 94.662, 100.115,  
3 100.210, 100.417, 100.490, 100.680, 701.570, 701.575, 701.580 and 701.585.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 12.135 is amended to read:

6 12.135. (1) **As used in this section:**

7 (a) **“Association of unit owners” has the meaning given that term in ORS 100.005.**

8 (b) **“Homeowners association” has the meaning given that term in ORS 94.550.**

9 (c) **“Large commercial structure,” “residential structure” and “small commercial struc-**  
10 **ture” have the meanings given those terms in ORS 701.005.**

11 (d) **“Public body” has the meaning given that term in ORS 174.109.**

12 (e) **“Substantial completion” means the earliest of:**

13 (A) **The date when the contractee accepts in writing the construction, alteration or re-**  
14 **pair of the improvement to real property or any designated portion thereof as having reached**  
15 **that state of completion when it may be used or occupied for its intended purpose or, if there**  
16 **is no such written acceptance, the date of acceptance of the completed construction, alter-**  
17 **ation or repair of such improvement by the contractee;**

18 (B) **The date when a public body issues a certificate of occupancy for the improvement;**  
19 **or**

20 (C) **The date when the owner occupies the improvement or uses it for its intended pur-**  
21 **pose.**

22 *[(1)]* (2) **An action against a person by a plaintiff who is not a public body, whether in contract,**  
23 **tort or otherwise, arising from the person having performed the construction, alteration or repair**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of any improvement to real property or the supervision or inspection thereof, or from the person  
2 having furnished design, planning, surveying, architectural or engineering services for the improve-  
3 ment, must be commenced before the earliest of:

4 (a) The applicable period of limitation otherwise established by law;

5 (b) Ten years after substantial completion or abandonment of the construction, alteration or  
6 repair of a small commercial structure[, *as defined in ORS 701.005, a*] **or** residential structure[, *as*  
7 *defined in ORS 701.005, or a large commercial structure, as defined in ORS 701.005, that is owned or*  
8 *maintained by a homeowners association, as defined in ORS 94.550, or that is owned or maintained*  
9 *by an association of unit owners, as defined in ORS 100.005*]; or

10 (c) Six years after substantial completion or abandonment of the construction, alteration or re-  
11 pair of a large commercial structure[, *as defined in ORS 701.005, other than a large commercial*  
12 *structure described in paragraph (b) of this subsection*].

13 [(2)] **(3)** An action against a person by a public body, whether in contract, tort or otherwise,  
14 arising from the person having performed the construction, alteration or repair of any improvement  
15 to real property or the supervision or inspection thereof, or from the person having furnished design,  
16 planning, surveying, architectural or engineering services for the improvement, must be commenced  
17 not more than 10 years after substantial completion or abandonment of such construction, alteration  
18 or repair of the improvement to real property.

19 **(4) Notwithstanding subsection (2) of this section, the period of limitation for a tort**  
20 **action by a homeowners association or association of unit owners arising from the defective**  
21 **construction, alteration or repair of a structure or unit is:**

22 **(a) Seven years after substantial completion or abandonment of the construction, alter-**  
23 **ation or repair of the structure; or**

24 **(b) If a construction defect described in this subsection is discovered more than six but**  
25 **less than seven years after substantial completion or abandonment, one year after discovery**  
26 **of the defect.**

27 [(3)(a)] **(5)(a)** Notwithstanding subsections [(1) and] (2) **and (3)** of this section, an action against  
28 a person registered to practice architecture under ORS 671.010 to 671.220, a person registered to  
29 practice landscape architecture under ORS 671.310 to 671.459 or a person registered to practice  
30 engineering under ORS 672.002 to 672.325 to recover damages for injury to a person, property or to  
31 any interest in property, including damages for delay or economic loss, regardless of legal theory,  
32 arising out of the construction, alteration or repair of any improvement to real property must be  
33 commenced before the earliest of:

34 (A) Two years after the date the injury or damage is first discovered or in the exercise of rea-  
35 sonable care should have been discovered;

36 (B) Ten years after substantial completion or abandonment of the construction, alteration or  
37 repair of a small commercial structure[, *as defined in ORS 701.005, a*] **or** residential structure[, *as*  
38 *defined in ORS 701.005, or a large commercial structure, as defined in ORS 701.005, that is owned or*  
39 *maintained by a homeowners association, as defined in ORS 94.550, or that is owned or maintained*  
40 *by an association of unit owners, as defined in ORS 100.005*]; or

41 (C) Six years after substantial completion or abandonment of the construction, alteration or re-  
42 pair of a large commercial structure[, *as defined in ORS 701.005, other than a large commercial*  
43 *structure described in subparagraph (B) of this paragraph*].

44 (b) This subsection applies to actions brought by any person or public body.

45 [(4) *For purposes of this section:*]

1 [(a) "Public body" has the meaning given that term in ORS 174.109; and]

2 [(b) "Substantial completion" means the earliest of:]

3 [(A) The date when the contractee accepts in writing the construction, alteration or repair of the  
4 improvement to real property or any designated portion thereof as having reached that state of com-  
5 pletion when it may be used or occupied for its intended purpose or, if there is no such written ac-  
6 ceptance, the date of acceptance of the completed construction, alteration or repair of such improvement  
7 by the contractee;]

8 [(B) The date when a public body issues a certificate of occupancy for the improvement; or]

9 [(C) The date when the owner uses or occupies the improvement for its intended purpose.]

10 [(5)] (6) For purposes of this section, an improvement to real property is considered abandoned  
11 on the same date that the improvement is considered abandoned under ORS 87.045.

