

# House Bill 2485

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Condominium Working Group)

## 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 **as introduced**.

Establishes procedures for adoption of restated declaration, restated assignment of use of limited common elements and restated bylaws by condominium association.

Requires Real Estate Commissioner approval of restated declarations, limited residential condominium disclosure statements, nonresidential condominium documentation and amendments to declarations of condominiums. Establishes submission requirements and procedure for commissioner approval.

Requires amendment procedures contained in bylaws of condominium to be consistent with provisions of law in effect at time of recording.

## A BILL FOR AN ACT

Relating to condominiums; creating new provisions; and amending ORS 87.015, 100.005, 100.020, 100.102, 100.105, 100.110, 100.116, 100.117, 100.120, 100.123, 100.125, 100.130, 100.135, 100.150, 100.155, 100.175, 100.260, 100.275, 100.405, 100.407, 100.410, 100.415, 100.530, 100.550, 100.600, 100.625, 100.635, 100.640, 100.645, 100.655, 100.660, 100.665, 100.675, 100.680 and 100.705.

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

## DECLARATIONS AND PLATS

**SECTION 1.** Section 2 of this 2019 Act is added to and made a part of ORS chapter 100.

**SECTION 2.** (1) An association of unit owners may adopt a resolution, without approval of unit owners, to prepare and record a restated declaration that must include:

(a) The word "Restated" in the declaration title.

(b) All previously adopted amendments that are recorded and in effect.

(c) A statement that the association has adopted a resolution in accordance with this subsection.

(d) A reference to the recording index numbers and date of recording of the initial declaration and all previously recorded amendments that are in effect and are being codified.

(e) A certification by the association that:

(A) The restated declaration includes all previously adopted amendments that are recorded and in effect.

(B) Other changes were not made to the declaration except, if applicable, to correct scrivener's errors or to conform format and style.

(2) The association may adopt a resolution, without specific approval of unit owners, to prepare and record a restated assignment of use of limited common elements under this section, that must include:

(a) The words "Restated Assignment of Use of Limited Common Elements" followed by

**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 the title of the declaration and the name of the condominium if the name is not part of the  
 2 title of the declaration.

3 (b) An assignment of use of all limited common elements of the type assigned in the  
 4 declaration, a supplemental declaration or an amendment to the declaration.

5 (c) A reference to the recording index numbers and date of recording of the initial dec-  
 6 larations and all supplemental declarations and amendments that are recorded and in effect.

7 (d) The unit to which the use of each limited common element is reserved.

8 (e) An allocation, if any, of use of a limited common element assigned to more than one  
 9 unit.

10 (f) If the condominium is a flexible condominium or a staged condominium, the location  
 11 of each unit and limited common element assigned to the unit by stage, supplemental decla-  
 12 ration, applicable plat or other method.

13 (g) A statement that the association has adopted a resolution in accordance with this  
 14 subsection.

15 (h) Any other information required by rule by the Real Estate Commissioner.

16 (i) Certification by the association that:

17 (A) The restated assignment of use of limited common elements includes all assignments  
 18 of use of limited common elements of the type assigned in the declaration or an amendment  
 19 to the declaration.

20 (B) Other changes were not made to the restatement except to correct scriveners' errors  
 21 or to conform format and style.

22 (3) If the restated declaration or the restated assignment of use conflicts with a recorded  
 23 and effective document that supplemented or amended the declaration or assignment, the  
 24 document that supplemented or amended the declaration or assignment controls.

25 (4) A restated declaration or a restated assignment of use under this section is not ef-  
 26 fective unless:

27 (a) Executed by the association and acknowledged;

28 (b) Approved by the commissioner under ORS 100.110; and

29 (c) Recorded in the office of the recording officer of every county in which the condo-  
 30 minium is located.

31 (5) The association shall file a copy of the recorded restated declaration or assignment  
 32 of use with the commissioner.

33 **SECTION 3.** ORS 100.105 is amended to read:

34 100.105. (1) A declaration [*shall*] **must** contain:

35 (a) A description of the property, including property on which a unit or a limited common ele-  
 36 ment is located, whether held in fee simple, leasehold, easement or other interest or combination  
 37 thereof, that is being submitted to the condominium form of ownership and that conforms to the  
 38 description in the surveyor's certificate provided under ORS 100.115 (1).

39 (b) Subject to subsection (11) of this section, a statement of the interest in the property being  
 40 submitted to the condominium form of ownership, whether fee simple, leasehold, easement or other  
 41 interest or combination thereof.

42 (c) Subject to [*subsection (5)*] **subsections (5) and (6)** of this section, the name by which the  
 43 property [*shall be*] **is** known and a general description of each unit and the building or buildings,  
 44 including the number of stories and basements of each building, the total number of units and the  
 45 principal materials of which they are constructed.

1 (d) The unit designation, a statement that the location of each unit is shown on the plat, a de-  
2 scription of the boundaries and area in square feet of each unit and any other data necessary for  
3 proper identification. The area of a unit *[shall]* **must** be the same as shown for that unit on the plat  
4 described in ORS 100.115 (1).

5 (e) A notice in substantially the following form in at least 12-point type *[that is either]* **in** all  
6 capitals or boldface:

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8  
9 NOTICE

10  
11 THE SQUARE FOOTAGE AREAS STATED IN THIS DECLARATION AND THE PLAT ARE  
12 BASED ON THE BOUNDARIES OF THE UNITS AS DESCRIBED IN THIS DECLARATION AND  
13 MAY VARY FROM THE AREA OF UNITS CALCULATED FOR OTHER PURPOSES.  
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15  
16 (f) A description of the general common elements.

17 (g) An allocation to each unit of an undivided interest in the common elements in accordance  
18 with ORS 100.515 and the method used to establish the allocation.

19 (h) The designation of any limited common elements including:

20 (A) A general statement of the nature of the limited common element;

21 (B) A statement of the unit to which the use of each limited common element is reserved, pro-  
22 vided the statement is not a reference to an assignment of use specified on the plat; and

23 (C) The allocation of use of any limited common element appertaining to more than one unit.

24 (i) The method of determining liability for common expenses and right to common profits in ac-  
25 cordance with ORS 100.530.

26 (j) The voting rights allocated to each unit in accordance with ORS 100.525 or, in the case of  
27 condominium units committed as property in a timeshare plan defined in ORS 94.803, the voting  
28 rights allocated in the timeshare instrument.

29 (k) A statement of the **general nature of** use, residential or otherwise, for which the building  
30 or buildings and each of the units is intended.

31 (L) A statement that the designated agent to receive service of process in cases provided in ORS  
32 100.550 (1) is named in the Condominium Information Report which will be filed with the Real Estate  
33 Agency in accordance with ORS 100.250 (1)(a).

34 (m) The method of amending the declaration and the percentage of voting rights required to  
35 approve an amendment of the declaration in accordance with ORS 100.135.

36 (n) A statement as to whether or not the association of unit owners pursuant to ORS 100.405 (5)  
37 and (8) has authority to grant leases, easements, rights of way, licenses and other similar interests  
38 affecting the general and limited common elements of the condominium and consent to vacation of  
39 roadways within and adjacent to the condominium.

40 (o) If the condominium contains a floating structure described in ORS 100.020 (3), a statement  
41 regarding the authority of the board of directors of the association, subject to ORS 100.410, to  
42 temporarily relocate the floating structure without a majority vote of affected unit owners.

43 (p) Any restrictions on alienation of units. Any such restrictions created by documents other  
44 than the declaration may be incorporated by reference in the declaration to the official records of  
45 the county in which the property is located.

1 (q) Any other details regarding the property that the person executing the declaration considers  
 2 desirable. However, if a provision required to be in the bylaws under ORS 100.415 is included in the  
 3 declaration, the voting requirements for amending the bylaws [*shall*] also govern the amendment of  
 4 the provision in the declaration.

5 (2) In the event the declarant proposes to annex additional property to the condominium under  
 6 ORS 100.125, the declaration [*shall*] also **must** contain a general description of the plan of devel-  
 7 opment, including:

8 (a) The maximum number of units to be included in the condominium.

9 (b) The date after which any right to annex additional property will terminate.

10 (c) A general description of the nature and proposed use of any additional common elements  
 11 which declarant proposes to annex to the condominium, if such common elements might substantially  
 12 increase the proportionate amount of the common expenses payable by existing unit owners.

13 (d) A statement that the method used to establish the allocation of undivided interest in the  
 14 common elements, the method used to determine liability for common expenses and right to common  
 15 profits and the method used to allocate voting rights for each unit annexed [*shall be*] **is** as stated  
 16 in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

17 (e) Such other information as the Real Estate Commissioner [*shall require*] **requires** in order to  
 18 carry out the purposes of [*ORS 100.015, 100.116, 100.635 to 100.730 and 100.740 to 100.910*] **this**  
 19 **chapter**.

20 (3) [*Except where*] **Unless** expressly prohibited by the declaration and subject to the require-  
 21 ments of ORS 100.135 (2) and subsections (9) and (10) of this section:

22 (a) Not later than two years following the termination [*dates*] **date** specified in [*subsections (2)(b)*  
 23 *and (7)(d)*] **subsection (2)(b)** of this section, [*such*] **the** termination [*dates*] **date** may be extended for  
 24 a period not exceeding [*two*] **five** years[; *and*].

25 **(b) Before the termination date specified in the declaration or supplemental declaration**  
 26 **under subsection (7)(d) of this section, the termination date may be extended for a period**  
 27 **not exceeding five years.**

28 [*(b)*] (c) The general description under subsection (2)(c) of this section and the information in-  
 29 cluded in the declaration **or supplemental declaration** in accordance with subsection (7)(c), (g) and  
 30 (h) of this section may be changed by an amendment to the declaration **or supplemental declara-**  
 31 **tion and plat or supplemental plat.**

32 (4) The information included in the declaration **or supplemental declaration** in accordance  
 33 with subsection (2)(a) and (d) of this section and subsection (7)(a), (b), (e), (f) and (k) of this section  
 34 may not be changed unless all owners agree to the change and [*record*] an amendment to the dec-  
 35 laration **or supplemental declaration and, if applicable, the plat or supplemental plat are re-**  
 36 **corded** in accordance with this chapter.

37 (5) The name of the property shall include the word “condominium” or “condominiums” or the  
 38 words “a condominium.”

39 (6) A condominium may not bear a name which is the same as or deceptively similar to the name  
 40 of any other condominium located in the same county.

41 (7) If the condominium is a flexible condominium containing variable property, the declaration  
 42 shall also contain a general description of the plan of development, including:

43 (a) A statement that the rights provided for under ORS 100.150 (1) are being reserved.

44 (b) A statement:

45 (A) Of any limitations on rights reserved under ORS 100.150 (1), including whether the consent

1 of any unit owner [*shall be*] **is** required, and if so, a statement of the method by which the consent  
 2 [*shall be*] **is** ascertained; or

3 (B) That there are no limitations on rights reserved under ORS 100.150 (1).

4 (c) A statement of the total number of tracts of variable property within the condominium, in-  
 5 cluding:

6 (A) A designation of each tract as withdrawable **variable property** or nonwithdrawable variable  
 7 property;

8 (B) Identification of each variable tract by a label in accordance with ORS 100.115 (1)(i);

9 (C) A statement of the method of labeling each tract depicted on the plat in accordance with  
 10 ORS 100.115 (1)(i); and

11 (D) A statement of the total number of tracts of each type of variable property.

12 (d) The termination date, which is the date [*or time period*] after which any right reserved under  
 13 ORS 100.150 (1) will terminate, and a statement of the circumstances, if any, that will terminate any  
 14 right on or before the date or time period specified. **Subject to ORS 100.120**, the **termination** date  
 15 [*or time period may not exceed seven years*] from the **date of** recording of the conveyance of the first  
 16 unit in the condominium to a person other than the declarant **may not exceed**:

17 **(A) Twenty years, only if a condominium consists, or may consist if the condominium is**  
 18 **a flexible condominium, exclusively of units to be used for nonresidential purposes; or**

19 **(B) Seven years.** [*Recording shall be in the county in which the property is located.*]

20 (e) The maximum number of units that may be created.

21 (f) A statement that the method used to establish the allocations of undivided interest in the  
 22 common elements, the method used to determine liability for common expenses and right to common  
 23 profits and the method used to allocate voting rights as additional units are created [*shall be*] **is** the  
 24 same as stated in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

25 (g) A general description of all existing improvements and the nature and proposed use of any  
 26 improvements that may be made on variable property if the improvements might substantially in-  
 27 crease the proportionate amount of the common expenses payable by existing unit owners.

28 (h) A statement of whether or not the declarant reserves the right to create limited common  
 29 elements within any variable property, and if so, a general description of the types that may be  
 30 created.

31 (i) A statement that the plat shows the location and dimensions of all withdrawable variable  
 32 property that is labeled "WITHDRAWABLE VARIABLE PROPERTY."

33 (j) A statement that if by the termination date all or a portion of the withdrawable variable  
 34 property has not been withdrawn or reclassified, the withdrawable property shall automatically be  
 35 withdrawn from the condominium as of the termination date.

36 (k) A statement of the rights of the association under ORS 100.155 (2).

37 (L) A statement of whether or not all or any portion of the variable property may not be with-  
 38 drawn from the condominium and, if so, with respect to the nonwithdrawable variable property:

39 (A) A statement that the plat shows the location and dimensions of all nonwithdrawable prop-  
 40 erty that is labeled "NONWITHDRAWABLE VARIABLE PROPERTY."

41 (B) A description of all improvements that may be made and a statement of the intended use of  
 42 each improvement.

43 (C) A statement that, if by the termination date all or a portion of the variable property desig-  
 44 nated as "nonwithdrawable variable property" has not been reclassified, the property [*shall*] **is** au-  
 45 tomatically [*be*] reclassified as of the termination date as a general common element of the

1 condominium and any interest in *[such]* **the** property held for security purposes *[shall be]* **is** auto-  
 2 matically extinguished by such classification.

3 (D) A statement of the rights of the association under ORS 100.155 (3).

4 (m) A statement by the local governing body or appropriate department thereof that the with-  
 5 drawal of any variable property designated as “withdrawable variable property” in the declaration  
 6 in accordance with paragraph (L) of this subsection, will not violate any applicable planning or  
 7 zoning regulation or ordinance. The statement may be attached as an exhibit to the declaration.

8 (8) The plan of development for any variable property included in the declaration or any sup-  
 9 plemental declaration of any stage in accordance with subsection (7) of this section *[shall be]* **is**  
 10 subject to any plan of development included in the declaration in accordance with subsection (2) of  
 11 this section, except that the time limitation specified in subsection (7)(d) of this section *[shall*  
 12 *govern]* **governs** any right reserved under ORS 100.150 (1) with respect to any variable property.

13 (9) The information included in the declaration in accordance with subsection (7)(j), (k) and (m)  
 14 of this section may not be deleted by amendment.

15 (10)(a) **Subject to paragraph (c) of this subsection**, approval by the unit owners *[shall not*  
 16 *be]* **is not** required to redesignate **withdrawable** variable property as “nonwithdrawable variable  
 17 property” by supplemental declaration or **by amendment to the declaration or supplemental dec-**  
 18 **laration** if *[such]* **the** redesignation is required by the local governing body *[or appropriate depart-*  
 19 *ment thereof]* to comply with any planning or zoning regulation or ordinance.

20 (b) If as a result of *[such]* **a redesignation under paragraph (a) of this subsection**, the infor-  
 21 mation required to be included in the supplemental declaration or an amendment under subsection  
 22 (7)(L)(B) of this section is inconsistent with the information included in the declaration or supple-  
 23 mental declaration in accordance with subsection (7)(g) of this section, an amendment to the decla-  
 24 ration **or supplemental declaration and plat or supplemental plat** approved by at least 75  
 25 percent of owners *[shall be]* **is** required.

26 (c) **If less than all of a tract designated withdrawable variable property is redesignated**  
 27 **“nonwithdrawable variable property,” the supplemental declaration or amendment must in-**  
 28 **clude the statement required by subsection (7)(m) of this section as to the redesignated**  
 29 **tract.**

30 (11) The statement of an interest in property other than fee simple submitted to the condomin-  
 31 ium form of ownership and any easements, rights or appurtenances belonging to property submitted  
 32 to the condominium form of ownership, whether leasehold or fee simple, *[shall]* **must** include:

33 (a) A reference to the recording index numbers and date of recording of the instrument creating  
 34 the interest; or

35 (b) A reference to the law, administrative rule, ordinance or regulation that creates the interest  
 36 if the interest is created under law, administrative rule, ordinance or regulation and not recorded  
 37 in the office of the recording officer of the county in which the property is located.

38 **SECTION 4.** ORS 100.110 is amended to read:

39 100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be  
 40 recorded, it must be approved as provided in this section by the county assessor of the county in  
 41 which the property is located and the Real Estate Commissioner.

42 (b) Before a declaration, supplemental declaration or, if required under subsection (3) of this  
 43 section, an amendment thereto may be recorded, it must be approved by the tax collector of the  
 44 county in which the property is located.

45 (c) A declaration, supplemental declaration or amendment thereto may not be approved unless

1 the requirements of subsections (2) to (7) of this section are met. Approval *[shall]* **must** be evidenced  
 2 by execution of the declaration or amendment or by a written approval attached thereto.

3 **(d) If the requirements of subsections (2) to (7) of this section are met, the commis-**  
 4 **sioner, county assessor and tax collector, if applicable:**

5 **(A) Shall approve the declaration, supplemental declaration or amendment; and**

6 **(B) May not impose additional requirements not specified in subsections (2) to (7) of this**  
 7 **section.**

8 (2) The county assessor of the county in which the property is located shall approve a declara-  
 9 tion, supplemental declaration or amendment thereto if:

10 (a) The name complies with ORS 100.105 (5) and (6); and

11 (b) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with  
 12 ORS 100.116.

13 (3) The tax collector of the county in which the property is located shall approve the declaration  
 14 or supplemental declaration, or an amendment that adds property to the condominium, changes the  
 15 boundary of a unit or creates an additional unit from **all or parts of other units or from all or**  
 16 **parts of other units and** common elements for which a plat amendment is required under ORS  
 17 100.116, if:

18 (a) All ad valorem taxes, special assessments, fees, or other charges required by law to be placed  
 19 upon the tax roll *[which]* **for the affected units that** have or will become a lien upon the property  
 20 during the tax year have been paid;

21 (b) Advance payment of ad valorem taxes, special assessments, fees or other charges *[which]* **for**  
 22 **the affected units that** are not on the tax roll and for which payment is required under paragraph  
 23 (a) of this subsection has been made to the tax collector utilizing the procedures contained in ORS  
 24 92.095 and 311.370; and

25 (c) The additional taxes, penalty, and any interest attributable thereto, required because of dis-  
 26 qualification of the *[property]* **affected units** from any special assessment have been paid.

27 (4) Subject to subsection (6) of this section, the commissioner shall approve the declaration or  
 28 amendment thereto if:

29 (a) The declaration or the amendment thereto complies with the requirements of ORS 100.105  
 30 and 100.135 **and other provisions of this chapter;**

31 (b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and  
 32 100.415 **and other provisions of this chapter;**

33 (c) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with  
 34 ORS 100.116 **and other provisions of this chapter;**

35 (d) The declaration is for a conversion condominium and the declarant has submitted:

36 (A) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and  
 37 that the notice period has expired;

38 (B) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and  
 39 copies of the written consent of any tenants as provided in ORS 100.305 (6) or a signed statement  
 40 that no tenants were entitled to notice under ORS 100.305; or

41 (C) Any applicable combination of the requirements of subparagraphs (A) and (B) of this para-  
 42 graph; *[and]*

43 (e) A *[paper]* copy of the plat executed by the declarant and prepared in conformance with ORS  
 44 100.115 or plat amendment prepared in conformance with ORS 100.116 *[and]* **is submitted;**

45 (f) A certification of plat execution, on a form prescribed and furnished by the commissioner,

1 [have been] is:

2 (A) Executed by the declarant, the professional land surveyor who signed the surveyor's  
 3 certificate on the plat, the attorney for the declarant, a representative of the title insurance  
 4 company that issued the information required under ORS 100.640 (1)(e) or 100.660 (3)(f) or  
 5 another person authorized by the declarant in writing to execute the certification; and

6 (B) Submitted stating that the [paper] copy is a true copy of the plat signed by the declarant[.  
 7 The certification may be executed by the declarant, the professional land surveyor who signed the  
 8 surveyor's certificate on the plat, the attorney for the declarant, a representative of the title insurance  
 9 company that issued the information required under ORS 100.640 (5) or 100.660 (2)(d) or another per-  
 10 son authorized by the declarant in writing to execute the certification.]; and

11 (g) A copy of a reserve study has been submitted, if a disclosure statement was accepted  
 12 under ORS 100.655 and the reserve study was not included pursuant to ORS 100.640 (1)(g).