12 [(6)] (7) This section:

13 (a) Applies to an action against a manufacturer, distributor, seller or lessor of a manufactured  
14 dwelling, as defined in ORS 446.003, or of a prefabricated structure, as defined in ORS 455.010; and

15 (b) Does not apply to actions against any person in actual possession and control of the im-  
16 provement, as owner, tenant or otherwise, at the time such cause of action accrues.

17 **SECTION 2. The amendments to ORS 12.135 by section 1 of this 2025 Act apply only to**  
18 **the construction, alteration or repair of a structure for which the declaration, as defined in**  
19 **ORS 94.550 or 100.005, has first been recorded on or after the effective date of this 2025 Act.**

20 **SECTION 3.** ORS 94.662 is amended to read:

21 94.662. (1) At least 10 days prior to instituting any litigation or administrative proceeding to  
22 recover damages under ORS 94.630 (1)(e)(E), the homeowners association shall provide written no-  
23 tice to each affected owner of the association's intent to seek damages on behalf of the owner. The  
24 notice shall, at a minimum:

25 (a) Be mailed to the mailing address of each lot or to the mailing address designated in writing  
26 to the association by the owner;

27 (b) Inform each owner of the general nature of the litigation or proceeding;

28 (c) Describe the specific nature of the damages to be sought on the owner's behalf;

29 (d) Set forth the terms under which the association is willing to seek damages on the owner's  
30 behalf, including any mechanism proposed for the determination and distribution of any damages  
31 recovered;

32 (e) Inform each owner of the owner's right not to have the damages sought on the owner's behalf  
33 and specify the procedure for exercising the right; and

34 (f) Inform the owner that exercising the owner's right not to have damages sought on the  
35 owner's behalf:

36 (A) Relieves the association of its duty to reimburse or indemnify the owner for the damages;

37 (B) Does not relieve the owner from the owner's obligation to pay dues or assessments relating  
38 to the litigation or proceeding;

39 (C) Does not impair any easement owned or possessed by the association; and

40 (D) Does not interfere with the association's right to make repairs to common areas.

41 (2) Within 10 days of **the mailing of** the notice described in this section, any owner may request  
42 in writing that the association not seek damages on the owner's behalf. If an owner makes such a  
43 request, the association [*shall*] **may** not make or continue any claim or action for damages with  
44 regard to the objecting owner's lot and shall be relieved of any duty to reimburse or indemnify the  
45 owner for damages under the litigation or proceeding.

1       **(3)(a) A homeowners association may only initiate or intervene in litigation or an ad-**  
2 **ministrative proceeding under ORS 94.630 (1)(e)(E) to recover damages for a claim regarding**  
3 **a matter that results from a defect as defined in ORS 701.560, or damage arising from a de-**  
4 **fect, if approved by the board at a meeting held pursuant to ORS 94.644.**

5       **(b) The meeting held under paragraph (a) of this subsection must occur:**

6       **(A) At least 90 days after the homeowners association first sends a notice described in**  
7 **paragraph (c) of this subsection to each owner;**

8       **(B) After sending a second notice by first class mail with certificate of mailing; and**

9       **(C) At least 15 days after sending a third notice by first class mail.**

10       **(c) In addition to the contents described in subsection (1) of this section, a notice given**  
11 **under this subsection must:**

12       **(A) State that the association believes that a defect in the common property exists;**

13       **(B) Provide a detailed description of the defect;**

14       **(C) Identify the parties the association considers responsible for the defect;**

15       **(D) Include the names of each board member and a method by which each member may**  
16 **be contacted electronically or by mail; and**

17       **(E) Include a warning in substantially the following form:**

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20       **WARNING:**

21       **If the board decides to proceed with the proposed litigation or administrative proceeding,**  
22 **your ability to sell your lot in this planned community may be limited while the litigation or**  
23 **proceeding is pending.**

24       **If you have opinions or information that you wish the board to consider in making its**  
25 **decision, you are advised to contact the board promptly.**

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28       **(d) The association shall send a copy of the notice by certified mail to each person iden-**  
29 **tified in the notice as a party the association considers responsible for the defect. The re-**  
30 **quirement for sending notice under this subsection is in addition to the notice of defect**  
31 **requirement in ORS 701.565 and does not initiate the procedure described in ORS 701.560 to**  
32 **701.595.**

33       **SECTION 4.** ORS 100.490 is amended to read:

34       100.490. (1) At least 10 days prior to instituting any litigation or administrative proceeding to  
35 recover damages under ORS 100.405 (4)(e)(E), the association of unit owners shall provide written  
36 notice to each affected owner of the association's intent to seek damages on behalf of the owner.  
37 The notice shall, at a minimum:

38       (a) Be mailed to the mailing address of each unit or to the mailing addresses designated by the  
39 owners in writing to the association;

40       (b) Inform each owner of the general nature of the litigation or proceeding;

41       (c) Describe the specific nature of the damages to be sought on the owner's behalf;

42       (d) Set forth the terms under which the association is willing to seek damages on the owner's  
43 behalf, including any mechanism proposed for the determination and distribution of any damages  
44 recovered;

45       (e) Inform each owner of the owner's right not to have the damages sought on the owner's behalf

1 and specify the procedure for exercising the right; and

2 (f) Inform the owner that exercising the owner's right not to have damages sought on the  
3 owner's behalf:

4 (A) Relieves the association of its duty to reimburse or indemnify the owner for the damages;

5 (B) Does not relieve the owner from the owner's obligation to pay dues or assessments relating  
6 to the litigation or proceeding;

7 (C) Does not impair any easement owned or possessed by the association; and

8 (D) Does not interfere with the association's right to make repairs to common elements.

9 (2) Within 10 days of **the mailing of** the notice described in this section, any owner may request  
10 in writing that the association not seek damages on the owner's behalf. If an owner makes such a  
11 request, the association [*shall*] **may** not make or continue any claim or action for damages with  
12 regard to the objecting owner's unit or interest and shall be relieved of any duty to reimburse or  
13 indemnify the owner for damages under the litigation or proceeding.