13 (5) The commissioner shall approve a supplemental declaration if:

14 (a) The supplemental declaration complies with the requirements of ORS 100.120 and other  
 15 provisions of this chapter;

16 (b) The supplemental plat complies with the requirements of ORS 100.115;

17 (c) The supplemental declaration is for a conversion condominium and the declarant has com-  
 18 plied with the requirements of subsection (4)(d) of this section; and

19 (d) A [paper] copy of the supplemental plat and a certification of plat execution described in  
 20 subsection (4)(e) and (f) of this section have been submitted.

21 (6) Approval by the commissioner is not required for an amendment to a declaration transferring  
 22 the right of use of a limited common element pursuant to ORS 100.515 (5).

23 (7) Before the commissioner approves the declaration, supplemental declaration or amendment  
 24 thereto under this section:

25 (a) The declarant or other person requesting approval shall pay to the commissioner a fee de-  
 26 termined by the commissioner under ORS 100.670; and

27 (b) For an amendment or supplemental declaration, the Condominium Information Report and  
 28 the Annual Report described in ORS 100.260 [shall] must be designated current by the Real Estate  
 29 Agency as provided in ORS 100.255 and the fee required under ORS 100.670 [shall] must be paid.

30 (8) If the declaration, supplemental declaration or amendment thereto approved by the commis-  
 31 sioner under subsection (4) or (5) of this section is not recorded in accordance with ORS 100.115  
 32 within one year from the date of approval by the commissioner, the approval automatically expires  
 33 and the declaration, supplemental declaration or amendment thereto must be resubmitted for ap-  
 34 proval in accordance with this section. The commissioner's approval [shall] must set forth the date  
 35 on which the approval expires.

36 **SECTION 5.** ORS 100.116 is amended to read:

37 100.116. (1) A plat, including any floor plans that are a part of a plat, recorded before October  
 38 15, 1983, may be amended as provided in this section.

39 (2)(a) Except as otherwise provided in ORS 100.600, the following must be made by a plat enti-  
 40 tled "Plat Amendment":

41 (A) A change to the boundary of the property, a unit or a limited common element;

42 (B) The creation of an additional unit from common elements; or

43 (C) A change to the configuration of other information required to be graphically depicted on  
 44 the plat.

45 (b) The plat amendment [shall] must reference in the title of the amendment the recording in-

1 formation of the original plat and any previous plat amendments.

2 (3) The plat amendment *[shall]* **must** comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080 and  
 3 92.120 and *[shall]* **must** include:

4 (a) A graphic depiction of the change;

5 (b) For a change to the boundary of the property, a surveyor’s certificate that complies with  
 6 ORS 92.070;

7 (c) If the plat amendment is an amendment by correction under ORS 100.118, a statement that  
 8 the plat amendment is an amendment by correction under ORS 100.118;

9 (d) A certification, including signature and official seal, of a registered professional land sur-  
 10 veyor that:

11 (A) The plat amendment accurately depicts the amendments to the plat described in the decla-  
 12 ration amendment recorded under subsection (5) of this section; and

13 (B) Any construction that changes the boundaries of a unit or limited common element or the  
 14 construction of any additional unit or limited common element has been completed; and

15 (e) A declaration **executed** by the *[chairperson and secretary on behalf of the]* association *[of unit*  
 16 *owners]* that the plat is being amended pursuant to this section. If the amendment to the declaration  
 17 required under subsection (5) of this section is a correction amendment under ORS 100.117, the  
 18 declaration *[shall]* **must be made** by the declarant if the declarant adopts the correction amendment  
 19 under ORS 100.117.

20 (4) The declaration required under subsection (3)(e) of this section *[shall]* **must** be executed and  
 21 acknowledged *[in the manner provided for acknowledgment of deeds]*.

22 (5) The plat amendment *[shall]* **must** be accompanied by an amendment to the declaration au-  
 23 thORIZING the plat amendment. The declaration amendment *[shall]* **must** be executed, approved and  
 24 recorded in accordance with ORS 100.110 and 100.135 or *[ORS 100.117]*, if the declaration amend-  
 25 ment is a correction amendment, *[under]* **with** ORS 100.117.

26 (6) Before a plat amendment may be recorded, it must be approved by the city or county sur-  
 27 veyor as provided in ORS 92.100. The surveyor shall approve the plat amendment if it complies with  
 28 the requirements of this subsection. The person offering the plat amendment shall:

29 (a) Submit a copy of the proposed amendment to the declaration required under subsections (3)  
 30 to (5) of this section when the plat amendment is submitted.

31 (b) Submit the original or a copy of the executed amendment to the declaration approved by the  
 32 Real Estate Commissioner if required by law prior to approval of the plat amendment.

33 (c) Upon request of the county assessor or county surveyor, file an exact copy, certified by the  
 34 surveyor who made the plat to be an exact copy of the plat amendment, with the county assessor  
 35 and the county surveyor. The exact copy *[shall]* **must** be made on suitable drafting material having  
 36 the strength, stability and transparency required by the county surveyor.

37 (7) A change to a restriction or other information not required to be graphically depicted on the  
 38 plat, **or, in the discretion of the city or county surveyor, a change to graphically depicted**  
 39 **information that changes the identity, nature or other descriptive information but does not**  
 40 **change the graphic depiction**, may be made by amendment of the declaration without a plat  
 41 amendment described in subsections (3) to (5) of this section. A declaration amendment under this  
 42 subsection *[shall]* **must** include:

43 (a) References to recording index numbers and date of recording of the declaration or plat and  
 44 any applicable supplemental declarations, amendments, supplemental plats or plat amendments.

45 (b) A description of the change to the plat.

1 (c) A statement that the amendment was approved in accordance with the declaration and ORS  
2 100.135.

3 (8) The declaration amendment described in subsection (7) of this section *[shall]* **must** be exe-  
4 cuted, approved and recorded in accordance with ORS 100.110 and 100.135.

5 (9) Before the declaration amendment described in subsection (7) of this section may be re-  
6 corded, it must be approved by the city or county surveyor as provided in ORS 92.100. The surveyor  
7 shall approve the declaration amendment if it complies with subsection (7) of this section. *[Such]*  
8 **The** approval *[shall]* **must** be evidenced by execution of the amendment or by **attached** written  
9 approval *[attached thereto]*.

10 (10) Floor plans of a condominium for which a plat was not required at the time of creation may  
11 be amended by amendment of the declaration. An amendment under this subsection *[shall]* **must**  
12 include:

13 (a) References to recording index numbers and date of recording of the declaration and any  
14 applicable supplemental declarations or amendments.

15 (b) A description of the change to the floor plans.

16 (c) A graphic depiction of any change to the boundaries of a unit or common element and a  
17 statement by a registered architect, registered professional land surveyor or registered professional  
18 engineer certifying that such graphic depiction fully and accurately depicts the boundaries of the  
19 unit or common element as it currently exists.

20 (11) The declaration amendment described in subsection (10) of this section *[shall]* **must** be ap-  
21 proved and recorded in accordance with ORS 100.110 and 100.135 except that any change to the  
22 floor plans need only comply with the requirements of the unit ownership laws in effect at the time  
23 the floor plans were initially recorded.

24 (12) After recording *[of]* any declaration amendment or plat amendment pursuant to this section,  
25 the county surveyor *[shall, upon]* **may make appropriate changes to** the surveyor’s copy of all  
26 previously recorded plats relating to the condominium and any copies filed under ORS 92.120 (3),  
27 *make such appropriate marks or notations, including the date and the surveyor’s name or initials, with*  
28 *archival quality black ink in such manner as to denote the changes. The recording index numbers and*  
29 *date of recording of the declaration amendment and any plat amendment shall also be referenced on*  
30 *the copy of each plat].* The original plat may not be changed or corrected after the plat is recorded.

31 (13) For performing the services described in subsections (6), (9) and (12) of this section, the  
32 county surveyor shall collect from the person offering the plat amendment or declaration amendment  
33 for approval a fee established by the county governing body.

34 **SECTION 6.** ORS 100.117 is amended to read:

35 100.117. (1) As used in this section and ORS 100.118, “document” means the declaration, sup-  
36 plemental declaration or bylaws of a condominium.

37 (2) Notwithstanding a provision in a document or this chapter, a document or an amendment to  
38 a document may be corrected by a correction amendment under this section to:

39 (a) Correct the omission of an exhibit to a document.

40 (b) Correct a mathematical mistake, including, but not limited to:

41 (A) The calculation of the stated interest of affected units in the common elements;

42 (B) The area in square feet of a unit specified in the declaration or supplement declaration; and

43 (C) Liability of a unit for common expenses or right to common profits.

44 (c) Correct an inconsistency within a document or between or among the documents or a plat,  
45 supplemental plat or plat amendment.

- 1 (d) Correct an ambiguity, inconsistency or error with respect to an objectively verifiable fact.
- 2 (e) Authorize a plat amendment by correction under ORS 100.118 or an affidavit of correction  
3 under ORS 100.118.
- 4 (f) Correct a provision that was inconsistent with this chapter at the time the document was  
5 recorded.
- 6 (g) Correct the omission of a provision required under this chapter.
- 7 (3) A correction amendment adopted under subsection (4) of this section *[shall]* **must** include:
- 8 (a) The words “Correction Amendment” in or after the title;
- 9 (b) A reference to the recording index numbers and date of recording of the declaration, bylaws,  
10 plat, the document being corrected and any other applicable supplemental declarations, supplemental  
11 plats or amendments to the documents;
- 12 (c) A statement of the purpose of the correction; and
- 13 (d) A reference to **any provisions of subsection (2) of this section that authorize the cor-**  
14 **rection amendment.**
- 15 (4) The board of directors may adopt a correction amendment under this section after giving  
16 notice as provided in subsection (8) of this section. No action by the unit owners is required.
- 17 (5) The declarant of the condominium may unilaterally adopt a correction amendment under this  
18 section to:
- 19 (a) A document or an amendment to a document, before the conveyance of the first unit in the  
20 condominium.
- 21 (b) A supplemental declaration or an amendment to the supplemental declaration, before  
22 conveyance of the first unit created by the supplemental declaration.
- 23 (6) A correction amendment under this section is not effective unless:
- 24 (a) The amendment is approved by the Real Estate Commissioner under ORS 100.110 and, to the  
25 extent required, ORS 100.410 **and section 13 of this 2019 Act**, the county assessor *[in accordance*  
26 *with]* **and, if required, the county tax collector under ORS 100.110** *[and, if required, the county*  
27 *tax collector];*
- 28 (b) The amendment is certified by *[the chairperson and secretary of]* the association *[of unit*  
29 *owners]* as *[being]* adopted in accordance with subsection (4) of this section **and acknowledged** or  
30 is certified by the declarant under subsection (5) of this section and acknowledged *[in the manner*  
31 *provided for acknowledgement of deeds];* and
- 32 (c) Is recorded.
- 33 (7) A correction amendment **to a declaration or a supplemental declaration** that corrects the  
34 boundary of a unit, common element, variable property or other property interest constitutes a  
35 conveyance to the extent necessary to effectuate the correction.
- 36 (8)(a) Except for a correction amendment adopted by a declarant under subsection (5) of this  
37 section, the notice of any meeting of the board of directors at which the board intends to consider  
38 adoption of a correction amendment under this section must:
- 39 (A) State that the board intends to consider the adoption of a correction amendment.
- 40 (B) Specify the document to be corrected.
- 41 (C) Include a description of the nature of the correction.
- 42 (b) At least three days before the meeting of the board of directors, a notice of the meeting must  
43 be given to all owners in the manner described in ORS 100.420 (4).
- 44 (9) The owner of a unit materially affected by the correction must be given notice of the meeting  
45 of the board of directors under subsection (8) of this section in the manner required under ORS

1 100.407 (4).

2 (10) The board of directors shall provide a copy of the recorded correction amendment and any  
 3 plat amendment by correction or by affidavit of correction under ORS 100.118 recorded concurrently  
 4 with the correction amendment to any owner described under subsection (9) of this section and to  
 5 any owner if the correction changes that owner's:

- 6 (a) Allocation of voting rights;
- 7 (b) Liability for common expenses that changes the amount of any assessment; or
- 8 (c) Allocation of interest in the common elements.

9 **SECTION 7.** ORS 100.120 is amended to read:

10 100.120. (1) To annex additional property to the condominium **under ORS 100.125** or to reclas-  
 11 sify variable property under ORS [100.125 or] 100.150, a supplemental declaration and a supplemental  
 12 plat [shall] **must** be executed, approved and recorded by **the declarant in each county in which**  
 13 **the property is located** at the time of each annexation or reclassification. **Variable property may**  
 14 **not be redesignated nonwithdrawable variable property by an amendment to the declaration,**  
 15 **plat, supplemental declaration, or supplemental plat.**

16 (2) The supplemental plat [shall] **must** comply with ORS 100.115 and the supplemental declara-  
 17 tions [shall] **must**:

- 18 (a) Include a reference to recording index numbers and date of recording of the initial declara-  
 19 tion and bylaws.
- 20 (b) Be consistent with the provisions of the original declaration prepared pursuant to ORS  
 21 100.105 and any prior recorded supplemental declarations.
- 22 (c) Contain the information required by ORS 100.105 (1) insofar as that information relates to  
 23 the property being annexed or reclassified.
- 24 (d) State the allocation of undivided interest in the common elements of each unit previously  
 25 submitted to the provisions of this chapter upon the creation or annexation of the additional prop-  
 26 erty.
- 27 (e) If the stage being annexed contains any variable property, include the information required  
 28 under ORS 100.105 (7) insofar as that information relates to the property being annexed. The ter-  
 29 mination date [shall] **must** be consistent with the information included in the declaration in ac-  
 30 cordance with ORS 100.105 (2)(b) but may not exceed seven years from the recording of the  
 31 conveyance of the first unit in the stage to a person other than the declarant. [Recording shall be  
 32 in the county in which the property is located.]

33 [(2)] (3) If the Condominium Information Report and the Annual Report described in ORS 100.250  
 34 are designated current as provided in ORS 100.255, all [such] supplemental declarations and plats  
 35 shall be approved, executed and recorded as provided in ORS 100.100, 100.110 and 100.115. [No] **A**  
 36 unit being annexed or created by a supplemental declaration [shall] **may not** be conveyed until after  
 37 [such] **the** recording.

38 [(3)] (4) To withdraw all or a portion of variable property from a flexible condominium pursuant  
 39 to ORS 100.150 (1)(b), a supplemental declaration and plat [shall] **must** be recorded in accordance  
 40 with subsection [(2)] (3) of this section. The supplemental plat [shall] **must** comply with ORS 100.115  
 41 (2) and the supplemental declaration shall:

- 42 (a) Be consistent with the provisions of the declaration or supplemental declaration drawn pur-  
 43 suant to ORS 100.105 (7).
- 44 (b) Include a metes and bounds legal description of the variable property being withdrawn.
- 45 (c) Include a metes and bounds legal description of the resulting boundaries of the condominium

1 after the withdrawal.

2 (d) State whether *[or not]* any variable property remains *[which]* **that** may be reclassified or  
 3 withdrawn from the condominium **under ORS 100.150 (1)** and, if property may be withdrawn, include  
 4 the statement required under ORS 100.105 (7)(m).

5 (e) If any variable property is being redesignated as “nonwithdrawable variable property[.]”  
 6 **under ORS 100.150 (1)**, include the information required under ORS 100.105 (7)(L).

7 *[(4)] (5)* Except as provided in subsection *[(5)] (6)* of this section, as to property submitted to  
 8 unit ownership after October 4, 1977, additional units may not be added within property previously  
 9 submitted to unit ownership unless all unit owners consent to an amendment to the declaration, plat  
 10 and any floor plans recorded pursuant to ORS 100.116 in order to provide for such additional units.

11 *[(5)] (6)* As to property submitted to unit ownership before September 27, 1987, if the declaration  
 12 provides that additional property may be annexed to the condominium, any subsequent stage may  
 13 contain variable property. The termination date may not be later than the earlier of:

14 (a) The date specified in the declaration under ORS 100.105 (2)(b); or

15 (b) Seven years from the recording of the conveyance of the first unit in the condominium to a  
 16 person other than the declarant. *[Recording shall be in the county in which the property is located.]*

17 **SECTION 8.** ORS 100.130 is amended to read:

18 100.130. (1) Subject to any limitations contained in the declaration, the boundaries between ad-  
 19 joining units, including any intervening common elements, may be relocated or eliminated by an  
 20 amendment to the declaration **under this section.**

21 **(2)(a)** The owners of the affected units shall submit to the board of directors of the association  
 22 a proposed amendment *[which shall identify]* **that must:**

23 **(A) Include a reference to the recording index numbers and date of recording of the**  
 24 **declaration, bylaws, plat and any applicable amendments, supplemental declaration and sup-**  
 25 **plemental plat;**

26 **(B) State that the amendment is adopted and recorded under this section;**

27 **(C) Identify** the units involved*[, state]*;

28 **(D) State** any reallocations of common element interest, voting rights, common expense liability  
 29 and right to common profits *[and contain]*; **and**

30 **(E) Contain** words of conveyance.

31 **(b) If the declaration provides that the method of determining any of the reallocations**  
 32 **described in paragraph (a)(D) of this subsection is based on the area of the unit, the reallo-**  
 33 **cation must be calculated according to the area of the affected units as originally stated in**  
 34 **the declaration, notwithstanding any change in the total area of the affected units. The**  
 35 **amendment may not change the allocations of any other units.**

36 **(3)** The board of directors shall approve the amendment unless it determines within 45 days that  
 37 the reallocations are unreasonable or the relocation or elimination will impair the structural integ-  
 38 rity or mechanical systems of the condominium or lessen the support of any portion of the condo-  
 39 minium.

40 *[(2)] (4)* The board of directors of the association of unit owners may require the owners of the  
 41 affected units to submit an opinion of a registered architect or registered professional engineer that  
 42 the proposed relocation or elimination will not impair the structural integrity or mechanical systems  
 43 of the condominium or lessen the support of any portion of the condominium.

44 *[(3)] (5)* The board of directors of the association or any agent appointed by the board of direc-  
 45 tors may supervise the work necessary to effect the boundary relocation or elimination.

1        [(4)] **(6)** Any expenses incurred under subsections [(2)] **(4)** and [(3)] **(5)** of this section shall be  
 2 charged to the owners of the units requesting the boundary relocation or elimination.

3        [(5)] *The amendment shall be executed by the owners and mortgagees or trust deed beneficiaries of*  
 4 *the affected units, certified by the chairperson and secretary of the association and approved and re-*  
 5 *corded in accordance with ORS 100.135 (2)(b).]*

6        **(7) An amendment described in this section must be:**

7        **(a) Executed by the owners and approved by the mortgagees or trust deed beneficiaries**  
 8 **of the affected units;**

9        **(b) Executed and certified by the association as required in ORS 100.135 (2);**

10        **(c) Approved by the Real Estate Commissioner, county tax collector and county tax**  
 11 **assessor as required by ORS 100.110; and**

12        **(d) Recorded in the deed records of each county in which the condominium is located.**

13        [(6)] **(8)** An amendment to the plat and any floor plans necessary to show the altered boundaries  
 14 between the adjoining units shall be recorded in accordance with ORS 100.116.

15        **SECTION 9.** ORS 100.135 is amended to read:

16        100.135. (1) Unless otherwise provided in the declaration, an amendment to the declaration may  
 17 be proposed by a majority of the board of directors of the association of unit owners or by at least  
 18 30 percent of the unit owners.

19        (2) Except as otherwise provided in ORS 100.005 to 100.627, an amendment of the declaration is  
 20 not effective unless:

21        (a) The amendment is approved by the unit owners as provided in this section and the Real  
 22 Estate Commissioner and county assessor according to ORS 100.110; and

23        (b) The amendment[,] **is** certified by [*the chairperson and secretary of*] the association [*of unit*  
 24 *owners*] as being adopted in accordance with the declaration and the provisions of this section,  
 25 [*and*] acknowledged [*in the manner provided for acknowledgment of deeds, is*] **and** recorded,  
 26 notwithstanding a provision in a declaration, including a declaration recorded before January 1,  
 27 2002, that requires amendments to be executed and acknowledged by all owners approving the  
 28 amendment.

29        (3) Except as otherwise provided in ORS 100.105 or 100.130 or this section, the declaration may  
 30 be amended only with the approval of at least 75 percent of owners, or such greater percentage as  
 31 may be required by the declaration.

32        (4) Unless the declaration requires a greater percentage:

33        (a) The declaration and plat may be amended to change a general common element to a limited  
 34 common element or change the boundary of a limited common element with the approval of at least  
 35 75 percent of owners and approval of the owners of all units to which the limited common element  
 36 appertains.

37        (b) The declaration may be amended to change a limited common element, or portion thereof,  
 38 to a general common element with the approval of the owners of all units to which the limited  
 39 common element appertains and the board of directors.

40        (5)(a)(A) Except as otherwise provided in ORS 100.120, 100.130, 100.515, 100.600, 100.605 and  
 41 100.625 and paragraph (b) of this subsection or other provisions of the Oregon Condominium Act,  
 42 an amendment [*that changes the boundary of the property or a unit or creates an additional unit from*  
 43 *common elements shall*] **must** be approved by all unit owners[.] **if:**

44        **(i) The amendment changes the boundary of the property submitted to the condominium**  
 45 **form of ownership;**

1 (ii) **The amendment changes the boundary of a unit; or**

2 (iii) **The amendment creates an additional unit from common elements or part of one or**  
 3 **more units, or both.**

4 (B) *[The]* **An amendment** *[constitutes a conveyance and shall]* **under this subsection must** in-  
 5 clude words of conveyance and, if an additional unit is created *[from common elements]*, *[shall]* **must**  
 6 state the name of the grantee and unit designation. If an additional unit is created from common  
 7 elements, the association *[shall be named as]* **is** the initial grantee of the additional unit. **A sub-**  
 8 **sequent conveyance of the additional unit must be made by a deed certified by the associ-**  
 9 **ation and acknowledged.**

10 (C) *[In addition to the certification required under subsection (2)(b) of this section,]* An amendment  
 11 *[to]* **that changes** the boundary of a unit *[shall]* **must** also be executed by the owners of all affected  
 12 units, **and approved by lenders holding a security in the unit.**

13 (b) An amendment that adds property owned by the association to the condominium as a com-  
 14 mon element *[constitutes a conveyance and shall]* **must:**

15 (A) Be approved by at least 75 percent of owners;

16 (B) Contain words of conveyance;

17 (C) Be *[executed by the chairperson and secretary of the association on behalf of the unit owners*  
 18 *and be]* certified **by the association** in accordance with subsection (2)(b) of this section; and

19 (D) Be accompanied by a plat amendment in accordance with ORS 100.116 **if the amendment**  
 20 **includes changes that are inconsistent with the surveyor's certificate or other information**  
 21 **on the plat, a supplemental plat or a plat amendment, and that require a plat amendment**  
 22 **under ORS 100.116.**

23 (c) *[Nothing in]* Paragraph (b) of this subsection *[is intended to]* **does not** require **that** property  
 24 acquired or held by the association pursuant to ORS 100.405 (4)(i) *[to]* be added to the condominium.

25 **(d) If the association owns the fee title to the real property underlying a leasehold con-**  
 26 **dominium, the association may amend the declaration under paragraph (b) of this subsection**  
 27 **to require the fee title interest to submit to the requirements of this chapter.**

28 (6) Except as otherwise provided in ORS 100.005 to 100.627, an amendment may not change the  
 29 allocation of undivided interest in the common elements, the method of determining liability for  
 30 common expenses, the method of determining the right to common profits or the method of deter-  
 31 mining voting rights of any unit unless such amendment has been approved by the owners of the  
 32 affected units.

33 (7) The declaration may not be amended to limit or diminish any right of a declarant reserved  
 34 under ORS 100.105 (2) or (7) or any other special declarant right without the consent of the  
 35 declarant. *However,* **unless** the declarant *[may waive]* **waives** the declarant's right of consent.

36 (8) *[Nothing in]* This section *[shall]* **does not** affect any other approval that may be required by  
 37 the declaration, bylaws or other instrument.

38 (9) During a period of declarant control reserved under ORS 100.200, *[voting on]* an amendment  
 39 under this section must be **voted on** without regard to any weighted vote or other special voting  
 40 allocation reserved by the declarant unless the declaration provides that the declarant has the right  
 41 to exercise the voting rights with respect to specifically described amendments. Nothing in this  
 42 subsection prohibits a declarant from reserving the right that declarant's consent is required for an  
 43 amendment during a period of declarant control reserved in the declaration.

44 (10) An amendment to a declaration or a supplemental declaration *[shall be]* **is** conclusively  
 45 presumed to have been regularly adopted in compliance with all applicable procedures relating to

1 such amendment unless an action is brought within one year after the date [such] **the** amendment  
 2 was recorded or the face of the recorded amendment indicates that the amendment [*received the*  
 3 *approval of fewer*] **did not receive the** votes [*than are*] required for [such] approval. [*However,*]  
 4 Nothing in this subsection [*shall prevent*] **prevents** the further amendment of an amended declara-  
 5 tion or plat in accordance with ORS 100.005 to 100.627.

6 [(11)(a) *The board of directors, by resolution and without the further approval of the unit owners,*  
 7 *may cause a restated declaration to be prepared and recorded to codify individual amendments that*  
 8 *have been adopted in accordance with this section.*]

9 [(b) *A declaration restated under this subsection must:*]

10 [(A) *Include all previously adopted amendments that are in effect and may not include any other*  
 11 *changes except to correct scriveners' errors or to conform format and style;*]

12 [(B) *Include a statement that the board of directors has adopted a resolution in accordance with*  
 13 *paragraph (a) of this subsection and is causing the declaration to be restated and recorded under this*  
 14 *subsection;*]

15 [(C) *Include a reference to the recording index numbers and date of recording of the initial decla-*  
 16 *ration and all previously recorded amendments that are in effect and are being codified;*]

17 [(D) *Include a certification by the chairperson and secretary of the association that the restated*  
 18 *declaration includes all previously adopted amendments that are in effect, that amendments were ap-*  
 19 *proved by the county assessor and tax collector if required under ORS 100.110 and that no other*  
 20 *changes were made except, if applicable, to correct scriveners' errors or to conform format and style;*]

21 [(E) *Be executed and acknowledged by the chairperson and secretary of the association and re-*  
 22 *corded in the deed records of each county in which the condominium is located; and*]

23 [(F) *Be approved by the commissioner, and by the county assessor and the tax collector under ORS*  
 24 *100.110 if the restated declaration includes any amendments required to be approved by the county*  
 25 *assessor and the tax collector under ORS 100.110 but not previously approved.*]

26 [(c) *The board of directors shall cause a copy of the recorded restated declaration, including the*  
 27 *recording information, to be filed with the commissioner.*]

28 **(11) An amendment to a declaration or supplemental declaration, including an amend-**  
 29 **ment under this section or ORS 100.515 (5), must conform to any format and include any**  
 30 **additional information required by the commissioner.**

31 **SECTION 10.** ORS 100.150 is amended to read:

32 100.150. (1) With regard to a flexible condominium, before the termination date, and by recording  
 33 a supplemental declaration and a supplemental plat in accordance with ORS 100.115 and 100.120, the  
 34 declarant may:

35 (a) Reclassify all or a portion of the property designated as variable **property** in the declaration  
 36 and on the plat, as one or more general common elements, limited common elements, units or a  
 37 combination of the elements and units[.];

38 (b) Unless designated in the declaration [*or*] **and** on the plat **or in a supplemental declaration**  
 39 **and on the supplemental plat** as nonwithdrawable **variable** property, withdraw all or a portion  
 40 of the variable property from the condominium[.]; **and**

41 (c) **Subject to the requirements of ORS 100.105 (7)(m), change the designation of all or a**  
 42 **portion of variable property designated withdrawable variable property in the declaration and**  
 43 **on the plat or in a supplemental declaration and on the supplemental plat to**  
 44 **nonwithdrawable variable property.**

45 (2) Until variable property is withdrawn or reclassified as provided in subsection (1) of this

1 section or under ORS 100.155 (1):

2 (a) The property *[shall be]* **is** a distinct classification of property and may not be a common el-  
 3 ement or unit of the condominium.

4 (b) The property *[shall be]* **is** considered a parcel of real property and *[shall be]* **is** subject to  
 5 separate assessment and taxation by any taxing unit in like manner as other parcels of real prop-  
 6 erty.

7 (c) Unless otherwise specifically provided in the declaration or supplemental declaration:

8 (A) The declarant *[shall be responsible for the payment of]* **shall pay** all assessments, taxes and  
 9 other expenses of the variable property. If the declarant fails to pay any expenses of any variable  
 10 property designated as nonwithdrawable variable property, the board of directors may elect to pay  
 11 the expenses and assess the unit owners as a common expense. All costs incurred may be charged  
 12 to the declarant.

13 (B) Ownership or occupancy of variable property *[shall]* **does** not confer any right to use the  
 14 common elements of the condominium.

15 (C) Ownership or occupancy of units *[shall]* **does** not confer any right to use variable property.

16 (D) Variable property *[shall not be]* **is not** subject to assessments for expenses of the condo-  
 17 minium.

18  
 19 **BYLAWS**

20  
 21 **SECTION 11. Sections 12 and 13 of this 2019 Act are added to and made a part of ORS**  
 22 **chapter 100.**

23 **SECTION 12. (1) An association of unit owners may adopt a resolution, without specific**  
 24 **approval of the unit owners, to prepare and record restated bylaws under this section. The**  
 25 **resolution must include:**

26 (a) **The words “Restated Bylaws” in the title of the bylaws;**

27 (b) **All previously adopted amendments that are recorded and in effect;**

28 (c) **A statement that the board of directors has adopted a resolution under this sub-**  
 29 **section to restate and record amended bylaws under this section;**

30 (d) **A reference to the recording index numbers and date of recording of the initial bylaws**  
 31 **and of all previously recorded amendments to the bylaws that are in effect and are being**  
 32 **codified; and**

33 (e) **A certification by the association that:**

34 (A) **The restated bylaws include all previously adopted amendments that are recorded and**  
 35 **in effect; and**

36 (B) **Other changes were not made to the bylaws except, if applicable, to correct**  
 37 **scriveners’ errors or to conform format and style.**

38 (2) **In the preparation of restated bylaws under this section, the board may not make any**  
 39 **changes to the bylaws except as necessary to correct a scriveners’ error or to conform for-**  
 40 **mat and style.**

41 (3) **If the restated bylaws conflict with the recorded and effective document that amended**  
 42 **the bylaws, the document that amended the bylaws controls.**

43 (4) **A restatement of bylaws prepared and recorded under this section must be:**

44 (a) **Executed and acknowledged by the chairperson or president of the association and**  
 45 **by the secretary of the association;**

1 (b) Approved by the Real Estate Commissioner if required under section 13 of this 2019  
2 Act; and

3 (c) Recorded in the office of the recording officer of every county in which the condo-  
4 minium is located.

5 **SECTION 13.** (1)(a) For bylaws recorded before October 3, 1989, an amendment to the  
6 bylaws recorded on or after October 4, 1977, and before October 3, 1989, is not effective un-  
7 less approved by the Real Estate Commissioner.

8 (b) Within five years after the recording of bylaws recorded on or after October 3, 1989,  
9 an amendment to the bylaws must be approved by the Real Estate Commissioner.

10 (2) Except as provided by subsection (4) of this section, notwithstanding a requirement  
11 in the bylaws that any amendment to the bylaws be approved by the commissioner, amend-  
12 ments adopted more than five years after recording the initial bylaws do not require approval  
13 by the commissioner.

14 (3) Bylaws that are restated under this chapter on or after July 14, 2003, and within five  
15 years of the recording of the bylaws must be approved by the commissioner.

16 (4) Bylaws recorded on or after the effective date of this 2019 Act may require that any  
17 or all amendments to the bylaws or restatements of the bylaws under section 12 of this 2019  
18 Act be approved by the commissioner under this section.

19 (5) The person submitting amended bylaws or restated bylaws for approval shall submit  
20 a filing in accordance with section 19 of this 2019 Act and the fee required by ORS 100.670.

21 (6) Upon compliance with subsection (5) of this section, the commissioner shall approve:

22 (a) A bylaw amendment that complies with ORS 100.410 and 100.415 and this section; and

23 (b) Restated bylaws that comply with section 12 of this 2019 Act and this section.

24 (7) If the amended bylaw or restated bylaws approved by the commissioner under this  
25 section are not recorded as required in ORS 100.410 or section 12 of this 2019 Act within one  
26 year from the date of approval by the commissioner, the approval expires and the amended  
27 bylaw or restated bylaws must be resubmitted for approval. The commissioner's approval  
28 must set forth the date on which the approval expires.

29 (8) An association of unit owners may request that the commissioner approve a bylaw  
30 amendment or restated bylaws under section 12 of this 2019 Act for which approval is not  
31 required under this section, subject to subsections (5) and (7) of this section.

32 (9) The association shall submit a copy of the recorded bylaw amendment or restated  
33 bylaws to the commissioner.

34 **SECTION 14.** ORS 100.123 is amended to read:

35 100.123. (1) As used in this section, "document" means a declaration, supplemental dec-  
36 laration or bylaws, or an amendment thereto.

37 [(1)] (2) A declarant may amend [*the declaration or bylaws*] a **document** in order to comply with  
38 requirements of the Federal Housing Administration, the United States Department of Veterans Af-  
39 fairs, Rural Development or the Farm Service Agency of the United States Department of Agricul-  
40 ture, the Federal National Mortgage Association, the Government National Mortgage Association,  
41 the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or  
42 agency of the United States or the State of Oregon or any corporation wholly owned, directly or  
43 indirectly, by the United States or the State of Oregon that insures, guarantees or provides financ-  
44 ing for a condominium or units in a condominium.

45 [(2)] (3) If [*the need to amend the declaration or the bylaws occurs*] a **need arises to amend a**

1 **document** after turnover to the association of unit owners has occurred, the amendment must be  
 2 approved by the association in accordance with the approval provisions of the declaration or bylaws  
 3 and this chapter.

4 **(4) An amendment adopted by the declarant under this section must include:**

5 **(a) A statement of the purpose of the amendment.**

6 **(b) A reference to the specific requirements of the entity specified in subsection (2) of**  
 7 **this section with which the original document does not comply.**

8 **(c) A reference to the recording index numbers and date of recording of the declaration,**  
 9 **bylaws, plat, the document being amended and any other applicable supplemental declara-**  
 10 **tions, supplemental plats or amendments to the documents.**

11 **(d) A statement that the amendment is adopted under this section.**

12 **(5) An amendment adopted under this section is not effective unless the amendment is:**

13 **(a) Approved by the Real Estate Commissioner under ORS 100.110 or section 19 of this**  
 14 **2019 Act, as applicable;**

15 **(b) Approved by the county tax assessor if required under ORS 100.110; and**

16 **(c) Executed by the declarant, acknowledged and recorded.**

17 **SECTION 15.** ORS 100.410 is amended to read:

18 100.410. (1) The declarant shall adopt **and execute** on behalf of the association of unit owners  
 19 the initial bylaws that govern the administration of the condominium. The bylaws [*shall*] **must** be  
 20 **approved by the Real Estate Commissioner and** recorded simultaneously with the declaration as  
 21 an exhibit or as a separate instrument.

22 **(2) Provisions of the bylaws that regulate amendments to the bylaws:**

23 **(a) Must be consistent with the provisions of this chapter operative on the date the by-**  
 24 **laws are recorded.**

25 **(b) Control the amendment process; and**

26 **(c) May be used to amend provisions of the bylaws related to the amendment process as**  
 27 **needed to be in compliance with the provisions of this chapter in effect on the date the**  
 28 **amendment becomes effective.**

29 [(2)] **(3)** Unless otherwise provided in the declaration or bylaws, amendments to the bylaws may  
 30 be proposed by a majority of the board of directors or by at least 30 percent of the owners.

31 [(3)] **(4)** [*Subject to subsections (4) and (5) of this section and ORS 100.415 (1)(t),*] An amendment  
 32 of the bylaws is not effective unless the amendment is:

33 **(a) In compliance with subsections (5), (6) and (7) of this section and ORS 100.415 (1)(t);**

34 [(a)] **(b)** Approved by at least a majority of the unit owners; [*and*]

35 [(b)] **(c)** Certified by the [*chairperson and secretary of the*] association [*of unit owners*] as  
 36 [*being*] adopted in accordance with the bylaws and the provisions of this section[,] **and** acknowl-  
 37 edged [*in the manner provided for acknowledgment of instruments and recorded.*];

38 **(d) Approved by the Real Estate Commissioner if required under section 13 of this 2019**  
 39 **Act; and**

40 **(e) Recorded in the office of the recording officer of each county in which the condo-**  
 41 **minium is located.**

42 [(4)] **(5)** In condominiums that are exclusively residential:

43 (a) The bylaws may not [*provide that greater*] **require more** than a majority of the unit owners  
 44 [*is required*] to amend the bylaws [*except for amendments relating to age restrictions, pet restrictions,*  
 45 *limitations on the number of persons who may occupy units and limitations on the rental or leasing*

1 of units].

2 (b) [*An amendment relating to a matter specified in*] **Notwithstanding** paragraph (a) of this sub-  
 3 section [*is*], **amendments relating to age restrictions, pet restrictions, limitations on the**  
 4 **number of persons who may occupy units and limitations on the rental or leasing of units**  
 5 **are** not effective unless approved by at least 75 percent of the owners or a greater percentage  
 6 specified in the bylaws.

7 **(6) If the declaration specifies that any of the units will be used for residential purposes,**  
 8 **an amendment to the bylaws relating to a matter in subsection (5)(b) of this section is not**  
 9 **effective unless the amendment is approved by 75 percent, or any greater percent specified**  
 10 **by the bylaws, of the owners of units that the declaration specifies will be used for residential**  
 11 **purposes.**

12 [(5)] (7) The bylaws may not be amended to limit or diminish any special declarant right without  
 13 the consent of the declarant[. *However, the declarant may waive*] **or unless the declarant has**  
 14 **waived** the declarant's right of consent.