14 (3)(a) **A condominium association may only initiate or intervene in litigation or an ad-**  
15 **ministrative proceeding under ORS 100.405 (4)(e)(E) to recover damages for a claim regarding**  
16 **a matter that results from a defect as defined in ORS 701.560, or damage arising from a de-**  
17 **fect, if approved by the board at a meeting held pursuant to ORS 100.420.**

18 (b) **The meeting held under paragraph (a) of this subsection must occur:**

19 (A) **At least 90 days after the association first sends a notice described in paragraph (c)**  
20 **of this subsection to each owner;**

21 (B) **After sending a second notice by first class mail with certificate of mailing; and**

22 (C) **At least 15 days after sending a third notice by first class mail.**

23 (c) **In addition to the contents described in subsection (1) of this section, a notice given**  
24 **under this subsection must:**

25 (A) **State that the association believes that a defect in the common property exists;**

26 (B) **Provide a detailed description of the defect;**

27 (C) **Identify the parties the association considers responsible for the defect;**

28 (D) **Include the names of each board member and a method by which each member may**  
29 **be contacted electronically or by mail; and**

30 (E) **Includes a warning in substantially the following form:**

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33 **WARNING:**

34 **If the board decides to proceed with the proposed litigation or administrative proceeding,**  
35 **your ability to sell your lot in this condominium may be limited while the litigation or pro-**  
36 **ceeding is pending.**

37 **If you have opinions or information that you wish the board to consider in making its**  
38 **decision, you are advised to contact the board promptly.**

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41 (d) **The association shall send a copy of the notice by certified mail to each person iden-**  
42 **tified in the notice as a party the association considers responsible for the defect. The re-**  
43 **quirement for sending notice under this subsection is in addition to the notice of defect**  
44 **requirement in ORS 701.565 and does not initiate the procedure described in ORS 701.560 to**  
45 **701.595.**

1       **SECTION 5. Section 6 of this 2025 Act is added to and made a part of ORS chapter 100.**

2       **SECTION 6. ORS 12.135 (4), 100.210 (5)(r) and 100.417 (8) do not apply to a condominium**  
3 **for which each unit owner is responsible for the interior and exterior of the owner's unit.**

4       **SECTION 7.** ORS 100.115 is amended to read:

5       100.115. (1) A plat of the land described in the declaration or a supplemental plat described in  
6 a supplemental declaration, complying with ORS 92.050, 92.060 (1) and (2), 92.080 and 92.120, shall  
7 be recorded simultaneously with the declaration or supplemental declaration. The plat or supple-  
8 mental plat shall be titled in accordance with subsection (3) of this section and shall:

9       (a) Show the location of:

10       (A) All buildings and public roads. The location shall be referenced to a point on the boundary  
11 of the property; and

12       (B) For a condominium containing units described in ORS 100.020 (3)(b)(C) or (D), the moorage  
13 space or floating structure. The location shall be referenced to a point on the boundary of the up-  
14 land property regardless of a change in the location resulting from a fluctuation in the water level  
15 or flow.

16       (b) Show the designation, location, dimensions and area in square feet of each unit including:

17       (A) For units in a building described in ORS 100.020 (3)(b)(A), the horizontal and vertical  
18 boundaries of each unit and the common elements to which each unit has access. The vertical  
19 boundaries shall be referenced to a known benchmark elevation or other reference point as ap-  
20 proved by the city or county surveyor;

21       (B) For a space described in ORS 100.020 (3)(b)(B), the horizontal boundaries of each unit and  
22 the common elements to which each unit has access. If the space is located within a structure, the  
23 vertical boundaries also shall be shown and referenced to a known benchmark elevation or other  
24 reference point as approved by the city or county surveyor;

25       (C) For a moorage space described in ORS 100.020 (3)(b)(C), the horizontal boundaries of each  
26 unit and the common elements to which each unit has access; and

27       (D) For a floating structure described in ORS 100.020 (3)(b)(D), the horizontal and vertical  
28 boundaries of each unit and the common elements to which each unit has access. The vertical  
29 boundaries shall be referenced to an assumed elevation of an identified point on the floating struc-  
30 ture even though the assumed elevation may change with the fluctuation of the water level where  
31 the floating structure is moored.

32       (c) Identify and show, to the extent feasible, the location [*and dimensions*] of all limited common  
33 elements described in the declaration. The plat may not include any statement indicating to which  
34 unit the use of any noncontiguous limited common element is reserved.

35       (d) Include a statement, including signature and official seal, of a registered architect, registered  
36 professional land surveyor or registered professional engineer certifying that the plat fully and ac-  
37 curately depicts the boundaries of the units of the building and that construction of the units and  
38 buildings as depicted on the plat has been completed, except that the professional land surveyor who  
39 prepared the plat need not affix a seal to the statement.

40       (e) Include a surveyor's certificate, complying with ORS 92.070, that includes information in the  
41 declaration in accordance with ORS 100.105 (1)(a) and a metes and bounds description or other de-  
42 scription approved by the city or county surveyor.

43       (f) Include a statement by the declarant that the property and improvements described and de-  
44 picted on the plat are subject to the provisions of ORS 100.005 to 100.627.

45       (g) Include any other information or data not inconsistent with the declaration that the

1 declarant desires to include.

2 (h) If the condominium is a flexible condominium, show the location and dimensions of all vari-  
3 able property identified in the declaration and label the variable property as “WITHDRAWABLE  
4 VARIABLE PROPERTY” or “NONWITHDRAWABLE VARIABLE PROPERTY,” with a letter dif-  
5 ferent from those designating a unit, building or other tract of variable property. If there is more  
6 than one tract, each tract shall be labeled in the same manner.