15 [(6)(a) *For five years after the recording of the initial bylaws, before any amended bylaw may be*  
 16 *recorded, the amended bylaw must be approved by the Real Estate Commissioner. The commissioner*  
 17 *shall approve such amendment if the requirements of ORS 100.415 and this section have been*  
 18 *satisfied.*]

19 [(b) *The approval by the commissioner under paragraph (a) of this subsection is not required for*  
 20 *bylaws restated under subsection (10) of this section unless the bylaws are restated during the five-year*  
 21 *period after the recording of the initial bylaws.*]

22 [(c) *If the amended bylaw approved by the commissioner under this subsection is not recorded as*  
 23 *required in subsection (3) of this section within one year from the date of approval by the commissioner,*  
 24 *the approval automatically expires and the amended bylaw must be resubmitted for approval as pro-*  
 25 *vided in this section. The commissioner's approval shall set forth the date on which the approval ex-*  
 26 *pires.*]

27 [(7) *Before the commissioner approves amended bylaws or restated bylaws under this section, the*  
 28 *person submitting the amended bylaws or restated bylaws shall pay to the commissioner the fee pro-*  
 29 *vided by ORS 100.670.*]

30 (8) Notwithstanding a provision in the bylaws, including bylaws adopted [*prior to*] **before** July  
 31 14, 2003, that requires an amendment to be executed, or executed and acknowledged, by all owners  
 32 approving the amendment, amendments to the bylaws [*under this section become effective after ap-*  
 33 *proval by the owners if executed and certified on behalf of the association by the chairperson and sec-*  
 34 *retary in accordance with subsection (3)(b) of*] **take effect in accordance with** this section.

35 (9) An amendment to the bylaws [*must be*] **is** conclusively presumed to have been regularly  
 36 adopted in compliance with all applicable procedures relating to the amendment unless **the**  
 37 **presumption is effectively rebutted in** an action [*is*] brought within one year after the effective  
 38 date of the amendment or the face of the amendment indicates that the amendment received the  
 39 approval of fewer votes than required for the approval. Nothing in this subsection prevents the  
 40 further amendment of an amended bylaw.

41 [(10)(a) *The board of directors, by resolution and without the further approval of unit owners, may*  
 42 *cause restated bylaws to be prepared and recorded to codify individual amendments that have been*  
 43 *adopted in accordance with this section.*]

44 [(b) *Bylaws restated under this subsection must:*]

45 [(A) *Include all previously adopted amendments that are in effect, state that the amendments were*

1 *approved by the commissioner as required under this section and state that no other changes were*  
 2 *made except, if applicable, to correct scrivener's errors or to conform format and style;]*

3 *[(B) Include a statement that the board of directors has adopted a resolution in accordance with*  
 4 *paragraph (a) of this subsection and is causing the bylaws to be restated and recorded under this*  
 5 *subsection;]*

6 *[(C) Include a reference to the recording index numbers and date of recording of the initial bylaws*  
 7 *and all previously recorded amendments that are in effect and are being codified;]*

8 *[(D) Include a certification by the chairperson and secretary of the association that the restated*  
 9 *bylaws include all previously adopted amendments that are in effect, that amendments were approved*  
 10 *by the commissioner if required under this section and that no other changes were made except, if ap-*  
 11 *licable, to correct scrivener's errors or to conform format and style;]*

12 *[(E) Be executed and acknowledged by the chairperson and secretary of the association and re-*  
 13 *corded in the deed records of each county in which the condominium is located; and]*

14 *[(F) If required under subsection (6) of this section, be approved by the commissioner.]*

15 *[(c) The board of directors shall cause a copy of the recorded restated bylaws, including the re-*  
 16 *coding information, to be filed with the commissioner.]*

17 **SECTION 16.** ORS 100.415 is amended to read:

18 100.415. (1) The bylaws shall include a reference to the declaration to which the bylaws relate  
 19 and shall provide for:

20 (a) The organization of the association of unit owners in accordance with ORS 100.405, when the  
 21 initial meeting *[shall]* **must** be held and the method of calling that meeting.

22 (b) If required under ORS 100.205, the formation of a transitional committee in accordance with  
 23 such section.

24 (c) The turnover meeting required under ORS 100.210, including when the meeting *[shall]* **must**  
 25 be called, the method of calling the meeting, the right of a unit owner under ORS 100.210 (3) to call  
 26 the meeting and a statement of the purpose of the meeting.

27 (d)(A) The method of calling the annual meeting and all other meetings of the unit owners in  
 28 accordance with ORS 100.407; and

29 (B) The percentage of owners that constitutes a quorum under ORS 100.408.

30 (e)(A) The election of a board of directors and the number of persons constituting the board;

31 (B) The terms of office of directors;

32 (C) The powers and duties of the board;

33 (D) The compensation, if any, of the directors;

34 (E) The method of removal from office of directors **under ORS 100.417**; and

35 (F) The method of filling vacancies on the board.

36 (f) The method of calling meetings of the board of directors in accordance with ORS 100.420 and  
 37 a statement that all meetings of the board of directors of the association of unit owners shall be  
 38 open to unit owners.

39 (g) The election of a chairperson[,] **or president**, a secretary, a treasurer and any other officers  
 40 of the association **and any qualifications required of each officer**.

41 (h) The preparation and adoption of a budget in accordance with ORS 100.412.

42 (i)(A) The maintenance, repair and replacement of the common elements and association prop-  
 43 erty;

44 (B) Payment for the expense of maintenance, repair and replacement of common elements and  
 45 association property and other expenses of the condominium in accordance with ORS 100.530; and

- 1 (C) The method of approving payment vouchers.
- 2 (j) The employment of personnel necessary for the maintenance and repair of the common ele-  
3 ments.
- 4 (k) The manner of collecting assessments from the unit owners.
- 5 (L) Insurance coverage in accordance with ORS 100.435 and the responsibility for payment of  
6 the amount of the deductible in an association insurance policy.
- 7 (m) The preparation and distribution of the annual financial statement in accordance with ORS  
8 100.480.
- 9 (n) The reserve account and the preparation, review and update of the reserve study and the  
10 maintenance plan required under ORS 100.175.
- 11 (o) The filing of an Annual Report and any amendment with the Real Estate Agency in accord-  
12 ance with ORS 100.250.
- 13 (p) The method of adopting and of amending administrative rules and regulations governing the  
14 details of the operation of the condominium and use of the common elements.
- 15 (q) Restrictions on and requirements respecting the enjoyment and maintenance of the units and  
16 the common elements as are designed to prevent unreasonable interference with the use of their  
17 respective units and of the common elements by the several unit owners.
- 18 (r) Any restrictions on use or occupancy of units. Any such restrictions created by documents  
19 other than the bylaws may be incorporated by reference in the bylaws to the official records of the  
20 county in which the property is located.
- 21 (s) The method of amending the bylaws in accordance with ORS 100.410[.] **and section 13 of**  
22 **this 2019 Act.**
- 23 (t) Any other details regarding the property that the declarant considers desirable. However, if  
24 a provision required to be in the declaration under ORS 100.105 is included in the bylaws, the voting  
25 requirements for amending the declaration [*shall*] also govern the amendment of the provision in the  
26 bylaws.
- 27 (u) In the event additional units are proposed to be annexed or created pursuant to ORS 100.125  
28 or 100.150, the method of apportioning common expenses in the event new units are added during  
29 the course of the fiscal year.
- 30 (2) The bylaws may provide that the responsibility for payment of the amount of the deductible  
31 may be prescribed by resolution adopted by the board of directors.
- 32 **SECTION 17.** ORS 100.530 is amended to read:
- 33 100.530. (1) Unless otherwise provided in the declaration, the common profits of the property  
34 [*shall be*] **are** distributed among, and the common expenses [*shall be*] **are** charged to, the unit owners  
35 according to the allocation of undivided interest of each unit in the common elements.
- 36 (2) [*No*] **A** unit owner, by the owner's own action, may **not** claim exemption from liability for  
37 contribution toward the common expenses by [*waiver by the owner of*] **waiving** the **owner's** use or  
38 enjoyment of any of the common elements or by [*abandonment by the owner of*] **abandoning** the  
39 owner's unit. An owner may not claim an offset against an assessment for failure of the association  
40 to perform its obligations.
- 41 (3) Subject to subsection (4) of this section:
- 42 (a) The declarant shall pay assessments due for operating expenses on all unsold units:
- 43 (A) From the date of conveyance of the first unit in the condominium; and
- 44 (B) For a staged or flexible condominium, from the date of recording the applicable supplemental  
45 declaration and supplemental plat recorded pursuant to ORS 100.120.

1 (b) From the date of conveyance of the first unit in the condominium, the declarant shall pay  
2 assessments due for reserves on all unsold units.

3 (c) The declarant may defer payment of accrued assessments for reserves required under ORS  
4 100.175 for a unit until the date the unit is conveyed. However, the declarant may not defer payment  
5 of accrued assessments for reserves:

6 (A) Beyond the date of the turnover meeting provided for in the bylaws in accordance with ORS  
7 100.210; or

8 (B) If a turnover meeting is not held, the date the owners assume administrative control of the  
9 association.

10 (d) Failure of the declarant to deposit the balance due within 30 days after the due date con-  
11 stitutes a violation under ORS 100.545.

12 (e) The books and records of the association shall reflect the amount the declarant owes for all  
13 reserve account assessments.

14 (4)(a) The association may not assess units owned by the declarant for additional capital im-  
15 provements without the written consent of the declarant as long as:

16 (A) In a single stage condominium, the declarant owns more than two units or five percent of  
17 the units, whichever is greater.

18 (B) In a staged or flexible condominium, the declarant owns more than two units or five percent  
19 of the units submitted to the provisions of this chapter, whichever is greater, or the termination date  
20 has not expired.

21 (b) The declarant may waive the declarant's right of consent provided in paragraph (a) of this  
22 subsection.

23 (5)(a) Except with respect to assessments for reserves required by ORS 100.175, a declaration  
24 or bylaws may provide that, until the turnover meeting, the declarant may elect to defer com-  
25 mencement of all or part of common expense assessments as to all units in a condominium or as to  
26 all units in a stage of a condominium or as to all units created by a supplemental declaration and  
27 plat pursuant to ORS 100.150.

28 (b) If a declarant so elects to defer commencement of all or part of common expense assess-  
29 ments, declarant shall pay as they accrue and be responsible for all or part of the common expenses  
30 attributable to the condominium or attributable to the stage of the condominium or the units and  
31 common elements created by such supplemental declaration and plat for which assessments have  
32 been deferred, until assessments commence for all common expenses.

33 (c) The declarant shall give not less than 10 days' written notice to all affected unit owners  
34 prior to the commencement of common expense assessments if such a deferral occurs.

35 (6) If the board of directors determines that any loss or cost incurred by the association is the  
36 fault of one or more owners, the association may, **after notice and a hearing before the board  
37 of directors**, assess the amount of the loss or cost exclusively against the units of the responsible  
38 owners.

39  
40 **DOCUMENT FILINGS AND DISCLOSURES**

41  
42 **SECTION 18. Sections 19 and 20 of this 2019 Act are added to and made a part of ORS**  
43 **chapter 100.**

44 **SECTION 19. (1) Submission of any document to the Real Estate Commissioner for ap-**  
45 **proval under ORS 100.110, 100.135 or 100.410 or sections 2, 12, 13 or 20 of this 2019 Act or any**

1 other provision of this chapter must include:

2 (a) The original executed document and a copy of the executed document;

3 (b) Any form prescribed and furnished by the commissioner for submission of a specified  
4 document;

5 (c) The fee required under ORS 100.670; and

6 (d) Any documents required for submission under subsections (2) to (5) of this section.

7 (2) For approval of a declaration, the following must be submitted:

8 (a) The original adopted bylaws of the condominium and a copy of the executed bylaws;

9 (b) A copy of the plat executed by the declarant and prepared in conformance with ORS  
10 100.115 or plat amendment prepared in conformance with ORS 100.116 and a certification of  
11 plat execution on a form prescribed and furnished by the commissioner;

12 (c) A copy of a preliminary title report, title insurance policy or condominium guarantee  
13 that has been issued within the preceding 30 days, including a map showing the location of  
14 property described in the report, policy or guarantee, or other evidence of title satisfactory  
15 to the commissioner; and

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

20 (3) For approval of a supplemental declaration, any documents described in subsection  
21 (2) of this section that were amended by the supplemental declaration or have otherwise  
22 changed since the documents were previously filed under this section must be submitted.

23 (4) For approval of an amendment to a declaration, restated declaration or plat, the fol-  
24 lowing must be submitted:

25 (a) For amendments requiring consent or approval of a specific unit owner or mortgagee:

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

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

28 (b) Any documents described in subsection (2) of this section that were amended by the  
29 amended declaration, restated declaration or plat or have otherwise changed since the doc-  
30 uments were previously filed under this section.

31 (5) For approval of an amendment to the bylaws, if the amendment requires the consent  
32 or approval of a specific unit owner or mortgagee, the following must be submitted:

33 (a) Evidence of the required consent or approval; and

34 (b) Evidence of unit ownership or interest of the mortgagee.

35 **SECTION 20.** (1) A declarant that proposes to submit real property to the condominium  
36 form of ownership under this chapter and does not intend to sell units in the condominium  
37 for which the developer must file a disclosure statement under ORS 100.635 may request  
38 approval of the declaration by:

39 (a) Submitting the fee required by ORS 100.670; and

40 (b) Filing a limited residential condominium disclosure statement described in subsection  
41 (2) of this section with the Real Estate Commissioner.

42 (2) A limited residential condominium disclosure statement must include general infor-  
43 mation, provided on a form prescribed and furnished by the commissioner, including:

44 (a) The name and address of the condominium and the county in which the condominium  
45 is located.

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

3 (c) The original and a copy of the adopted declaration and any supplemental declaration  
4 of the condominium that complies with ORS 100.105 and 100.120, if applicable.

5 (d) The original and a copy of the adopted bylaws of the condominium that complies with  
6 ORS 100.415.

7 (e) A copy of the full size plat prepared in conformance with ORS 100.115.

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

12 (g) A copy of all restrictive covenants, reservations and other encumbrances on the  
13 property not evidenced in the declaration or bylaws.

14 (h) A statement from the county assessor that the name of the condominium is accept-  
15 able under ORS 100.105.

16 (i) An executed and acknowledged affidavit of compliance, in a form prescribed and fur-  
17 nished by the commissioner that requires the declarant to:

18 (A) Agree to comply with ORS 100.660, 100.705, 100.725 and 100.740 before the declarant  
19 sells any unit in the condominium;

20 (B) Assert understanding that violations of ORS 100.660, 100.705, 100.725 or 100.740 are  
21 subject to civil penalties and sanctions under ORS 100.900 and 100.905 and criminal penalties  
22 under ORS 100.990; and

23 (C) Assert understanding that violations of ORS 100.705 are subject to ORS 646.605 to  
24 646.656 in addition to any other sanctions provided by law.

25 (3) After review of the limited residential condominium disclosure statement filed under  
26 this section, the commissioner may require the declarant to file additional documents and  
27 information related to the limited residential condominium that the commissioner deems  
28 necessary to review and approve the declaration under ORS 100.110.

29 **SECTION 21.** ORS 100.635 is amended to read:

30 100.635. (1) Except as provided by ORS 100.660 and 100.665, prior to negotiating within this  
31 state for the sale of a condominium unit located in another state, or prior to the sale of any con-  
32 dominium unit located within this state, the developer shall file [*the following information*] with the  
33 Real Estate Commissioner, **in any form prescribed by the commissioner:**

34 [(1)] (a) General information on the condominium, including:

35 [(a)] (A) The name and address of the condominium and the county in which the condominium  
36 is located; and

37 [(b)] (B) The name, address and telephone number of the developer.

38 [(2)] (b) Two copies of the disclosure statement for the condominium prepared in accordance  
39 with ORS 100.655.

40 [(3)] (c) The documents for and other information on the condominium as required by ORS  
41 100.640.

42 [(4)] (2) The filing [*shall be accompanied by a*] **must include the fee** [*as provided in*] **required**  
43 **by** ORS 100.670.

44 **SECTION 22.** ORS 100.640 is amended to read:

45 100.640. (1) The following documents and information [*shall*] **must** be submitted to the Real

1 Estate Commissioner as part of the filing required under ORS 100.635:

2 [(1)] (a) A copy of the proposed or recorded declaration or supplemental declaration of condo-  
 3 minium ownership drawn in conformance with ORS 100.105 or 100.120, or the law applicable in the  
 4 state where the condominium was created;

5 [(2)] (b) A copy of the proposed or recorded bylaws drawn in conformance with ORS 100.415 or  
 6 the law applicable in the state where the condominium was created;

7 [(3)] (c) A copy of the full size plat prepared in conformance with ORS 100.115 (1) or the law  
 8 applicable in the state where the condominium was created, or a copy of the **proposed** site plan  
 9 **showing unit designations and locations;**

10 [(4)] (d) A statement from the county assessor or county surveyor that the name for the condo-  
 11 minium is acceptable under ORS 100.105 (6);

12 [(5)] (e) A copy of a preliminary title report, title insurance policy or condominium guarantee  
 13 that has been issued within the preceding 30 days, including a map showing the location of property  
 14 described in the report, policy or guarantee or other evidence of title satisfactory to the commis-  
 15 sioner;

16 [(6)] (f) A copy of all restrictive covenants, reservations or other documents that may create an  
 17 encumbrance on or limit the use of the property other than those restrictions contained in the  
 18 declaration or bylaws;

19 [(7)] (g) **Subject to subsection (2) of this section and unless the information is contained**  
 20 **in the disclosure statement,** a copy of the reserve study required by ORS 100.175 and other  
 21 sources of information that serve as a basis for calculating reserves in accordance with ORS  
 22 100.175, *unless the information is contained in the disclosure statement*];

23 [(8) *The following sample forms:*]

24 [(a)] (h) **A sample form of a** unit sales agreement, including the notice to purchaser of can-  
 25 cellation rights in accordance with ORS 100.730 and 100.740, the statement required by ORS 93.040  
 26 (2) and any warranty required under ORS 100.185; *[and]*

27 [(b)] (i) **A sample form of** a receipt for documents required under ORS 100.725;

28 [(9) *If required by ORS 100.680:*]

29 [(a)] (j) A copy of the escrow agreement drawn in conformance with ORS 100.680 and executed  
 30 by both the declarant and the escrow agent[,] **if required by ORS 100.680;**

31 (k) If individual escrow agreements or instructions *[are to]* **will** be executed by the purchaser  
 32 **and are required by ORS 100.680,** other than the standard escrow instruction required by the  
 33 escrow agent, *[submit]* **a** sample form and a letter from the escrow agent, agreeing to the establish-  
 34 ment of the escrows and the procedure set forth in the sample form; *[and]*

35 [(b)] (L) A unit sales agreement drawn in conformance with *[ORS 100.680]* **section 29 of this**  
 36 **2019 Act;**

37 [(10)] (m) If any of the sales will be by means of an installment contract of sale:

38 [(a)] (A) A copy of the escrow agreement or escrow instructions executed by the developer and  
 39 the escrow agent providing for the establishment of collection escrows and the deposit of documents  
 40 in accordance with ORS 100.720; and

41 [(b)] (B) The proposed installment contract of sale form, if available;

42 [(11)] (n) Any other documents by which the purchasers will be bound;

43 [(12)] (o) Any report or disclosure statement issued for the condominium, by the federal gov-  
 44 ernment and any other state; and

45 [(13)] (p) A statement of any additional facts or information *[which]* **that** the developer desires

1 to submit to the commissioner.

2 **(2) If a disclosure statement required under ORS 100.655 must be adopted and issued be-**  
 3 **fore real property may be submitted to the condominium, a reserve study under ORS 100.175**  
 4 **is not required if the disclosure statement includes the information specified in ORS 100.655**  
 5 **(1)(h)(C).**

6 **SECTION 23.** ORS 100.645 is amended to read:

7 100.645. (1) The information required by ORS 100.635 [shall] **must** be kept current by the de-  
 8 veloper. Any material change in the information furnished to the Real Estate Commissioner shall  
 9 be reported by the developer within 10 days after the change occurs. The report [shall be] **must:**

10 **(a) Be on a form prescribed and furnished by the commissioner for submission of speci-**  
 11 **fied information.**

12 **(b) Include a revised disclosure statement that reflects any changes in the information**  
 13 **described in ORS 100.655.**

14 **(c) Be** accompanied by a filing fee as required by ORS 100.670.

15 (2) A developer [shall be] **is** responsible for the accuracy of and for providing all information  
 16 required by ORS 100.635 and any information required under this section for as long as the devel-  
 17 oper retains any unsold interest in the condominium to which the information pertains.

18 **(3) After review of the report submitted under this section, the commissioner may:**

19 **(a) Require the developer to submit any other documents and information relating to the**  
 20 **report the commissioner considers necessary in order to determine the report complies with**  
 21 **this chapter.**

22 **(b) Require the developer to issue a revised disclosure statement.**

23 **SECTION 24.** ORS 100.655 is amended to read:

24 100.655. (1) The disclosure statement submitted to the Real Estate Commissioner as part of a  
 25 filing under ORS 100.635 [shall] **must** contain the following information:

26 (a) The name and address of the condominium, and the name, address and telephone number of  
 27 the developer[;].

28 (b) A general narrative description of the condominium stating the total number of units, a de-  
 29 scription of the types of units, the total number of units that may be included in the condominium  
 30 pursuant to ORS 100.105 (2), and a precise statement of the nature of the interest which is being  
 31 offered[;].

32 **(c) A reference to the recording index numbers and date of recording of the declaration,**  
 33 **bylaws and plat with the county recording officer or a statement that the proposed condo-**  
 34 **minium is not yet submitted to the condominium form of ownership.**

35 [(c)] **(d)** If at the time of filing:

36 (A) The construction of the project is not completed, general disclosure of the status of con-  
 37 struction and the actual or scheduled dates of completion of buildings, recreational facilities and  
 38 other common elements, including a statement describing any recreational facilities or improvements  
 39 to the common elements that the developer reserves the right to develop or promises to develop, or  
 40 a statement that there are no such facilities or improvements; or

41 (B) The construction of the project is completed, the actual dates of completion of buildings,  
 42 recreational facilities and other common elements if known by the developer[;].

43 [(d)] **(e)** The nature and significant terms of any financing offered by the developer to purchasers  
 44 of the condominium units[;].

45 [(e)] **(f)** Copies of any warranties for structural elements and mechanical and other systems or

1 a brief description of such warranties[;].

2 [(f)(A)] (g)(A) A current or projected budget of the association of unit owners for the operation  
3 and maintenance and any other common expenses of the condominium, including an amount for a  
4 subsidy of the association by the declarant, if any, by a contribution of funds, goods or services;

5 (B) A brief statement of the method of determining liability for common expenses and the right  
6 to common profits; and

7 (C) The following notice in at least 12-point type [*that is either*] **and in** all capitals or boldface:

---

9  
10 NOTICE TO PROSPECTIVE PURCHASERS

11  
12 THE PROJECTION OF THE BUDGET OF THE ASSOCIATION OF UNIT OWNERS FOR THE  
13 OPERATION AND MAINTENANCE AND OTHER COMMON EXPENSES OF THE CONDOMIN-  
14 IUM IS ONLY AN ESTIMATE, PREPARED WITH DUE CARE.

15  
16  
17 [(g)] (h) If a provision for reserves under ORS 100.175 is included in the budget disclosed under  
18 paragraph [(f)] (g) of this subsection:

19 (A) A statement identifying the information constituting the basis for the reserve assessment  
20 under ORS 100.175; [*and*]

21 (B) A statement that the information constituting the basis for the reserve assessment identified  
22 under ORS 100.175 is available for review upon written request to the declarant or the designated  
23 person, unless included in the disclosure statement; **and**

24 (C) **If the reserve study is not submitted with the filing required by ORS 100.635, the**  
25 **following notice in at least 12-point type and in all capitals or boldface:**

---

26  
27  
28 NOTICE TO PROSPECTIVE PURCHASERS

29  
30 **THE RESERVE STUDY IS NOT CURRENTLY AVAILABLE FOR REVIEW. THE REAL ES-**  
31 **TATE COMMISSIONER MAY NOT APPROVE THE DECLARATION FOR RECORDING UN-**  
32 **LESS THE RESERVE STUDY HAS BEEN SUBMITTED. WHEN COMPLETED, THE**  
33 **RESERVE STUDY WILL BE AVAILABLE FOR REVIEW AT THE OFFICE OF THE REAL**  
34 **ESTATE COMMISSIONER OR UPON WRITTEN REQUEST TO THE DECLARANT OR DES-**  
35 **IGNATED PERSON. PROSPECTIVE PURCHASERS SHOULD CONTACT THE DECLARANT**  
36 **REGARDING THE ANTICIPATED AVAILABILITY OF THE RESERVE STUDY OR ANY**  
37 **OTHER INFORMATION ABOUT THE PROPOSED CONDOMINIUM.**

38  
39  
40 [(h)] (i) In the case of a conversion condominium, a statement of:

41 (A) The present condition of all structural components and major mechanical and utility instal-  
42 lations in the condominium, including the approximate date of construction and a reasonable esti-  
43 mate of the remaining useful life of, at a minimum, the roof, siding, plumbing, electrical, HVAC  
44 system, asphalt, sidewalks and decks;

45 (B) **In at least 12-point type and in all capitals or boldface**, whether [*or not*] the assessment

1 of conditions under subparagraph (A) of this paragraph[ *which shall be in at least 12-point type that*  
 2 *is all capitals or boldface,*] was prepared by a registered engineer, registered architect or certified  
 3 home inspector; and

4 (C) The statutory procedure required to create a conversion condominium[;].

5 [(i)] (j) A cross-reference to the portions of the declaration, any supplemental declaration and  
 6 bylaws containing the general power and authority of the board of directors, the method of appor-  
 7 tionment of voting rights among the [*members of the association of*] unit owners and a statement of  
 8 the nature and extent of control of the board of directors retained by the developer by voting rights  
 9 or otherwise[;].

10 [(j)] (k) A list of the documents by which purchasers may be bound, including the declaration,  
 11 bylaws, ground leases, management agreement, easements, covenants, restrictions and conditions[;].

12 [(k)] (L) A statement of whether there are any restrictions on alienation of units or any use or  
 13 occupancy restrictions, such as limitations on residential or commercial use, pets, age of occupants  
 14 or number of occupants, and a cross-reference to those portions of the declaration, any supplemental  
 15 declaration, bylaws or any other document containing the principal provisions relating to those  
 16 restrictions[; *and*].

17 [(L)] (m) If the condominium is a staged condominium[;],

18 [(A)] whether the declarant reserves the right to annex additional property to the condominium  
 19 pursuant to ORS 100.125 and, if so:

20 [(i)] (A) The maximum number of units;

21 [(ii)] (B) The date after which annexation right terminates;

22 [(iii)] (C) The description of additional common elements declarant reserves right to annex to  
 23 the property and whether such common elements might substantially increase the proportionate  
 24 amount of common expenses by current unit owners; and

25 [(iv)] (D) The effect of annexation of additional units on allocation of interest in the common  
 26 elements and voting rights.

27 [(B)] (n) If the condominium or any stage being filed under ORS 100.635 contains or may contain  
 28 any variable property, a statement of the rights reserved by the declarant under ORS 100.150 (1) and  
 29 the results specified in ORS 100.155 if such rights are not exercised.

30 (o) **Any additional information required under ORS 100.675.**

31 (2) In lieu of the disclosure statement required under subsection (1) of this section, the com-  
 32 missioner may accept a disclosure report issued or approved by another state or governmental  
 33 agency.

34 [(3) *No disclosure statement is required for condominiums described in ORS 100.660.*]

35 [(4)] (3) The declarant is not liable to the association or the owners with respect to a statement  
 36 of condition or estimate of useful life contained in the disclosure statement if:

37 (a) The declarant did not have actual knowledge of any inaccuracies in the statement at the  
 38 time of delivery of the disclosure statement to the purchaser; and

39 (b) The declarant relied upon reports prepared by registered engineers or registered architects  
 40 in making the statement or, if the condominium has four or fewer units, reports prepared by regis-  
 41 tered engineers, registered architects or certified home inspectors.

42 **SECTION 25.** ORS 100.660 is amended to read:

43 100.660. [*A developer of a condominium located in this state, that consists exclusively of units to*  
 44 *be used for nonresidential purposes or that consists of units to be offered for sale as a security under*  
 45 *ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, shall submit to the Real Estate Commis-*

1 sioner a filing that consists of:]

2 (1) As used in this section, “nonresidential condominium” means a condominium in which  
 3 all units are available exclusively for nonresidential uses or all units are to be offered for sale  
 4 as a security under ORS 59.005 to 59.505.

5 (2) A declarant that proposes to submit real property to the condominium form of own-  
 6 ership under this chapter as a nonresidential condominium shall file with the Real Estate  
 7 Commissioner nonresidential condominium documentation described in subsection (3) of this  
 8 section and pay the fee required by ORS 100.670.

9 [(1)] (3) The nonresidential condominium documentation must include general information  
 10 on the condominium, provided on a form prescribed and furnished by the Real Estate Com-  
 11 missioner, including:

12 (a) The name and address of the condominium and the county in which the condominium is lo-  
 13 cated; [and]

14 (b) The name, address and telephone number of the [developer] declarant and any agent of the  
 15 [developer; and] declarant;

16 [(2) The following documentation:]

17 [(a)] (c) The original executed declaration [or supplemental declaration] and a copy [thereof,  
 18 drawn in conformance] that complies with ORS 100.105 [and 100.120], if applicable;

19 [(b)] (d) The original executed bylaws[,] and a copy [thereof, drawn in conformance] that com-  
 20 plies with ORS 100.415;

21 [(c)] (e) A copy of the full size plat prepared in conformance with ORS 100.115 and accompa-  
 22 nied by a certificate of plat execution as required under ORS 100.110 (4)(f);

23 [(d)] (f) A copy of a current preliminary title report or title insurance policy or condominium  
 24 guarantee that [has been] was issued within the preceding 30 days, including a map showing the  
 25 location of property [described therein,] that conforms to the description in the surveyor’s cer-  
 26 tificate on the plat or other evidence of title satisfactory to the commissioner;

27 [(e)] (g) A copy of all restrictive covenants, reservations or other documents containing pro-  
 28 visions that may create an encumbrance on or limit the use of the property other than those re-  
 29 strictions contained in the declaration, supplemental declaration or bylaws; and

30 [(f)] (h) A statement from the county assessor that the name for the condominium is acceptable  
 31 under ORS 100.105 (5).

32 (4) After review of the nonresidential condominium documentation filed under this sec-  
 33 tion, the commissioner may require the declarant to file additional documents and informa-  
 34 tion related to the nonresidential condominium documentation that the commissioner deems  
 35 necessary to review and approve the documentation.

36 **SECTION 26.** ORS 100.675 is amended to read:

37 100.675. [(1)(a) Upon receipt of an informational filing, submitted as required under ORS 100.005  
 38 to 100.910 and the prescribed filing fee, within five working days after receipt of the filing the Real  
 39 Estate Commissioner shall inventory the filing and acknowledge whether the filing contains all required  
 40 documents and information. If the filing contains all required documents and information, the com-  
 41 missioner shall issue a notice acknowledging their receipt.]

42 [(b) If the filing under paragraph (a) of this subsection does not contain the required documents  
 43 and information, the commissioner shall issue a notice of receipt of a partial filing, a statement item-  
 44 izing the required documents and information that must be submitted, and a statement that the filing  
 45 will not be acknowledged as containing all required documents and information until the itemized

1 *documents and information have been received and inventoried by the commissioner.]*

2 *[(c) Within 45 days from the date that the filing has been inventoried and acknowledged as con-*  
 3 *taining all the required documents and information, the commissioner shall review the filing to deter-*  
 4 *mine whether the documents and information submitted conform to the statutory requirements of ORS*  
 5 *100.005 to 100.910 and, upon determination of their conformity shall adopt and issue the disclosure*  
 6 *statement filed under ORS 100.655.]*

7 *[(2) For any document filed with the commissioner that requires the commissioner's approval under*  
 8 *ORS 100.005 to 100.910, the commissioner shall issue a notice of receipt for the filing within five days*  
 9 *following receipt by the commissioner of the document. The document shall be considered approved by*  
 10 *the commissioner on the expiration of 45 days following issuance by the commissioner of the notice of*  
 11 *receipt, unless within the 45-day period:]*

12 *[(a) The commissioner notifies the person making the filing in writing of the portions of the docu-*  
 13 *ment that do not comply with the applicable requirements of ORS 100.005 to 100.910; or]*

14 *[(b) The commissioner notifies the person making the filing in writing that the document complies*  
 15 *with the applicable requirements of ORS 100.005 to 100.910 and is approved.]*

16 **(1) Within five working days after receipt of the prescribed filing fee under ORS 100.670**  
 17 **and information filed under ORS 100.635 or 100.660 or section 13 or 20 of this 2019 Act, the**  
 18 **Real Estate Commissioner shall inventory the filing and determine whether the filing in-**  
 19 **cludes all required information and documentation and designate the filing as:**

20 **(a) Complete, if the commissioner determines that all required information and docu-**  
 21 **mentation is included; or**

22 **(b) Partially complete, if the commissioner determines that all required information and**  
 23 **documentation is not included.**

24 **(2) If the commissioner designates the filing as complete under subsection (1)(a) of this**  
 25 **section, the commissioner shall issue a notice of complete filing to the declarant.**

26 **(3) If the commissioner designates the filing as partially complete under subsection (1)(b)**  
 27 **of this section, the commissioner shall issue to the declarant a notice of partial filing that:**

28 **(a) Itemizes the information and documentation that must be filed; and**

29 **(b) States that the filing will not be designated as complete until the commissioner re-**  
 30 **ceives the itemized information and documentation required.**

31 **(4) Within 45 days after the commissioner designates a filing as complete under sub-**  
 32 **section (1)(a) of this section, the commissioner shall review the filing and:**

33 **(a) Notify the declarant or developer in writing and specify what information or docu-**  
 34 **mentation in the filing does not meet the applicable requirements under this chapter or**  
 35 **what additional information is necessary to review and approve the filing; or**

36 **(b) Approve the filing.**

37 **(5) If the commissioner does not comply with subsection (4) of this section within 45 days**  
 38 **after the date the filing is designated as complete, the filing is deemed approved.**

39 **(6) Upon approving the filing under this section, the commissioner shall:**

40 **(a) If the filing is made under ORS 100.635, adopt and issue the disclosure statement**  
 41 **under ORS 100.655; and**

42 **(b) Provide written notice of the approval to the person making the filing.**

43 **SECTION 27.** ORS 100.680 is amended to read:

44 100.680. (1) Unless the developer of a condominium has complied with [subsections] **subsection**  
 45 (2) [and (3)] of this section, the developer and a purchaser may not enter into a unit sales agreement

1 before the recording of the declaration or supplemental declaration and plat under ORS 100.115 or,  
 2 if the condominium is located outside of this state, before the condominium has been created under  
 3 the laws of the jurisdiction within which the condominium is located.

4 (2) Any purchaser's funds, the unit sales agreement, any notes or security documents and any  
 5 loan commitments *[shall]* **must** be placed in an escrow located within this state with a person or  
 6 firm authorized under ORS 696.505 to 696.582. The escrow instructions may not allow distribution  
 7 of the purchaser's funds until the declaration or any applicable supplemental declaration is recorded  
 8 and the legal title or other interest bargained for has been transferred to the purchaser as provided  
 9 in the unit sales agreement. If any funds of the purchaser are invested, the funds *[shall]* **must** be  
 10 invested in federally insured accounts or other investments approved by the Real Estate Commis-  
 11 sioner. If the developer defaults under the unit sales agreement, the purchaser's funds held in escrow  
 12 and all income earned from investment of the funds held in escrow *[shall]* **must** be returned.

13 *[(3) A unit sales agreement shall contain:]*

14 *[(a) The unit designation;]*

15 *[(b) The full amount of the purchase price, including the amount and form of earnest money paid*  
 16 *by the purchaser;]*

17 *[(c) The name and address of the escrow agent to hold the purchaser's funds and a reference to the*  
 18 *escrow instructions controlling the escrow;]*

19 *[(d) If the purchaser's funds are to be invested, the name of the financial institution where the*  
 20 *funds will be deposited and to whom any interest earnings will accrue under all possible*  
 21 *circumstances;]*

22 *[(e) The date of closing with any conditions and requirements of closing;]*

23 *[(f) The closing procedure;]*

24 *[(g) Any authority of the developer to terminate the sale and, in the case of termination, any*  
 25 *forfeiture provisions;]*

26 *[(h) If the developer specifies any contingency, the date other than closing when all purchaser's*  
 27 *funds and interest earnings will be returned to the purchaser if the contingency is not met;]*

28 *[(i) Provision that the purchaser will recover any funds paid to the developer and any interest*  
 29 *earnings upon default by the developer;]*

30 *[(j) Any rights reserved by the developer to modify the declaration, any supplemental declaration,*  
 31 *bylaws, plat or other documents by which the purchaser is or will be bound;]*

32 *[(k) Notice to the purchaser of cancellation rights under ORS 100.730 and 100.740;]*

33 *[(L) For the sale of newly constructed units, any express warranty required under ORS 100.185;*  
 34 *and]*

35 *[(m) Any other provisions deemed necessary by the developer and purchaser.]*

36 **[(4)] (3)** In lieu of the requirements of subsection (2) of this section, the commissioner may ap-  
 37 prove any alternative requirement or method *[which]* **that** the commissioner finds will *[assure]* **en-**  
 38 **sure** the same protection to the purchaser as the protection provided by the escrow.

39 **SECTION 28. Section 29 of this 2019 Act is added to and made a part of ORS chapter 100.**

40 **SECTION 29. A unit sales agreement must contain:**

41 **(1) The unit designation;**

42 **(2) The full amount of the purchase price, including the amount and form of earnest**  
 43 **money paid by the purchaser;**

44 **(3) If required under ORS 100.680, the name and address of the escrow agent to hold the**  
 45 **purchaser's funds and a reference to the escrow instructions controlling the escrow;**

1 (4) If the purchaser's funds are to be invested, the name of the financial institution  
 2 where the funds will be deposited and to whom any interest earnings will accrue under all  
 3 possible circumstances;

4 (5) The date of closing with any conditions and requirements of closing;

5 (6) The closing procedure;

6 (7) Any authority of the developer to terminate the sale and, in the case of termination,  
 7 any forfeiture provisions;

8 (8) If the developer specifies any contingency, the date other than closing when all  
 9 purchaser's funds and interest earnings will be returned to the purchaser if the contingency  
 10 is not met;

11 (9) A provision that the purchaser will recover any funds paid to the developer and any  
 12 interest earnings upon default by the developer;

13 (10) Any rights reserved by the developer to modify the declaration, any supplemental  
 14 declaration, bylaws, plat or other documents by which the purchaser is or will be bound;

15 (11) Notice to the purchaser of cancellation rights under ORS 100.730 and 100.740;

16 (12) For the sale of newly constructed units, any express warranty required under ORS  
 17 100.185; and

18 (13) Any other provisions deemed necessary by the developer and purchaser.

19 **SECTION 30.** ORS 100.705 is amended to read:

20 100.705. (1) Except as provided in ORS 100.665[ *no developer or agent of a*] or section 20 of this  
 21 2019 Act, a developer, or an agent of the developer [*shall*] **may not** enter into a unit sales  
 22 agreement prior to the issuance of the disclosure statement for the condominium.

23 (2) A copy of the disclosure statement for a condominium [*shall*] **must** be given to the prospec-  
 24 tive purchaser of a unit in the condominium by the developer or an agent of the developer, not later  
 25 than the date the unit sales agreement is fully executed by all parties. The developer shall take a  
 26 receipt from the prospective purchaser upon delivery of a copy of the disclosure statement, and such  
 27 receipts [*shall*] **must** be kept on file within this state in the possession of the developer or the agent  
 28 of the developer subject to inspection by the Real Estate Commissioner for a period of three years  
 29 from the date the receipt is taken.

30 (3) The disclosure statement [*shall*] **may not** be used for advertising purposes unless it is used  
 31 in its entirety. No portion of the disclosure statement [*shall*] **may** be underscored, highlighted, ital-  
 32 ized or printed in larger or heavier type than the balance of the statement unless the true copy  
 33 of the statement so emphasizes such portion.