7 (2) The supplemental plat required under ORS 100.150 (1) shall be recorded simultaneously with  
8 the supplemental declaration. The supplemental plat shall be titled in accordance with subsection  
9 (3) of this section and shall:

10 (a) Comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080, 92.120 and subsection (3) of this sec-  
11 tion.

12 (b) If any property is withdrawn:

13 (A) Show the resulting perimeter boundaries of the condominium after the withdrawal; and

14 (B) Show the information required under subsection (1)(h) of this section as it relates to any  
15 remaining variable property.

16 (c) If any property is reclassified, show the information required under subsection (1)(a) to (d)  
17 of this section.

18 (d) Include a “Declarant’s Statement” that the property described on the supplemental plat is  
19 reclassified or withdrawn from the condominium and that the condominium exists as described and  
20 depicted on the plat.

21 (e) Include a surveyor’s certificate complying with ORS 92.070.

22 (3) The title of each supplemental plat described in ORS 100.120 shall include the complete name  
23 of the condominium, followed by the additional language specified in this subsection and the appro-  
24 priate reference to the stage being annexed or tract of variable property being reclassified. Each  
25 supplemental plat for a condominium recorded on or after January 1, 2002, shall be numbered se-  
26 quentially and shall:

27 (a) If property is annexed under ORS 100.125, include the words “Supplemental Plat No.  
28 \_\_\_\_\_: Annexation of Stage \_\_\_\_\_”; or

29 (b) If property is reclassified under ORS 100.150, include the words “Supplemental Plat No.  
30 \_\_\_\_\_: Reclassification of Variable Property, Tract \_\_\_\_\_.”

31 (4) Upon request of the county surveyor or assessor, the person offering a plat or supplemental  
32 plat for recording shall also file an exact copy, certified by the surveyor who made the plat to be  
33 an exact copy of the plat, with the county assessor and the county surveyor. The exact copy shall  
34 be made on suitable drafting material having the characteristics of strength, stability and transpar-  
35 ency required by the county surveyor.

36 (5) Before a plat or a supplemental plat may be recorded, it must be approved by the city or  
37 county surveyor as provided in ORS 92.100. Before approving the plat as required by this section,  
38 the city or county surveyor shall:

39 (a) Check the boundaries of the plat and units and take measurements and make computations  
40 necessary to determine that the plat complies with this section.

41 (b) Determine that the name complies with ORS 100.105 (5) and (6).

42 (c) Determine that the following are consistent:

43 (A) The designation and area in square feet of each unit shown on the plat and the unit desig-  
44 nations and areas contained in the declaration in accordance with ORS 100.105 (1)(d);

45 (B) Limited common elements identified on the plat and the information contained in the decla-

1 ration in accordance with ORS 100.105 (1)(h);

2 (C) The description of the property in the surveyor's certificate included on the plat and the  
3 description contained in the declaration in accordance with ORS 100.105 (1)(a); and

4 (D) For a flexible condominium, the variable property depicted on the plat and the identification  
5 of the property contained in the declaration in accordance with ORS 100.105 (7)(c).

6 (6) The person offering the plat or supplemental plat for approval shall:

7 (a) Submit a copy of the proposed declaration and bylaws or applicable supplemental declaration  
8 at the time the plat is submitted; and

9 (b) Submit the original or a copy of the executed declaration and bylaws or the applicable sup-  
10 plemental declaration approved by the commissioner if required by law prior to approval.

11 (7) For performing the services described in subsection (5)(a) to (c) of this section, the city sur-  
12 veyor or county surveyor shall collect from the person offering the plat for approval a fee of \$150  
13 plus \$25 per building. The governing body of a city or county may establish a higher fee by resol-  
14 ution or order.

15 **SECTION 8.** ORS 100.680 is amended to read:

16 100.680. (1) Unless the developer of a condominium has complied with subsection (2) of this  
17 section, the developer and a purchaser may not enter into a unit sales agreement before the re-  
18 cording of the declaration or supplemental declaration and plat under ORS 100.115 or, if the con-  
19 dominium is located outside of this state, before the condominium has been created under the laws  
20 of the jurisdiction within which the condominium is located.

21 (2) Any purchaser's funds, the unit sales agreement, any notes or security documents and any  
22 loan commitments must be placed in an escrow located within this state with a person or firm au-  
23 thorized under ORS 696.505 to 696.582. [*The escrow instructions may not allow distribution of the*  
24 *purchaser's funds until the declaration or any applicable supplemental declaration is recorded and the*  
25 *legal title or other interest bargained for has been transferred to the purchaser as provided in the unit*  
26 *sales agreement.*] If any funds of the purchaser are invested, the funds must be invested in federally  
27 insured accounts or other investments approved by the Real Estate Commissioner. If the developer  
28 defaults under the unit sales agreement, the purchaser's funds held in escrow and all income earned  
29 from investment of the funds held in escrow must be returned.

30 (3) In lieu of the requirements of subsection (2) of this section, the commissioner may approve  
31 any alternative requirement or method that the commissioner finds will ensure the same protection  
32 to the purchaser as the protection provided by the escrow.

33 **SECTION 9.** ORS 100.417 is amended to read:

34 100.417. (1) The board of directors of an association of unit owners may act on behalf of the  
35 association except as limited by the declaration or bylaws. In the performance of their duties, offi-  
36 cers and members of the board of directors shall be governed by this section and the applicable  
37 provisions of ORS 65.357, 65.361, 65.367, 65.369 and 65.377 whether or not the association is incor-  
38 porated under ORS chapter 65.

39 (2) Subject to subsection [(8)] (9) of this section, unless otherwise provided in the bylaws, the  
40 board of directors of an association may fill vacancies in its membership for the unexpired portion  
41 of any term.