34 (4) The commissioner may furnish at cost copies of the disclosure statement for the use of de-  
 35 velopers.

36 (5) Violations of this section [*shall be*] **are** subject to the provisions of ORS 336.184 and 646.605  
 37 to 646.656, in addition to other sanctions provided by law.

38  
 39 **MISCELLANEOUS PROVISIONS**

40  
 41 **SECTION 31.** ORS 100.405 is amended to read:

42 100.405. (1)(a) An association of unit owners [*shall*] **must** be organized to serve as a means  
 43 through which the unit owners may take action with regard to the administration, management and  
 44 operation of the condominium.

45 (b) The association of a condominium created on or after September 27, 2007, [*shall*] **must** be

1 organized:

2 (A) As a corporation for profit or a nonprofit corporation; or

3 (B) If the condominium consists of four or fewer units, excluding units used for parking, storage  
4 or other use ancillary to a unit, as an unincorporated association, corporation for profit or a  
5 nonprofit corporation.

6 (c) If the association is incorporated,]:

7 (A) The name of the association *[shall]* **must** include the complete name of the condominium.

8 (B) **The articles of incorporation must be consistent with the declaration and bylaws.**

9 (d) **For an association described in paragraph (b)(A) of this subsection, the association**  
10 **must be incorporated before conveyance of the first individual unit unless all units in the**  
11 **condominium are conveyed or transferred to one person in one transaction.**

12 [(d)] (e) Notwithstanding a provision in the declaration or bylaws of a condominium created  
13 before September 27, 2007, that states that the association *[shall]* **must** be unincorporated or that  
14 requires approval of owners to incorporate as a nonprofit corporation under ORS chapter 65, an  
15 unincorporated association may be incorporated as a nonprofit corporation under ORS chapter 65  
16 if the board of directors adopts a resolution that states the association will be incorporated.

17 [(e)] (f) A separate association is not created when an unincorporated association formed under  
18 this section is incorporated, reinstated after administrative dissolution under ORS 60.654 or 65.654  
19 or again incorporated following dissolution. The association automatically continues and, without  
20 any further action by incorporators, directors or officers that may otherwise be required under  
21 Oregon corporation laws:

22 (A) The incorporated association has all of the property, powers and obligations of the associ-  
23 ation that existed immediately prior to incorporation in addition to the powers and obligations under  
24 Oregon corporation laws.

25 (B) The bylaws in effect immediately prior to incorporation or reinstatement constitute the by-  
26 laws of the incorporated association.

27 (C) The members of the board of directors and the officers continue to serve as directors and  
28 officers.

29 [(f)] (g) If an incorporated association is at any time dissolved, whether inadvertently or delib-  
30 erately:

31 (A) The association continues as an unincorporated association under the same name.

32 (B) The unincorporated association has all of the property, powers and obligations of the in-  
33 corporated association existing immediately prior to dissolution.

34 (C) The unincorporated association *[shall be]* **is** governed by the bylaws, and to the extent ap-  
35 plicable, the articles of incorporation of the incorporated association.

36 (D) The board of directors and the officers serving immediately prior to the dissolution continue  
37 to serve as the directors and officers of the unincorporated association.

38 (2) Membership in the association of unit owners *[shall be]* **is** limited to unit owners.

39 (3) The affairs of the association *[shall be]* **are** governed by a board of directors as provided for  
40 in the bylaws adopted under ORS 100.410.

41 (4) Subject to the provisions of the condominium's declaration and bylaws, and whether or not  
42 the association is unincorporated, the association may:

43 (a) Adopt and amend bylaws and rules and regulations;

44 (b) Adopt and amend budgets for revenues, expenditures and reserves and levy and collect as-  
45 sessments for common expenses from unit owners;

- 1 (c) Hire and terminate managing agents and other employees, agents and independent contrac-  
2 tors;
- 3 (d) Defend against any claims, proceedings or actions brought against it;
- 4 (e) Subject to subsection (11) of this section, initiate or intervene in litigation or administrative  
5 proceedings in its own name, and without joining the individual unit owners, in the following:
  - 6 (A) Matters relating to the collection of assessments and the enforcement of declarations and  
7 bylaws;
  - 8 (B) Matters arising out of contracts to which the association is a party;
  - 9 (C) Actions seeking equitable or other nonmonetary relief regarding matters that affect the  
10 common interests of the unit owners, including but not limited to the abatement of nuisance;
  - 11 (D) Matters relating to or affecting common elements, including but not limited to actions for  
12 damage, destruction, impairment or loss of use of any common element;
  - 13 (E) Matters relating to or affecting the units or interests of unit owners including but not lim-  
14 ited to damage, destruction, impairment or loss of use of a unit or portion thereof, if:
    - 15 (i) Resulting from a nuisance or a defect in or damage to a common element; or
    - 16 (ii) Required to facilitate repair to any common element; and
  - 17 (F) Any other matter to which the association has standing under law or pursuant to the dec-  
18 laration, bylaws or any articles of incorporation;
    - 19 (f) Make contracts and incur liabilities;
    - 20 (g) Regulate the use, maintenance, repair, replacement and modification of common elements;
    - 21 (h) Cause additional improvement to be made as a part of the common elements;
    - 22 (i) Acquire by purchase, lease, devise, gift or voluntary grant real or personal property or any  
23 interest therein and take, hold, possess and convey real or personal property or any interest therein;
    - 24 (j) Impose and receive any payments, fees or charges for the use, rental or operation of the  
25 common elements;
    - 26 (k) Impose charges for late payments of assessments, attorney fees for collection of assessments  
27 and, after giving written notice and an opportunity to be heard, levy reasonable fines for violations  
28 of the declaration, bylaws and rules and regulations of the association, provided that the charge  
29 imposed or fine levied by the association is based:
      - 30 (A) On a schedule contained in the declaration or bylaws, or an amendment to either that is  
31 delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing addresses  
32 designated in writing by the owners; or
      - 33 (B) On a resolution adopted by the board of directors or the association that is delivered to each  
34 unit, mailed to the mailing address of each unit or mailed to the mailing addresses designated by the  
35 owners in writing;
      - 36 (L) Adopt rules regarding the termination of utility services paid for out of assessments of the  
37 association and access to and use of recreational and service facilities available to unit owners that  
38 must provide for written notice and an opportunity to be heard before the association may terminate  
39 the rights of any owners to receive such benefits or services until the correction of any violation  
40 covered by the rule has occurred;
    - 41 (m) Impose reasonable charges for the preparation and recordation of amendments to the dec-  
42 laration or statements of assessments;
    - 43 (n) Assign its right to future income, including the right to receive common expense assess-  
44 ments;
    - 45 (o) Provide for the indemnification of its officers and executive board, as may be limited by ORS

1 61.218 (3)(d) (1987 Replacement Part), and maintain directors' and officers' liability insurance;

2 (p) Exercise any other powers conferred by the declaration or bylaws;

3 (q) Exercise all other powers that may be exercised in this state by any such association; and

4 (r) Exercise any other powers determined by the association to be necessary and proper for the  
5 governance and operation of the association.

6 (5) Subject to subsection (6) of this section, unless expressly limited or prohibited by the decla-  
7 ration, the association has the authority to grant, execute, acknowledge and deliver on behalf of the  
8 unit owners leases, easements, rights of way, licenses and other similar interests affecting the gen-  
9 eral common elements and consent to vacation of roadways within and adjacent to the condominium.

10 (6)(a)(A) Except as provided in subparagraph (B) of this paragraph, the granting of a lease,  
11 easement, right of way, license or other similar interest pursuant to subsection (5) of this section  
12 [*shall be*] **must** first **be** approved by at least 75 percent of owners present at a meeting of the as-  
13 sociation or with the consent of at least 75 percent of all owners solicited by any means the board  
14 of directors determines is reasonable. If a meeting is held to conduct the vote, the meeting notice  
15 must include a statement that the approval of the grant will be an item of business on the agenda  
16 of the meeting.

17 (B) Unless the declaration otherwise provides:

18 (i) The granting of a lease, easement, right of way, license or other similar interest affecting the  
19 general common elements for a term of two years or less shall require the approval of a majority  
20 of the board of directors.

21 (ii) The granting of a lease, easement, right of way, license or other similar interest affecting  
22 the general common elements for a term of more than two years to a public body, as defined in ORS  
23 174.109, [*or*] to a utility [*or*], **to a communications company or to any other person** for installation  
24 and maintenance of power, gas, electric, water or other utility and communication lines and services  
25 requires the approval of a majority of the board of directors.

26 (iii) The granting of a lease, easement, license or other similar interest to an owner for the ex-  
27 clusive use of a part of the general common elements to which the owner's unit provides primary  
28 access requires the approval of a majority of the board of directors. If the approval by the board  
29 of directors includes the right of the owner to make improvements to the general common elements  
30 to which the owner is being granted exclusive use, ORS 100.535 applies to the general common el-  
31 ements to the same extent that ORS 100.535 applies to a unit, including the right of the board under  
32 ORS 100.535 to require an owner, at owner's expense, to submit an opinion of a registered architect  
33 or registered professional engineer that the proposed improvement will not impair the structural  
34 integrity or mechanical systems of the condominium.

35 (b) Unless the declaration otherwise provides, the consent to vacation of roadways within and  
36 adjacent to the condominium must be approved first by at least a majority of unit owners present  
37 and voting at a meeting of the association or with consent of at least a majority of all owners so-  
38 licited by any means the board of directors determines is reasonable. If a meeting is held to conduct  
39 the vote, the meeting notice must include a statement that the roadway vacation will be an item  
40 of business on the agenda of the meeting.

41 (7) The instrument granting an interest or consent pursuant to subsection (5) of this section  
42 [*shall*] **must** be executed by [*the chairperson and secretary of*] the association and acknowledged [*in*  
43 *the manner provided for acknowledgment of such instruments by such officers*] and shall state that  
44 such grant or consent was approved, if appropriate, by at least the percent of owners required under  
45 subsection (6) of this section.

1 (8)(a) Unless expressly prohibited by the declaration, any action permitted under subsections (5)  
 2 and (6) of this section regarding a general common element may be taken with respect to any limited  
 3 common element as provided in this subsection.

4 (b) Except as provided in paragraph (c) of this subsection, the easement, lease or other action  
 5 under this section requires the approval or consent of the owner of the unit to which the use of the  
 6 limited common element is reserved and the holder of a first mortgage or first trust deed affecting  
 7 the unit. However, if the use of the limited common element is reserved for five or more units:

8 (A) When the action is for more than two years, the owners of 75 percent of the units to which  
 9 the use of the limited common element is reserved must approve or consent.

10 (B) When the action is for two years or less, the owners of a majority of the units to which the  
 11 use of the limited common element is reserved must approve or consent.

12 (c) The instrument granting an interest or consent under this section must:

13 (A) Be executed by the [*chairperson and secretary of the*] association and acknowledged [*in the*  
 14 *manner provided for acknowledgment of the instruments by the officers*].

15 (B) State that the grant or consent is given pursuant to this subsection.

16 (C) Include a certification **executed** by the [*chairperson and secretary*] **association stating** that  
 17 the action was approved by the owners in accordance with this subsection.

18 (9) Except as otherwise provided in the association's declaration or bylaws, the board of direc-  
 19 tors of the association may modify, close, remove, eliminate or discontinue the use of a general  
 20 common element facility or improvement or portion of the common element landscaping, regardless  
 21 of whether such facility, improvement or landscaping is mentioned in the declaration or shown on  
 22 the plat provided that:

23 (a) [*Nothing in*] This subsection [*shall be construed as limiting*] **does not limit** the authority of  
 24 the board of directors, in its discretion, to seek approval of such modification, closure, removal,  
 25 elimination or discontinuance by the unit owners; and

26 (b) Modification, closure, removal, elimination or discontinuance other than on a temporary ba-  
 27 sis of any swimming pool, spa or recreation or community building must be approved by at least a  
 28 majority of the unit owners voting on such matter at a meeting or by written ballot held in ac-  
 29 cordance with the declaration, bylaws or ORS 100.425.

30 (10)(a) A permit or authorization issued by the board of directors pursuant to authority granted  
 31 to the board under law, the declaration or the bylaws, may be recorded in the deed records of the  
 32 county where the condominium is located. An instrument recorded under this subsection [*shall*]  
 33 **must**:

34 (A) Include the name of the condominium and a reference to where the declaration and any  
 35 applicable supplemental declarations are recorded;

36 (B) Identify, by the designations stated in the declaration or applicable supplemental declaration,  
 37 all affected units and common elements;

38 (C) Include such other information and signatures as may be required by law, under the decla-  
 39 ration or bylaws or as the board of directors may desire; and

40 (D) Be executed by the [*chairperson and secretary of the*] association and acknowledged [*in the*  
 41 *manner provided for acknowledgment of such instruments by the officers*].

42 (b) The board of directors may record an amendment, modification, termination or other instru-  
 43 ment relating to the permit or authorization described in this subsection. Any such instrument shall  
 44 include a reference to the location of the recorded instrument and be executed by the [*chairperson*  
 45 *and secretary of the*] association and acknowledged [*in the manner provided for acknowledgment of*

1 *such instruments*].

2 (11)(a) Subject to paragraph (f) of this subsection, before initiating litigation or an administrative  
 3 proceeding in which the association and an owner have an adversarial relationship, the party that  
 4 intends to initiate litigation or an administrative proceeding shall offer to use any dispute resolution  
 5 program available within the county in which the condominium is located that is in substantial  
 6 compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be  
 7 hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the  
 8 records of the association, for the other party.

9 (b) If the party receiving the offer does not accept the offer within 10 days after receipt by  
 10 written notice hand-delivered or mailed by certified mail, return receipt requested, to the address,  
 11 contained in the records of the association, for the other party, the initiating party may commence  
 12 the litigation or the administrative proceeding. The notice of acceptance of the offer to participate  
 13 in the program must contain the name, address and telephone number of the body administering the  
 14 dispute resolution program.

15 (c) If a qualified dispute resolution program exists within the county in which the condominium  
 16 is located and an offer to use the program is not made as required under paragraph (a) of this sub-  
 17 section, litigation or an administrative proceeding may be stayed for 30 days upon a motion of the  
 18 noninitiating party. If the litigation or administrative action is stayed under this paragraph, both  
 19 parties shall participate in the dispute resolution process.

20 (d) Unless a stay has been granted under paragraph (c) of this subsection, if the dispute resolu-  
 21 tion process is not completed within 30 days after receipt of the initial offer, the initiating party  
 22 may commence litigation or an administrative proceeding without regard to whether the dispute  
 23 resolution is completed.

24 (e) Once made, the decision of the court or administrative body arising from litigation or an  
 25 administrative proceeding may not be set aside on the grounds that an offer to use a dispute resolu-  
 26 tion program was not made.

27 (f) The requirements of this subsection do not apply to circumstances in which irreparable harm  
 28 to a party will occur due to delay or to litigation or an administrative proceeding initiated to collect  
 29 assessments, other than assessments attributable to fines.

30 **SECTION 32.** ORS 100.600 is amended to read:

31 100.600. (1)(a) Subject to ORS 100.605, the condominium may be terminated if all of the unit  
 32 owners remove the property from the provisions of this chapter by executing and recording an in-  
 33 strument to that effect and the holders of all liens affecting the units consent thereto or agree, in  
 34 either case by instruments duly recorded, that their liens be transferred to the undivided interest  
 35 of the unit owner in the property after the termination. The instrument shall state the interest of  
 36 each unit owner and lienholder as determined under ORS 100.610.

37 (b) The recording of an instrument of termination shall vacate the plat but shall not vacate or  
 38 terminate any recorded covenants, restrictions, easements or other interests not imposed under the  
 39 declaration or bylaws or any easement granted by the plat unless the instrument of termination  
 40 otherwise provides.

41 (c) Before the instrument of termination may be recorded, it must be signed by the county  
 42 assessor for the purpose of acknowledging that the county assessor has been notified of the proposed  
 43 termination.

44 (d) The person offering the instrument of termination for recording shall cause a copy of the  
 45 recorded instrument, including the recording information, to be filed with the commissioner, the

1 county assessor and the county surveyor. Upon receipt of the instrument of termination, the county  
 2 surveyor *[shall]* **may** make appropriate annotations~~, including the date and surveyor's name or ini-~~  
 3 ~~tials, with archival quality black ink]~~ on the surveyor's copy of the plat and any copies filed under  
 4 ORS 92.120. Corrections or changes are not allowed on the original plat once it is recorded with  
 5 the county clerk.

6 (e) Failure to file the copies as required under paragraph (d) of this subsection does not invali-  
 7 date the termination.

8 (2) A portion of the property may be removed from the provisions of this chapter by recording  
 9 simultaneously with the recording officer an amendment to the declaration and an amended plat  
 10 approved as required under ORS 100.110, 100.116 and 100.135. The amendment to the declaration  
 11 shall:

12 (a) Include a metes and bounds legal description of the property being removed;

13 (b) Include a metes and bounds legal description of the resulting boundaries of the condominium  
 14 after the removal;

15 (c) State the interest of each owner in the property being removed;

16 (d) State the allocation of interest of each unit in the common elements after the removal;

17 (e) Be approved and executed by the owner of any unit being removed and the owner of any unit  
 18 to which a limited common element being removed pertains and acknowledged in the manner pro-  
 19 vided for acknowledgment of deeds;

20 (f) Be approved by the holder of any first mortgage on a unit or limited common element being  
 21 removed;

22 (g) Be approved by at least 90 percent of owners, including any owner whose approval is re-  
 23 quired under paragraph (e) of this subsection;

24 (h) Be approved by any other mortgagees whose approval is required under the declaration or  
 25 bylaws;

26 (i) Include any other approvals required by the declaration or bylaws; and

27 (j) Include a statement by the local governing body or appropriate department thereof that the  
 28 removal will not violate any applicable planning or zoning regulation or ordinance. The statement  
 29 may be attached as an exhibit to the amendment.

30 (3) The amended plat required under subsection (2) of this section *[shall]* **must**:

31 (a) Comply with ORS 100.116;

32 (b) Include a "Statement of Removal" that the property described on the amended plat is re-  
 33 moved from the condominium and that the condominium exists as described and depicted on the  
 34 amended plat. The statement *[shall]* **must** be made **and executed** by *[the chairperson and secretary*  
 35 *of]* the association and acknowledged *[in the manner provided for acknowledgment of deeds]*; and

36 (c) Include such signatures of approval as may be required by local ordinance or regulation.

37 (4) The tax collector for any taxing unit having a lien for taxes or assessments *[shall have au-*  
 38 *thority to]* **may** consent to such a transfer of any tax or assessment lien under subsection (1) of this  
 39 section or the removal of a portion of the property under subsection (2) of this section.