42 (3) At least annually, the board of directors of an association shall review the insurance cover-  
43 age of the association.

44 (4) The board of directors of the association annually shall cause to be filed the necessary in-  
45 come tax returns for the association.



1 (5) The board of directors of the association may record a statement of association information  
2 as provided in ORS 94.667.

3 (6) The board of directors, in the name of the association, shall maintain a current mailing ad-  
4 dress.

5 (7) The board of directors shall cause to be maintained and kept current the information re-  
6 quired to enable the association to comply with ORS 100.480 (11).

7 **(8) The board of directors shall cause an independent inspection of the condominium for**  
8 **moisture intrusion, as described in ORS 100.210 (5), to be performed:**

9 **(a) Before the end of the second year following the condominium's substantial com-**  
10 **pletion, as defined in ORS 12.135, and paid for from the reserve account under ORS 100.175;**  
11 **and**

12 **(b) Before the end of the sixth year following the condominium's substantial completion.**

13 [(8)(a)] **(9)(a)** Unless otherwise provided in the declaration or bylaws, at a meeting of the unit  
14 owners at which a quorum is present, the unit owners may remove a director from the board of di-  
15 rectors, other than directors appointed by the declarant or individuals who are ex officio directors,  
16 with or without cause, by a majority vote of unit owners who are present and entitled to vote.

17 (b) Notwithstanding contrary provisions in the declaration or bylaws:

18 (A) Before a vote to remove a director, unit owners must give the director whose removal has  
19 been proposed an opportunity to be heard at the meeting.

20 (B) The unit owners must vote on the removal of each director whose removal is proposed as  
21 a separate question.

22 (C) Removal of a director by unit owners is effective only if the matter of removal was an item  
23 on the agenda and was stated in the notice of the meeting required under ORS 100.407.

24 (c) A director who is removed by the unit owners remains a director until a successor is elected  
25 by the unit owners or the vacancy is filled as provided in subsection [(9)] **(10)** of this section.

26 [(9)] **(10)** Unless the declaration or bylaws specifically prescribe a different procedure for filling  
27 a vacancy created by the removal of a director by unit owners, the unit owners shall fill a vacancy  
28 created by the removal of a director by the unit owners at a meeting of unit owners. The notice of  
29 the meeting must state that filling a vacancy is an item on the agenda.

30 **SECTION 9a. The amendments to ORS 100.417 by section 9 of this 2025 Act apply only to**  
31 **condominiums for which the declaration has first been recorded on or after the effective date**  
32 **of this 2025 Act.**

33 **SECTION 10.** ORS 100.210 is amended to read:

34 100.210. (1) A turnover meeting shall be called by the declarant within 90 days of the expiration  
35 of any period of declarant control reserved in the declaration or bylaws under ORS 100.200. If no  
36 control has been reserved, the declarant shall call the turnover meeting within 90 days of the earlier  
37 of:

38 (a) In a single stage condominium, three years from the date of conveyance of the first unit to  
39 a person other than a successor declarant or conveyance of 50 percent of the units.

40 (b) In a staged or flexible condominium, seven years from the date of conveyance of the first  
41 unit to a person other than the declarant or conveyance to persons other than a successor declarant  
42 of 50 percent of the total number of units which the declarant may submit to the provisions of this  
43 chapter under ORS 100.125 or 100.150.

44 (2) The declarant shall give notice of the turnover meeting in accordance with the bylaws of the  
45 condominium to each unit owner at least 10 but not more than 50 days prior to the meeting. The

1 notice shall state the purpose of the meeting and the time and place where it is to be held.

2 (3) If the meeting required under subsection (1) of this section is not called by the declarant  
3 within the time specified, the meeting may be called and notice given by a unit owner or any first  
4 mortgagee of a unit.

5 (4) At the turnover meeting:

6 (a) The declarant shall relinquish control of the administration of the association of unit owners  
7 and the unit owners shall assume the control;

8 (b) If a quorum of the unit owners is present, the unit owners shall elect not fewer than the  
9 number of directors sufficient to constitute a quorum of the board of directors in accordance with  
10 the declaration or bylaws of the condominium; and

11 (c) The declarant shall deliver to the association the items specified in subsection (5) of this  
12 section.

13 (5) At the turnover meeting the declarant shall deliver to the association all property of the unit  
14 owners and the association of unit owners held or controlled by the declarant including, but not  
15 limited to, the following items, if applicable:

16 (a) The original or a photocopy of the recorded declaration and bylaws of the condominium and  
17 any supplements and amendments thereto.

18 (b) A copy of the articles of incorporation.

19 (c) The minute books, including all minutes, and other books and records of the association.

20 (d) The reserve study, the maintenance plan and all updates described in ORS 100.175 and other  
21 sources of information that serve as a basis for calculating reserves in accordance with ORS 100.175.

22 (e) Any rules and regulations which have been promulgated.

23 (f) Resignations of officers and members of the board of directors who are required to resign  
24 because of the expiration of any period of declarant control reserved under ORS 100.200.

25 (g) A financial statement. The financial statement:

26 (A) Must consist of a balance sheet and an income and expense statement for the preceding  
27 12-month period or the period following the recording of the declaration, whichever period is  
28 shorter.

29 (B) Must be reviewed, in accordance with the Statements on Standards for Accounting and Re-  
30 view Services issued by the American Institute of Certified Public Accountants, by an independent  
31 certified public accountant licensed in the State of Oregon if the annual assessments of an associ-  
32 ation of unit owners exceed \$75,000.

33 (h) Association funds or control thereof, including, but not limited to, funds for reserve required  
34 under ORS 100.530 (3)(b) and any bank signature cards.

35 (i) All tangible personal property that is property of the association and an inventory of such  
36 property.