40 **SECTION 33.** ORS 100.665 is amended to read:

41 100.665. *[A vendor under a land sale contract, a mortgagee of a mortgage or a beneficiary of a*  
 42 *trust deed who becomes a developer by reason of acquiring a unit or units in a condominium through*  
 43 *foreclosure of its lien or acceptance of a deed in lieu thereof, is not required to submit a filing to the*  
 44 *Real Estate Commissioner under ORS 100.635, or to distribute a disclosure statement under ORS*  
 45 *100.705 or provide the notice to purchaser required under ORS 100.740 if the vendor, mortgagee or*

1 beneficiary sells, in a single sale, all of the units so acquired to a developer who agrees to comply with  
 2 the provisions of ORS 100.635 and 100.705 before negotiating a sale of the unit or units to others.] **A**  
 3 **declarant or a mortgagee that acquires title to a unit in a condominium through foreclosure**  
 4 **of a mortgage or lien, by a trustee’s sale, by contract forfeiture, by other judicial procedure**  
 5 **or by acceptance of a deed in lieu of foreclosure or forfeiture, may sell a unit to a developer**  
 6 **without:**

7 (1) **Filing a disclosure statement with the Real Estate Commissioner pursuant to ORS**  
 8 **100.635;**

9 (2) **Distributing the disclosure statement pursuant to ORS 100.705; or**

10 (3) **Providing notice to a purchaser pursuant to ORS 100.740.**

11 **SECTION 34.** ORS 100.005 is amended to read:

12 100.005. As used in this chapter, unless the context requires otherwise:

13 (1) **“Acknowledged” means, with respect to a signature on a document or a signed docu-**  
 14 **ment, that the document is acknowledged in the form and manner provided for the ac-**  
 15 **knowledgegment of a deed.**

16 (2) **“Assessment” means any charge imposed or levied by the association of unit owners on or**  
 17 **against a unit owner or unit pursuant to provisions of the declaration or the bylaws of the condo-**  
 18 **minium or provisions of [ORS 100.005 to 100.910] this chapter.**

19 [(2)] (3) **“Association of unit owners” or “association” means the association provided for under**  
 20 **ORS 100.405.**

21 [(3)] (4) **“Association property” means any real property or interest in real property acquired,**  
 22 **held or possessed by the association provided for under ORS 100.405.**

23 [(4)] (5) **“Blanket encumbrance” means a trust deed or mortgage or any other lien or**  
 24 **encumbrance, mechanic’s lien or otherwise, securing or evidencing the payment of money and af-**  
 25 **fecting more than one unit in a condominium, or an agreement affecting more than one such unit**  
 26 **by which the developer holds such condominium under an option, contract to sell or trust agree-**  
 27 **ment.**

28 [(5)] (6) **“Building” means a multiple-unit building or single-unit buildings, or any combination**  
 29 **thereof, comprising a part of the property. “Building” also includes a floating structure described**  
 30 **in ORS 100.020 (3)(b)(D).**

31 [(6)] (7) **“Certified by the association” or “executed by the association” means signed by**  
 32 **the secretary and the president or chairperson of the association.**

33 (8) **“Commissioner” means the Real Estate Commissioner.**

34 [(7)] (9) **“Common elements” means the general common elements and the limited common ele-**  
 35 **ments.**

36 [(8)] (10) **“Common expenses” means:**

37 (a) **Expenses of administration, maintenance, repair or replacement of the common elements; and**

38 (b) *[Expenses agreed upon as common by all the unit owners; and]*

39 [(c)] **Expenses declared common by [ORS 100.005 to 100.627] this chapter or by the declaration**  
 40 **or the bylaws of the particular condominium.**

41 [(9)] (11) **“Condominium” means:**

42 (a) **With respect to property located within this state:**

43 (A) **The land, if any, whether fee simple, leasehold, easement or other interest or combination**  
 44 **thereof, and whether contiguous or noncontiguous;**

45 (B) **Any buildings, improvements and structures on the property; and**

1 (C) Any easements, rights and appurtenances belonging to the property submitted to the [*pro-*  
 2 *visions of ORS 100.005 to 100.627*] **condominium form of ownership under this chapter**; and

3 (b) With respect to property located outside this state, the property that has been committed to  
 4 the condominium form of ownership in accordance with the jurisdiction within which the property  
 5 is located.

6 [(10)] (12) “Conversion condominium” means [*a condominium in*] **real property that a declarant**  
 7 **intends to submit to the condominium form of ownership under this chapter on** which there  
 8 is a building, improvement or structure that was occupied prior to any negotiation and that is:

9 (a) Residential in nature, at least in part; and

10 (b) Not wholly commercial or industrial, or commercial and industrial, in nature.

11 [(11)] (13) “Declarant” means a person who records a declaration under ORS 100.100 or a sup-  
 12 plemental declaration under ORS 100.110.

13 [(12)] (14) “Declaration” means the instrument described in ORS 100.105 by which the condo-  
 14 minium is created and as modified by any amendment recorded in accordance with ORS 100.135 or  
 15 supplemental declaration recorded in accordance with ORS 100.120.

16 [(13)] (15) “Developer” means a declarant or any person [*who purchases*] **that acquires** an in-  
 17 terest in a condominium from declarant, successor declarant or subsequent developer for the pri-  
 18 mary purpose of resale.

19 [(14)] (16) “Electric vehicle charging station” or “charging station” means a facility designed to  
 20 deliver electrical current for the purpose of charging one or more electric motor vehicles.

21 [(15)] (17) “Flexible condominium” means a condominium containing property that may be re-  
 22 classified or withdrawn from the condominium pursuant to ORS 100.150 (1).

23 [(16)] (18) “General common elements,” unless otherwise provided in a declaration, means all  
 24 portions of the condominium that are not part of a unit or a limited common element, including but  
 25 not limited to the following:

26 (a) The land, whether fee simple, leasehold, easement, other interest or combination thereof,  
 27 together with any rights and appurtenances;

28 (b) The foundations, columns, girders, beams, supports, bearing and shear walls, windows, except  
 29 glazing and screening, unit access doors, except glazing and screening, roofs, halls, corridors, lob-  
 30 bies, stairs, fire escapes, entrances and exits of a building;

31 (c) The basements, yards, gardens, parking areas and outside storage spaces;

32 (d) Installations of central services such as power, light, gas, hot and cold water, heating, re-  
 33 frigeration, air conditioning, waste disposal and incinerating;

34 (e) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus  
 35 and installations existing for common use;

36 (f) The premises for the lodging of janitors or caretakers of the property; and

37 (g) All other elements of a building and the condominium necessary or convenient to their ex-  
 38 istence, maintenance and safety, or normally in common use.

39 [(17)] (19) “Governing document” means articles of incorporation, bylaws, a declaration or a  
 40 rule, regulation or resolution that was properly adopted by the association of unit owners or any  
 41 other instrument or plat relating to common ownership or common maintenance of a portion of a  
 42 condominium that is binding upon units within the condominium.

43 [(18)] (20) “Leasehold” means the interest of a person, firm or corporation that is the lessee  
 44 under a lease from the owner in fee and that files a declaration creating a condominium under ORS  
 45 100.100.

1 [(19)] (21) “Limited common elements” means those common elements designated in the decla-  
 2 ration, as reserved for the use of a certain unit or number of units, to the exclusion of the other  
 3 units.

4 [(20)] (22) “Majority” or “majority of unit owners” means more than 50 percent of the voting  
 5 rights allocated to the units by the declaration.

6 [(21)] (23) “Mortgagee” means any person who is:

- 7 (a) A mortgagee under a mortgage;
- 8 (b) A beneficiary under a trust deed; or
- 9 (c) The vendor under a land sale contract.

10 [(22)] (24) “Negotiation” means any activity preliminary to the execution by either developer  
 11 or purchaser of a unit sales agreement, including but not limited to advertising, solicitation and  
 12 promotion of the sale of a unit.

13 [(23)] (25) “Nonwithdrawable property” means property which pursuant to ORS 100.150 (1)(b):

- 14 (a) Is designated nonwithdrawable in the declaration and on the plat; and
- 15 (b) Which may not be withdrawn from the condominium without the consent of all of the unit  
 16 owners.

17 [(24)] (26) “Percent of owners” or “percentage of owners” means the percent of the voting rights  
 18 determined under ORS 100.525.

19 [(25)] (27) “Purchaser” means an actual or prospective purchaser of a condominium unit pursu-  
 20 ant to a sale.

21 **(28) “Recorded” means to cause to be recorded by the county officer in the real property  
 22 records for each county in which the condominium is located.**

23 [(26)] (29) “Recording officer” means the county officer charged with the duty of filing and re-  
 24 cording deeds and mortgages or any other instruments or documents affecting the title to real  
 25 property.

26 [(27)] (30) “Reservation agreement” means an agreement relating to the future sale of a unit  
 27 which is not binding on the purchaser and which grants purchaser the right to cancel the agreement  
 28 without penalty and obtain a refund of any funds deposited at any time until purchaser executes a  
 29 unit sales agreement.

30 [(28)] (31) “Sale” means any disposition or transfer of a condominium unit, or an interest or  
 31 estate therein, by a developer, including the offering of the property as a prize or gift when a  
 32 monetary charge or consideration for whatever purpose is required by the developer. As used in this  
 33 subsection, “interest or estate” includes a lessee’s interest in a unit for more than three years or  
 34 less than three years if the interest may be renewed under the terms of the lease for a total period  
 35 of more than three years. “Interest or estate” does not include any interest held for security pur-  
 36 poses or a timeshare regulated or otherwise exempt under ORS 94.803 and 94.807 to 94.945.

37 [(29)] (32) “Special declarant right” means any right, in addition to the regular rights of the  
 38 declarant as a unit owner, reserved for the benefit of or created by the declarant under the decla-  
 39 ration, bylaws or the provisions of this chapter.

40 [(30)] (33) “Staged condominium” means a condominium [which] **that** provides for annexation of  
 41 additional property pursuant to ORS 100.115 and 100.120.

42 [(31)] (34) “Successor declarant” means the transferee of any special declarant right.

43 [(32)] (35) “Termination date” means that date described in ORS 100.105 (2)(b) or (7)(d).

44 [(33)] (36) “Transitional committee” means the committee provided for under ORS 100.205.

45 [(34)] (37) “Turnover meeting” means the meeting provided for under ORS 100.210.

1 [(35)] (38) "Unit" or "condominium unit" means a part of the property which:

2 (a) Is described in ORS 100.020 (3);

3 (b) Is intended for any type of independent ownership; and

4 (c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

5 [(36)] (39) "Unit designation" means the number, letter or combination thereof designating a unit  
6 in the declaration and on the plat.

7 [(37)] (40) "Unit owner" means, except to the extent the declaration or bylaws provide other-  
8 wise, the person owning fee simple interest in a unit, the holder of a vendee's interest in a unit  
9 under a recorded installment contract of sale and, in the case of a leasehold condominium, the  
10 holder of the leasehold estate in a unit.

11 [(38)] (41) "Unit sales agreement" means a written offer or agreement for the sale of a condo-  
12 minium unit which when fully executed will be binding on all parties. "Unit sales agreement" in-  
13 cludes but is not limited to an earnest money receipt and agreement to purchase and other such  
14 agreements which serve as an agreement of sale for a cash transaction or which are preliminary to  
15 the execution of an installment contract of sale, but does not include a reservation agreement.

16 [(39)] (42) "Variable property" means property described in ORS 100.150 (2) and designated as  
17 variable property in the declaration and on the plat.

18 [(40)] (43) "Voting rights" means the portion of the votes allocated to a unit by the declaration  
19 in accordance with ORS 100.105 (1)(j).

20  
21 **CONFORMING AMENDMENTS**

22  
23 **SECTION 35.** ORS 100.407 is amended to read:

24 100.407. (1) The association of unit owners shall hold at least one meeting of the owners each  
25 calendar year.

26 (2)(a) Special meetings of the association may be called by the chairperson **or president** of the  
27 board of directors, by a majority of the board of directors or by the chairperson, **president** or sec-  
28 retary upon receipt of a written request of a percentage of unit owners specified in the bylaws.  
29 However, the bylaws may not require a percentage greater than 50 percent or less than 10 percent  
30 of the unit owners for the purpose of calling a meeting.

31 (b) If the bylaws do not specify a percentage of unit owners that may request the calling of a  
32 special meeting, a special meeting shall be called if 30 percent or more of the unit owners make the  
33 request in writing. Notice of the special meeting shall be given as specified in this section.

34 (3) If the unit owners request a special meeting under subsection (2) of this section and the no-  
35 tice is not given within 30 days after the date the written request is delivered to the chairperson  
36 **or president** or the secretary, a unit owner who signed the request may set the time and place of  
37 the meeting and give notice as provided in subsection (4) of this section.

38 (4)(a) Not less than 10 nor more than 50 days before any meeting called under this section, the  
39 secretary or other officer of the association specified in the bylaws shall cause the notice to be hand  
40 delivered or mailed to the mailing address of each unit owner or to the mailing address designated  
41 in writing by the unit owner, and to all mortgagees that have requested the notice.

42 (b) The notice shall state the time and place of the meeting and the items on the agenda, in-  
43 cluding the general nature of any proposed amendment to the declaration or bylaws, any budget  
44 changes or any proposal to remove a director or officer of the association.

45 (c) Mortgagees may designate a representative to attend a meeting called under this section.

**SECTION 36.** ORS 87.015 is amended to read:

87.015. (1) The site together with the land that may be required for the convenient use and occupation of the improvement constructed on the site, to be determined by the court at the time of the foreclosure of the lien, shall also be subject to the liens created under ORS 87.010 (1), (4) and (5) if, at the time of the commencement of the improvement, the person who caused the improvement to be constructed was the owner of that site and land. If the person owned less than a fee-simple estate in the site and land, then only the interest of the person therein shall be subject to the lien.

(2) If a lien created under ORS 87.010 (1), (4) and (5) is claimed against a unit as defined in ORS 100.005 [to 100.910, the Oregon Condominium Act], the common elements appertaining to that unit are also subject to the lien.

(3) When the interest of the person who caused the improvement to be constructed is a leasehold interest, and that person has forfeited the rights of the person thereto, the purchaser of the improvement and leasehold term at any sale under the provisions of ORS 87.001 to 87.060 and 87.075 to 87.093, is deemed to be the assignee of the leasehold term, and may pay the lessor all arrears of rent or other money and costs due under the lease. If the lessor regains possession of the property, or obtains judgment for the possession thereof prior to the commencement of construction of the improvement, the purchaser may remove the improvement within 30 days after the purchaser purchases it, and the owner of the land shall receive the rent due the owner, payable out of the proceeds of the sale, according to the terms of the lease, down to the time of removal.

**SECTION 37.** ORS 100.020 is amended to read:

100.020. (1) Except as otherwise provided in subsections (2) and (3) of this section, ORS 100.100 to 100.625 apply only to property located within this state which a person elects to submit to the condominium form of ownership as provided in ORS 100.005 to 100.627.

(2) Unless the declarant elects otherwise, ORS 100.175, 100.185, 100.200 (2), 100.205, 100.210, 100.300, 100.305, 100.310, 100.315 and 100.320 apply only to condominiums that include units to be used for residential purposes.

(3) Property may not be submitted to the condominium form of ownership under ORS 100.005 to 100.627 unless:

(a) Each unit has legal access to a public street or highway or, if the unit has such access only by virtue of common ownership with other units, the declaration executed under ORS 100.110 prohibits conveyance of the unit unless after conveyance the unit will continue to have legal access to a public street or highway;

(b) Subject to paragraph (c) of this subsection, each unit consists of:

(A) A building or part of a building;

(B) A space used for the parking or storage of automobiles, trucks, boats, campers or other vehicles or equipment;

(C) A space for the moorage of a watercraft, floating home or other structure; or

(D) A floating structure, including a structure formerly used as a ship or other vessel that:

(i) Is permanently moored to structures in a river, lake or other waterway pursuant to a long-term lease with a remaining term at the time the declaration and plat are recorded of not less than 15 years;

(ii) Contains two or more residential units with a combined floor space of not less than 2,000 square feet; and

(iii) Has upland common elements owned in fee or by leasehold having a remaining term of not less than the remaining term of the leasehold on the submerged or submersible land. The units in

1 a condominium described in this subparagraph *[shall be]* **are** considered real property for purposes  
 2 of the Oregon Condominium Act; and

3 (c) Each unit has an interest in the common elements in accordance with ORS 100.515. However,  
 4 a unit may not include any portion of the land. A declaration may not provide that there are no  
 5 common elements.

6 (4)(a) Except as otherwise provided in subsection (5) of this section, ORS 100.015 and 100.635 to  
 7 100.910 apply to condominiums having units to be used for residential purposes which are not offered  
 8 for sale as a security pursuant to ORS 59.005 to 59.505.

9 (b) ORS 100.635 [(2)] **(1)(b)**, 100.640 [(8) to (12)] **(1)(h) to (o)**, 100.655, 100.705, 100.720, 100.725,  
 10 100.730, 100.735, 100.740 and 100.745 do not apply to the sale of units to be used for nonresidential  
 11 purposes as provided in subsection (5) of this section unless the units, including units used for  
 12 parking or storage, are ancillary to the sale of units to be used for residential purposes.

13 (5)(a) ORS 100.650, 100.660, 100.670, 100.675, 100.750, 100.770, 100.775, 100.780, 100.900, 100.905  
 14 and 100.990 apply to a condominium located in this state that consists exclusively of units to be used  
 15 for nonresidential purposes or that consists of units to be offered for sale as a security under ORS  
 16 59.005 to 59.505.

17 (b) As used in this subsection, “nonresidential purposes” includes apartments within a condo-  
 18 minium in which the apartments are not separate units or units that are restricted in use by the  
 19 unit owner to less than full-time residential purposes.

20 (6) The units in a condominium described in subsection (3)(b)(C) and (D) of this section *[shall*  
 21 *be]* **are** considered real property for purposes of this chapter.

22 (7) Unless the declaration or bylaws provide otherwise, a condominium unit may be submitted  
 23 to the condominium form of ownership under ORS 100.005 to 100.627.

24 (8) If an association creates not more than two additional units from common elements by an  
 25 amendment to the declaration under ORS 100.135, then ORS 100.635 [(2)] **(1)(b)**, 100.640 [(8) to (12)]  
 26 **(1)(h) to (o)**, 100.655, 100.705, 100.720, 100.725, 100.730, 100.735 and 100.745 do not apply to the sale  
 27 of the units by the association.

28 **SECTION 38.** ORS 100.102 is amended to read:

29 100.102. (1) The owner of fee title interest in the real property underlying a leasehold condo-  
 30 minium may submit the fee title to the provisions of this chapter by the procedures set forth in this  
 31 section. Submission has the effect set forth in ORS 100.103.

32 (2) The fee title interest of a leasehold condominium may be submitted to the provisions of this  
 33 chapter by an amendment to the declaration. The amendment must:

34 (a) Include a reference to the recording index numbers and date of recording of the initial dec-  
 35 laration, supplemental declarations recorded pursuant to ORS 100.120 and the lease;

36 (b) State that the fee title interest in the real property subject to the leasehold is submitted to  
 37 the provisions of this chapter pursuant to this section;

38 (c) State that the submission of the fee title interest in the real property subject to the leasehold  
 39 to the provisions of this chapter has the effect set forth in ORS 100.103;

40 (d) State that there are no encumbrances against the fee title interest securing payment of  
 41 moneys except for the assessments of the owners association that are not yet due;

42 (e) Be approved by at least 75 percent of the unit owners, notwithstanding that the declaration  
 43 may require approval by a larger percentage of owners or the consent of another person to amend  
 44 the declaration;

45 (f) Be executed by the fee title holder and the *[chairperson and secretary of the]* association and

1 acknowledged [*in the manner provided for acknowledgment of instruments*];

2 (g) Be certified by the [*chairperson and secretary*] **association** as being adopted in accordance  
3 with this section;

4 (h) Be approved as required by ORS 100.110; and

5 (i) Be recorded in the office of the recording officer of each county in which the condominium  
6 is located.

7 (3) At the time of submission, the fee title interest being submitted may not be subject to an  
8 encumbrance securing payment of money except for the assessments of an association that are not  
9 yet due.

10 (4) Nothing in this section precludes the declarant of a leasehold condominium, the unit owners  
11 and the association from agreeing to other procedures for submitting the fee title interest to the  
12 provisions of this chapter, provided the procedures are set forth in:

13 (a) The declaration; or

14 (b) An amendment to the declaration approved by at least 75 percent of the unit owners or, if  
15 a larger percentage is specified in the declaration to effect amendments to the declaration, the  
16 larger percentage, and 75 percent of the lenders holding a first-priority security position in any unit  
17 in the condominium.

18 **SECTION 39.** ORS 100.125 is amended to read:

19 100.125. Subject to ORS 100.120 [(4)] (5), if the declaration complies with ORS 100.105 (2), until  
20 the termination date, additional property may be annexed to the condominium by the recording of  
21 a supplemental declaration and supplemental plat in accordance with ORS 100.115.

22 **SECTION 40.** ORS 100.155 is amended to read:

23 100.155. (1) If by the termination date specified in the declaration there is any remaining vari-  
24 able property:

25 (a) Any property designated nonwithdrawable variable property becomes part of the common  
26 elements and any interest in the property held for security purposes is automatically extinguished  
27 by reclassification.

28 (b) Any property designated withdrawable variable property [*shall be*] **is** automatically with-  
29 drawn from the condominium as of the termination date.

30 (c) Subject to paragraph (d) of this subsection, the association may record in the office of the  
31 recording officer in the county in which the condominium is located:

32 (A) For property reclassified under paragraph (a) of this subsection, a “Statement of Reclasi-  
33 fication of Variable Property” stating that the remaining nonwithdrawable variable property has  
34 been reclassified to common elements pursuant to paragraph (a) of this subsection.

35 (B) For property withdrawn under paragraph (b) of this subsection, a “Statement of Withdrawal  
36 of Variable Property from Condominium” stating that remaining withdrawable variable property has  
37 been withdrawn from the condominium pursuant to paragraph (b) of this subsection.

38 (d) A statement described in paragraph (c) of this subsection [*shall*] **must**:

39 (A) Include the name of the condominium, a reference to the recording index numbers and date  
40 of recording of the declaration, the plat creating the affected variable property and any applicable  
41 supplemental declaration.

42 (B) Include a description of the reclassified or withdrawn variable property complying with ORS  
43 93.600.

44 (C) Be executed by the [*chairperson and secretary of the*] association and acknowledged [*in the*  
45 *manner provided for acknowledgment of deeds*].

1 (e) After recording a statement under paragraph (c) of this subsection, the association shall  
 2 provide a copy of the recorded statement to the county surveyor. The original plat may not be  
 3 changed or corrected after it is recorded with the county clerk.

4 (2)(a) Unless expressly prohibited by the declaration, any variable property automatically with-  
 5 drawn from the condominium under subsection (1)(b) of this section or voluntarily withdrawn under  
 6 ORS 100.150 (1)(b) may be later annexed to the condominium by the recording of a supplemental  
 7 declaration and plat in accordance with ORS 100.120 [(2)] (3) if such action is first approved by at  
 8 least 75 percent of all voting rights in the manner required for an amendment to the declaration.

9 (b) The supplemental declaration and plat shall be executed by the [*chairperson and secretary*  
 10 *on behalf of the*] association and acknowledged [*in the manner provided for acknowledgment of deeds*  
 11 *by such officers*]. Except for the termination date, the supplemental declaration [*shall*] **must** comply  
 12 with ORS 100.120 (1) **and** (2) and [*shall*] **must** state that the annexation was approved by at least  
 13 75 percent of all voting rights.

14 (3)(a) Unless expressly prohibited by the declaration and notwithstanding the termination date,  
 15 the association may, with respect to any variable property automatically reclassified, exercise any  
 16 rights previously held by the declarant. The exercise of any right [*shall*] **must** first be approved by  
 17 at least a majority of all voting rights. All other actions relating to such reclassified general com-  
 18 mon elements [*shall be*] **are** regulated and governed in like manner as other general common ele-  
 19 ments of the condominium.

20 (b) If a supplemental declaration and plat is required for any action, the plat [*shall*] **must** be  
 21 executed by the [*chairperson and secretary of the*] association and [*shall*] **must** comply with the re-  
 22 quirements of this chapter as to a supplemental declaration and the recording of plats.

23 (4) Title to any additional units created under subsection (3) of this section automatically vests  
 24 in the association upon the recording of a supplemental declaration and plat. The board of directors  
 25 acting on behalf of the association has the power to hold, convey, lease, encumber or otherwise deal  
 26 with a unit or any interest therein in like manner as other property owned by the association.

27 (5) The county clerk may charge a fee for recording a statement under this section according  
 28 to provisions of ORS 205.320 (1)(d).

29 (6) The county assessor shall cause the assessment and tax rolls to reflect the status of any  
 30 variable property affected by automatic property reclassification under subsection (1)(a) of this sec-  
 31 tion or automatically withdrawn under subsection (1)(b) of this section.

32 **SECTION 41.** ORS 100.175 is amended to read:

33 100.175. (1) The declarant, on behalf of the association of unit owners, shall:

- 34 (a) Conduct an initial reserve study as described in subsection (3) of this section;
- 35 (b) Prepare an initial maintenance plan as described in subsection (4) of this section; and
- 36 (c) Establish a reserve account as provided in subsection (2) of this section.

37 (2)(a) An association of unit owners shall establish a reserve account to fund major maintenance,  
 38 repair or replacement of those common elements all or part of which will normally require major  
 39 maintenance, repair or replacement in more than one and less than 30 years, for exterior painting  
 40 if the common elements include exterior painted surfaces, and for such other items as may be re-  
 41 quired by the declaration or bylaws. The reserve account need not include:

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

44 (B) A reserve for limited common elements for which maintenance and replacement are the re-  
 45 sponsibility of one or more, but less than all, unit owners under the provisions of the declaration

1 or bylaws.

2 (b) The reserve account [*shall*] **must** be established in the name of the association of unit  
 3 owners. The association is responsible for administering the account and for making periodic pay-  
 4 ments into the account.

5 (c) The reserve portion of the initial assessment determined by the declarant [*shall*] **must** be  
 6 based on:

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

8 (B) In the case of a conversion condominium, the statement described in ORS 100.655 [(1)(g)]  
 9 **(1)(h)**; or

10 (C) Other reliable information.

11 (d) The reserve account must be funded by assessments against the individual units for the  
 12 purposes for which the reserve account is established.

13 (e) The assessment under this subsection accrues from the time of the conveyance of the first  
 14 individual unit assessed as provided in ORS 100.530.

15 (3)(a) The board of directors of the association shall annually determine the reserve account  
 16 requirements by conducting a reserve study or reviewing and updating an existing study using the  
 17 following information:

18 (A) The starting balance of the reserve account for the current fiscal year;

19 (B) The estimated remaining useful life of each item for which reserves are or will be estab-  
 20 lished, as of the date of the study or review;

21 (C) The estimated cost of maintenance and repair and replacement at the end of the useful life  
 22 of each item for which reserves are or will be established;

23 (D) The rate of inflation during the current fiscal year; and

24 (E) Returns on any invested reserves or investments.

25 (b) Subject to subsection (10) of this section, after a review of the reserve study or the reserve  
 26 study update, the board may, without any action by the unit owners:

27 (A) Adjust the amount of payments in accordance with the study or review; and

28 (B) Provide for other reserve items that the board of directors, in its discretion, may deem ap-  
 29 propriate.

30 (c) The reserve study [*shall*] **must**:

31 (A) Identify all items for which reserves are or will be established;

32 (B) Include the estimated remaining useful life of each item, as of the date of the reserve study;  
 33 and

34 (C) Include for each item, as applicable, an estimated cost of maintenance and repair and re-  
 35 placement at the end of the item's useful life.

36 (4)(a) The board of directors shall prepare a maintenance plan for the maintenance, repair and  
 37 replacement of all property for which the association has maintenance, repair or replacement re-  
 38 sponsibility under the declaration or bylaws or this chapter. The maintenance plan [*shall*] **must**:

39 (A) Describe the maintenance, repair and replacement to be conducted;

40 (B) Include a schedule for the maintenance, repair and replacement;

41 (C) Be appropriate for the size and complexity of the maintenance, repair and replacement re-  
 42 sponsibility of the association; and

43 (D) Address issues that include but are not limited to warranties and the useful life of the items  
 44 for which the association has maintenance, repair or replacement responsibility.

45 (b) The board of directors shall review and update the maintenance plan described under this

1 subsection as necessary.

2 (5)(a) Except as provided in paragraph (b) of this subsection, the reserve study requirements  
 3 under subsection (3) of this section and the maintenance plan requirements under subsection (4) of  
 4 this section do not apply to a condominium consisting of one or two units, excluding units used for  
 5 parking, storage or other uses ancillary to a unit:

6 (A) After the sale of the first unit to a person other than a successor declarant, if the condo-  
 7 minium is created on or after September 27, 2007; or

8 (B) If the condominium was created before September 27, 2007, notwithstanding any requirement  
 9 in the declaration or bylaws.

10 (b) The reserve study requirements under subsection (3) of this section and the maintenance plan  
 11 requirements under subsection (4) of this section apply to a flexible condominium or a staged con-  
 12 dominium created on or after September 27, 2007, if the condominium might in the future consist  
 13 of more than two units.

14 (6)(a) If the declaration or bylaws require a reserve account, the reserve study requirements of  
 15 subsection (3) of this section and the maintenance plan requirements of subsection (4) of this section  
 16 first apply to the association of a condominium recorded prior to October 23, 1999:

17 (A) Upon adoption of a resolution by the board of directors in accordance with the bylaws pro-  
 18 viding that the requirements of subsections (3) and (4) of this section apply to the association; or

19 (B) Upon submission to the board of directors of a petition signed by a majority of unit owners  
 20 mandating that the requirements of subsections (3) and (4) of this section apply to the association.

21 (b) The reserve study and the maintenance plan *[shall]* **must** be completed within one year of  
 22 the date of adoption of the resolution or submission of the petition to the board of directors.

23 (7)(a) Except as provided in paragraph (b) of this subsection, the reserve account is to be used  
 24 only for the purposes for which reserves have been established and is to be kept separate from other  
 25 funds.

26 (b) After the individual unit owners have assumed administrative responsibility for the associ-  
 27 ation under ORS 100.210, if the board of directors has adopted a resolution, which may be an annual  
 28 continuing resolution, authorizing the borrowing of funds:

29 (A) The board of directors may borrow funds from the reserve account to meet high seasonal  
 30 demands on the regular operating funds or to meet unexpected increases in expenses.

31 (B) Not later than the adoption of the budget for the following year, the board of directors shall  
 32 adopt by resolution a written payment plan providing for repayment of the borrowed funds within  
 33 a reasonable period.

34 (8) The reserve account is subject to the requirements and restrictions of ORS 100.480 and any  
 35 additional requirements or restrictions imposed by the declaration, bylaws or rules of the associ-  
 36 ation of unit owners.

37 (9) Assessments paid into the reserve account are the property of the association of unit owners  
 38 and are not refundable to sellers of units.

39 (10)(a) Except as provided under paragraph (b) of this subsection, unless the board of directors  
 40 under subsection (3) of this section determines that the reserve account will be adequately funded  
 41 for the following year, the board of directors or the owners may not vote to eliminate funding a  
 42 reserve account required under this section or under the declaration or bylaws.

43 (b) Following the turnover meeting described in ORS 100.210, on an annual basis, the board of  
 44 directors, with the approval of all owners, may elect not to fund the reserve account for the fol-  
 45 lowing year.

**SECTION 42.** ORS 100.260 is amended to read:

100.260. (1) The Condominium Information Report required under ORS 100.250 (1)(a) *[shall]* **must** set forth:

- (a) The name of the association;
- (b) The name of the condominium and the county in which the condominium is located;
- (c) The mailing address, including the street and number, if any, and county of the association;
- (d) The date the condominium declaration was recorded and the recording index numbers;
- (e) The name and residence or business address, including the street and number, of the person designated as agent to receive service of process in cases provided in ORS 100.550 (1) and any other legal proceeding relating to the condominium or association; and
- (f) The number and type of units as follows:
  - No. \_\_\_\_\_ Living Units
  - No. \_\_\_\_\_ Commercial/Office Units
  - No. \_\_\_\_\_ Other (describe) \_\_\_\_\_

(2) The Annual Report required under ORS 100.250 (1)(b) *[shall]* **must** set forth:

- (a) The information required under subsection (1)(a), (b), (c) and (e) of this section;
- (b) The names and addresses of the *[chairperson and]* secretary **and the chairperson or president** of the association; and
- (c) If the designated agent is changed, a statement that the new agent has consented to the appointment.

(3) The amendment required under ORS 100.250 (1)(c) *[shall]* **must** set forth:

- (a) The name of the association as shown on the current records of the Real Estate Agency;
- (b) The name of the condominium and county in which the condominium is located;
- (c) A statement of the information as changed; and
- (d) If the current designated agent is to be changed, the name of the new designated agent and residence or business address, including the street and number, and a statement that the new agent has consented to the appointment.

(4) The filing by the Real Estate Agency of an amendment *[which]* **that** changes the designated agent *[shall]* **must** terminate the existing designated agent on the effective date of the filing and establish the newly appointed designated agent as that of the association.

(5) The reports and amendment described in this section and an application for termination described in ORS 100.280 *[shall]* **must** be made on forms prescribed and furnished by the Real Estate Agency and must be accompanied by the correct filing fee and shall:

- (a) Contain information current as of 30 days before delivery for filing;
- (b) Be executed by the designated agent and until the turnover meeting by the declarant and thereafter by the *[chairperson or secretary of the]* association;
- (c) State beneath or opposite the signature the name of the person and the capacity in which the person signs; and
- (d) Contain any additional identifying information that the Real Estate Agency may require by rule.

**SECTION 43.** ORS 100.275 is amended to read:

100.275. (1) Subject to ORS 100.550 (3), ORS 100.250 to 100.280, including the filing of a Condominium Information Report described in ORS 100.260 (1), apply to property submitted to the provisions of this chapter before October 3, 1989, if:

1 (a) The board of directors of the association receives a written request to comply with such  
2 sections from at least one unit owner or holder of a first mortgage or deed of trust on a unit;

3 (b) The board of directors of the association adopts a resolution to comply with such sections  
4 in accordance with the bylaws;

5 (c) The association is a party to a suit or action, the person designated in the declaration under  
6 ORS 100.105 (1)(L), the chairperson, **president** or secretary receives written notice to comply with  
7 such sections from any other party to such suit or action. A copy of the notice *[shall]* **must** be de-  
8 livered to the Real Estate Agency. The Real Estate Agency shall provide a copy of the filed report  
9 to the requesting party and may charge the association a fee for cost of such action. If the associ-  
10 ation fails to deliver for filing such report, the provisions of ORS 100.265 (3) *[shall]* apply; or

11 (d) A filing is required to comply with the requirements of ORS 100.120, 100.135 or 100.450.

12 (2) The Condominium Information Report required under subsection (1) of this section *[shall]*  
13 **must** be executed by *[the chairperson or secretary of]* the association and the designated agent.

14 **SECTION 44.** ORS 100.550 is amended to read:

15 100.550. (1) Service of process in any action relating to the condominium may be made on:

16 (a) If the condominium was submitted to the provisions of this chapter before October 3, 1989,  
17 the person designated in the declaration to receive service of process;

18 (b) The person named as designated agent in the Condominium Information Report filed with the  
19 Real Estate Agency under ORS 100.250;

20 (c) If the association is organized as a corporation under Oregon law, the registered agent in  
21 accordance with ORS 60.111 or 61.086 (1987 Replacement Part); or

22 (d) The chairperson, **president** or secretary of the association.

23 (2) Except as provided in subsection (4) of this section, if the association of unit owners of  
24 property submitted to the provisions of this chapter before October 15, 1983, wishes to designate a  
25 person other than the one named in the declaration to receive service of process in the cases pro-  
26 vided in subsection (1) of this section, it shall record an amendment to the declaration. The  
27 amendment *[shall]* **must** be certified by the *[chairperson and the secretary of the]* association *[of unit*  
28 *owners]*, and *[shall]* **must** state the name of the successor with the successor's residence or place  
29 of business as required by ORS 100.105 (1)(L), and that the person named in the amendment was  
30 designated by resolution duly adopted by the association of unit owners.

31 (3) Unless prohibited by the declaration or bylaws, the board of directors of the association of  
32 unit owners of property submitted to the provisions of this chapter after October 15, 1983, may elect  
33 to designate a person other than the one named in the declaration to receive service of the process  
34 in the cases provided in subsection (1) of this section. After the adoption of a resolution by the  
35 board of directors in accordance with the bylaws, the board of directors, without the need for fur-  
36 ther action by the association or approval under ORS 100.110 and 100.135, shall record an amend-  
37 ment to the declaration. The amendment *[shall]* **must** be certified by the *[chairperson and the*  
38 *secretary of the]* association *[of unit owners,]* and *[shall]* **must** state the name of the successor with  
39 the successor's residence or place of business as required by ORS 100.105 (1)(L), that the person  
40 named in the amendment has consented to the designation and that the resolution was duly adopted  
41 by the association of unit owners.

42 (4) Subsection (3) of this section applies to property submitted to the provisions of this chapter  
43 before October 15, 1983, if:

44 (a) The board of directors of the association of unit owners receives a written request from at  
45 least one unit owner that subsection (3) of this section applies; or

1 (b) The board of directors of the association of unit owners adopts a resolution in accordance  
 2 with the bylaws of the association that subsection (3) of this section applies.

3 **SECTION 45.** ORS 100.625 is amended to read:

4 100.625. (1) Subject to the provisions of the declaration and any applicable law, and upon com-  
 5 pliance with this section:

6 (a) A unit designated in the declaration to be used for commercial, industrial or other nonresi-  
 7 dential purpose may be divided by an owner, including the declarant, into two or more units.

8 (b) A unit owned by the declarant and located in a condominium that consists exclusively of  
 9 units designated in the declaration to be used for nonresidential purposes, may be divided or con-  
 10 verted into two or more units, common elements or a combination of units and common elements.

11 (2) The owner of a unit to be divided or converted shall submit to the board of directors of the  
 12 association of unit owners a proposed amendment [*which shall*] **that must**:

13 (a) State the purposes of the amendment;

14 (b) Assign an identifying number to each unit created;

15 (c) Reallocate the interest in the common elements and the use of any limited common elements,  
 16 voting rights, common expense liability and the right to common profits in the manner prescribed  
 17 in the declaration;

18 (d) Indicate the means of access for each unit to common elements; and

19 (e) Include any additional provisions necessary to conform any other provisions of the declara-  
 20 tion or bylaws.

21 (3) The board of directors shall approve the proposed amendment unless the board determines  
 22 within 45 days that the amendment is inconsistent with the declaration or bylaws, or the division  
 23 or conversion will impair the structural integrity or mechanical systems of the condominium or  
 24 lessen the support of any portion of the condominium.

25 (4) The board of directors may require the owner of the unit to be divided or converted to sub-  
 26 mit an opinion of a registered professional engineer as to whether or not the proposed division or  
 27 conversion will impair the structural integrity or mechanical systems of the condominium or weaken  
 28 the support of any portion of the condominium. The board of directors or any agent appointed by  
 29 the board of directors may supervise the work necessary to effect the division or conversion. Any  
 30 expenses incurred under this section [*shall*] **must** be charged to the owner of the unit requesting  
 31 the division or conversion.

32 (5) The amendment [*shall*] **must** be executed by the owner and mortgagees or trust deed bene-  
 33 ficiaries of the affected unit, certified by the [*chairperson and secretary of the*] association and ap-  
 34 proved and recorded in accordance with ORS 100.135 (2)(b).

35 (6) A plat showing each unit created or the conversion of a unit to common elements or com-  
 36 bination thereof [*shall*] **must** be recorded in accordance with ORS 100.115.

37 (7) This section applies only if the declaration expressly permits and contains:

38 (a) A statement of the maximum number of units into which a unit may be divided under sub-  
 39 section (1) of this section;

40 (b) A general description of the nature and proposed use of any unit or portion of any unit  
 41 which the declarant may convert to common elements; and

42 (c) A statement of the method to be used to reallocate interest in the common elements, the use  
 43 of any limited common elements, voting rights, common expense liability and right to common pro-  
 44 fits.

**APPLICABILITY DATES**

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**SECTION 46.** (1) Except as provided in subsection (2) of this section, sections 2, 12, 13, 19, 20 and 29 of this 2019 Act and the amendments to statutes by sections 3 to 10, 14 to 17, 21 to 27 and 30 to 45 of this 2019 Act apply only to instruments executed on or after the effective date of this 2019 Act.

(2) The amendments to the references to the termination date specified in ORS 100.105 (2)(b) in ORS 100.105 (3)(a) by section 3 of this 2019 Act refer to termination dates established by documents executed on, before or after the effective date of this 2019 Act.

**UNIT CAPTIONS**

**SECTION 47.** The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

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