37 (j) A copy of the following, if available:

38 (A) The as-built architectural, structural, engineering, mechanical, electrical and plumbing plans.

39 (B) The original specifications indicating thereon all material changes.

40 (C) The plans for underground site service, site grading, drainage and landscaping together with  
41 cable television drawings.

42 (D) Any other plans and information relevant to future repair or maintenance of the property.

43 (k) Insurance policies.

44 (L) Copies of any occupancy permits which have been issued for the condominium.

45 (m) Any other permits issued by governmental bodies applicable to the condominium in force

1 or issued within one year prior to the date the unit owners assume control of the administration  
2 of the association of unit owners.

3 (n) A list of the general contractor and the subcontractors responsible for construction or in-  
4 stallation of the major plumbing, electrical, mechanical and structural components of the common  
5 elements.

6 (o) A roster of unit owners and their addresses and telephone numbers, if known, as shown on  
7 the records of the declarant.

8 (p) Leases of the common elements and any other leases to which the association is a party.

9 (q) Employment or service contracts in which the association is one of the contracting parties  
10 or service contracts in which the association or the unit owners have an obligation or responsibility,  
11 directly or indirectly, to pay some or all of the fee or charge of the person performing the service.

12 **(r) The results from an independent inspection for moisture intrusion and the name of**  
13 **the person who performed the inspection.**

14 [(r)] (s) Any other contracts to which the association of unit owners is a party.

15 (6) In order to facilitate an orderly transition, during the three-month period following the  
16 turnover meeting, the declarant or an informed representative shall be available to meet with the  
17 board of directors on at least three mutually acceptable dates to review the documents delivered  
18 under subsection (5) of this section.

19 (7) If the declarant has complied with this section, unless the declarant otherwise has sufficient  
20 voting rights as a unit owner to control the association, the declarant is not responsible for the  
21 failure of the unit owners to elect the number of directors sufficient to constitute a quorum of the  
22 board of directors and assume control of the association in accordance with subsection (4) of this  
23 section. The declarant shall be relieved of any further responsibility for the administration of the  
24 association except as a unit owner of any unsold unit.

25 (8) If the unit owners present do not constitute a quorum or the unit owners fail to elect the  
26 number of directors sufficient to constitute a quorum of the board of directors at the turnover  
27 meeting held in accordance with subsection (1) of this section:

28 (a) At any time before the election of the number of directors sufficient to constitute a quorum,  
29 a unit owner or first mortgagee of a unit may call a special meeting for the purpose of election of  
30 directors and shall give notice of the meeting in accordance with the notice requirements in the  
31 bylaws for special meetings. The unit owners and first mortgagees present at the special meeting  
32 shall select a person to preside over the meeting.

33 (b) A unit owner or first mortgagee of a unit may request a court to appoint a receiver as pro-  
34 vided in ORS 100.418.

35 **SECTION 11. Section 12 of this 2025 Act is added to and made a part of ORS 701.560 to**  
36 **701.595.**

37 **SECTION 12. If a homeowners association or association of unit owners sends a notice**  
38 **of defect under ORS 701.565:**

39 **(1) The periods during which a contractor, subcontractor or supplier may send a written**  
40 **request to conduct a visual examination or request to inspect the residence under ORS**  
41 **701.570 (2) or (3) are each extended from 14 days to 30 days.**

42 **(2) The contractor, subcontractor or supplier may have a technical or construction ex-**  
43 **pert attend an inspection requested under ORS 701.570 (3).**

44 **(3) The contractor, subcontractor or supplier shall send the owner a written response,**  
45 **as required under ORS 701.570 (5), no later than:**

1 (a) Fourteen days after conducting an inspection of the residence under ORS 701.575 (3);  
2 or

3 (b) If no inspection is conducted, 90 days after receiving a notice of defect or secondary  
4 notice.

5 (4) An offer to pay an amount under ORS 701.570 (5)(c)(B):

6 (a) Must be based on the amount equal to the cost of remediation.

7 (b) May allow the owner a choice between accepting the payment or allowing the con-  
8 tractor, subcontractor or supplier to perform remediation.

9 (5) And if the contractor, subcontractor or supplier does not send a response that is  
10 timely under subsection (3) of this section or that conforms to the requirements in sub-  
11 section (4) of this section, the owner is excused from further compliance with this section.

12 (6) And if an offer is made under subsection (4)(a) of this section to pay an amount equal  
13 to the cost of remediation, the contractor, subcontractor or supplier has 30 days after  
14 sending the response to offer a firm payment amount. If the owner wishes to accept an offer  
15 of payment, but disputes the amount, the parties may select a mediator to attempt resolu-  
16 tion. If the parties cannot agree on a mediator after 45 days, the parties may request that  
17 the administrator of the Construction Contractors Board inform a professional mediation  
18 association or service that the parties wish to have a mediator selected by the association  
19 or service.

20 (7) And if an owner accepts payment of an amount equal to the cost of remediation, the  
21 owner shall make a good faith effort to have a construction contractor complete remedi-  
22 ation.

23 (8) And if the owner accepts an offer to perform remediation or to pay monetary com-  
24 pensation, completion of the remediation or payment satisfies the claims by the owner for  
25 those defects included in the offer for which remediation was performed or compensation  
26 paid, but not for any other defect.

27 (9) And if the owner accepts an offer by a contractor, subcontractor or supplier that  
28 received a secondary notice:

29 (a) Completion of the remediation or payment satisfies claims for those defects included  
30 in the offer for which remediation was performed or compensation paid, including claims by  
31 the owner and claims for contribution or indemnity against the contractor, subcontractor  
32 or supplier by the sender of the secondary notice, but not for any other defect.

33 (b) And the contractor, subcontractor or supplier fails to perform in accordance with the  
34 accepted offer, the sender of the secondary notice may perform the remediation or pay the  
35 monetary compensation offered by the nonperforming contractor, subcontractor or supplier.

36 **SECTION 13.** ORS 701.570 is amended to read:

37 701.570. (1) A contractor, subcontractor or supplier that receives a notice of defect sent under  
38 ORS 701.565 shall, not later than 14 days after receiving the notice of defect, send a secondary no-  
39 tice to any other known contractor, subcontractor or supplier that may be responsible for some or  
40 all of the defects described in the notice of defect. The contractor, subcontractor or supplier must  
41 send the secondary notice by registered or certified mail, return receipt requested, to an address  
42 described in ORS 701.565 (2). The secondary notice must be accompanied by a statement describing  
43 the basis for contending that the other contractor, subcontractor or supplier may be responsible for  
44 some or all of the defects.

45 (2) A contractor, subcontractor or supplier that receives a notice of defect or secondary notice

1 may send the owner a written request to conduct a visual examination of the residence. **Except as**  
2 **provided in section 12 of this 2025 Act**, the written request must be sent not later than 14 days  
3 after the requesting contractor, subcontractor or supplier receives a notice of defect or secondary  
4 notice. The written request to conduct a visual examination of the residence must state the esti-  
5 mated time required for the visual examination.

6 (3) A contractor, subcontractor or supplier that receives a notice of defect or secondary notice  
7 may send the owner a written request to inspect the residence. **Except as provided in section 12**  
8 **of this 2025 Act**, the written request must be sent not later than 14 days after the requesting con-  
9 tractor, subcontractor or supplier conducted a visual examination of the residence. The written re-  
10 quest to inspect the residence must state the nature and scope of the inspection, whether any testing  
11 is to be performed and the estimated time required for the inspection. The recipient of a secondary  
12 notice that requests to inspect the residence shall send a copy of the request to the sender of the  
13 secondary notice.

14 (4) A contractor, subcontractor or supplier that sends a secondary notice and intends to hold  
15 the recipient of the secondary notice liable for a defect described in a notice of defect shall coor-  
16 dinate the scheduling of any inspection with the owner and all recipients of a secondary notice from  
17 the contractor, subcontractor or supplier. The contractor, subcontractor or supplier shall deliver a  
18 copy of any written request to inspect the residence to each recipient of the secondary notice in  
19 time to provide the recipient with an opportunity to attend the requested inspection and to partic-  
20 ipate in any remediation. The sender of a secondary notice shall give reasonable advance notice to  
21 the owner or the owner's legal representative, if any, of the identity of any contractor, subcontrac-  
22 tor or supplier who will attend the inspection. **If the sender of the notice of defect is a home-**  
23 **owners association or an association of unit owners, the response to the secondary notice**  
24 **must conform with section 12 of this 2025 Act.**

25 (5) Unless otherwise agreed to by the owner, a contractor, subcontractor or supplier that re-  
26 ceives a notice of defect or secondary notice shall send a written response to the owner not later  
27 than 90 days after the contractor, subcontractor or supplier receives a notice of defect or secondary  
28 notice. A contractor, subcontractor or supplier that receives a secondary notice also shall send a  
29 copy of the written response to the sender of the secondary notice. The written response must be  
30 sent by registered or certified mail, return receipt requested. The written response must include:

31 (a) One or more of the following for each defect described in the notice of defect or secondary  
32 notice or discovered during the course of any visual examination or inspection:

33 (A) An acknowledgment of the existence, nature and extent of the defect without regard to re-  
34 sponsibility for the defect.

35 (B) A statement describing the existence of a defect different in nature or extent from the defect  
36 described in the notice of defect or secondary notice, without regard to responsibility for the defect.

37 (C) A denial of the existence of the defect.

38 (b) A copy of the documents described in ORS 701.575 (4).

39 (c) One or more of the following:

40 (A) An offer to perform some or all of the remediation. The offer must specify the date by which  
41 the offered remediation will be completed.

42 (B) An offer to pay a stated amount of monetary compensation to the owner for some or all of  
43 the acknowledged defects and any incidental damage. The offer must specify the date by which  
44 payment will be made.

45 (C) A denial of responsibility for some or all of the acknowledged defects or incidental damage.

1        **SECTION 14.** ORS 701.575 is amended to read:

2        701.575. (1) An owner sending a notice of defect under ORS 701.565 shall make the residence  
3 available for visual examination pursuant to any written request sent under ORS 701.570 **or section**  
4 **12 of this 2025 Act.** The owner shall make the residence available for visual examination, during  
5 normal business hours or as otherwise agreed, not later than 20 days after receiving the written  
6 request for visual examination.

7        (2) An owner sending a notice of defect under ORS 701.565 shall make the residence available  
8 for an inspection pursuant to any written request sent under ORS 701.570 **or section 12 of this 2025**  
9 **Act.** The owner shall make the residence available for inspection during normal business hours or  
10 at a time that is mutually agreeable to the owner and the requester.

11        (3) An inspection by a contractor, subcontractor or supplier may include any reasonable meas-  
12 ures, including testing, for determining the nature, cause and extent of the defects described in the  
13 notice of defect or incidental damage and the nature and extent of the necessary remediation. Unless  
14 the contractor, subcontractor or supplier conducting the inspection and the owner agree otherwise,  
15 the contractor, subcontractor or supplier conducting the inspection shall repair any damage caused  
16 by the inspection. Any damage caused by the inspection that is not repaired may be sought as in-  
17 cidental damage in any subsequent arbitration or court action by an owner against the contractor,  
18 subcontractor or supplier conducting the inspection.

19        (4) A contractor, subcontractor or supplier that requests to inspect a residence must include as  
20 part of the written response of the contractor, subcontractor or supplier under ORS 701.570, a  
21 written report or other document evidencing the result of the inspection and the existence or non-  
22 existence of the defects described in the notice of defect or discovered during the inspection.

23        **SECTION 15.** ORS 701.580 is amended to read:

24        701.580. (1) An owner may accept an offer contained in a written response under ORS 701.570  
25 by delivering a written acceptance to the offering contractor, subcontractor or supplier within 30  
26 days after receiving the offer. If an owner fails to accept an offer within 30 days after receipt, the  
27 offer is deemed rejected.

28        (2) If the owner accepts a contractor, subcontractor or supplier's offer to perform remediation  
29 or to pay monetary compensation, completion of the remediation or payment satisfies the claims by  
30 the owner for those defects included in the offer for which remediation was performed or compen-  
31 sation paid, but not for any other defect. Except as provided in subsection (3) of this section, if the  
32 owner accepts an offer by a contractor, subcontractor or supplier that received a secondary notice,  
33 completion of the remediation or payment satisfies claims for those defects included in the offer for  
34 which remediation was performed or compensation paid, including claims by the owner and claims  
35 for contribution or indemnity against the contractor, subcontractor or supplier by the sender of the  
36 secondary notice, but not for any other defect.

37        (3) If the owner accepts an offer by a contractor, subcontractor or supplier that received a  
38 secondary notice to perform remediation or to pay monetary compensation and the contractor, sub-  
39 contractor or supplier fails to perform in accordance with the accepted offer, then the sender of the  
40 secondary notice may perform the remediation or pay the monetary compensation offered by the  
41 nonperforming contractor, subcontractor or supplier.

42        (4) An owner that sends a notice of defect under ORS 701.565 may compel arbitration or com-  
43 mence a court action against a contractor, subcontractor or supplier if:

44        (a) The contractor, subcontractor or supplier that receives the notice of defect sent under ORS  
45 701.565 does not send a timely written response under ORS 701.570;

1 (b) The written response of the contractor, subcontractor or supplier that received the notice  
2 of defect or a secondary notice does not offer remediation or monetary compensation;

3 (c) The owner rejects a written offer, or any part thereof, made by the contractor, subcontractor  
4 or supplier **because the offer is deemed insufficient to repair the defect**; or

5 (d) The contractor, subcontractor or supplier fails to perform in accordance with an accepted  
6 offer.

7 (5) A notice of defect and the documents described in ORS 701.575 (4) are admissible in any ar-  
8 bitration or court action between or among an owner, contractor, subcontractor or supplier arising  
9 out of or related to the construction, alteration or repair of the residence.

10 *[(6) Except as provided in this subsection, a written response containing an offer to perform reme-  
11 diation or pay monetary compensation made under ORS 701.570 (5) that is not accepted by the owner,  
12 and any reply by an owner, unless the reply contains a counteroffer accepted by a contractor, subcon-  
13 tractor or supplier, are not admissible during any subsequent arbitration or court action. A response  
14 or reply described in this subsection is admissible solely for the purpose of proving that an owner is  
15 qualified to compel arbitration or commence a court action under subsection (4)(c) of this section or  
16 determining the timeliness of an action under ORS 701.585.]*

17 **SECTION 16.** ORS 701.585 is amended to read:

18 701.585. (1) If an owner sends a contractor, subcontractor or supplier a notice of defect within  
19 the time allowed for the owner to commence a court action against that contractor, subcontractor  
20 or supplier for a claim described in ORS 701.565, the time for the owner to commence the action  
21 shall be extended, notwithstanding any statute of limitation or statute of ultimate repose, until the  
22 later of:

23 (a) One hundred and twenty days after the owner receives a written response from the con-  
24 tractor, subcontractor or supplier that received the notice of defect if the written response does not  
25 contain a written offer to perform remediation or pay monetary compensation for one or more of the  
26 defects or incidental damage described in the notice of defect;

27 (b) One hundred and twenty days after the owner rejects a written offer by any contractor,  
28 subcontractor or supplier to perform remediation or pay monetary compensation for one or more of  
29 the defects or incidental damage described in the notice of defect; or

30 (c) Thirty days after the date specified in an accepted written offer by which the offering con-  
31 tractor, subcontractor or supplier is to complete the remediation or complete payment of monetary  
32 compensation for one or more of the defects and any incidental damage described in the notice of  
33 defect.

34 (2) Subsection (1) of this section does not shorten or terminate the time for bringing a claim in  
35 accordance with applicable statutes of ultimate repose and statutes of limitation.

36 (3) Delivery of a secondary notice sent by a contractor, subcontractor or supplier under ORS  
37 701.570 **or section 12 of this 2025 Act** does not act to toll the expiration of any right of the owner  
38 to commence a court action against the recipient of the secondary notice. **However, the right of  
39 the sender of the secondary notice to commence a court action against the recipient of the  
40 secondary notice shall be extended, notwithstanding any statute of limitation or statute of  
41 ultimate repose, until the date that the right of the owner to commence a court action  
42 against the sender of the secondary notice expires.**

43 (4) Any remediation performed pursuant to an accepted offer made under ORS 701.570 **or sec-**  
44 **tion 12 of this 2025 Act** does not constitute a new performance and, for purposes of ORS 12.135,  
45 relates back to the earliest date of substantial completion or abandonment of the construction, al-

1 teration or repair of the improvement to real property.

2 **SECTION 17. Section 12 of this 2025 Act and the amendments to ORS 701.570, 701.575,**  
3 **701.580 and 701.585 by sections 13 to 16 of this 2025 Act apply only to notices of construction**  
4 **defect that are delivered by an owner on or after the effective date of this 2025 Act and to**  
5 **any resulting secondary notices.**

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