

# Enrolled House Bill 2534

Sponsored by Representative HELM, Senator FREDERICK, Representative GRAYBER; Representatives DEXTER, MEEK, NERON, PHAM, SOLLMAN, Senator PATTERSON (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to removal of discriminatory restrictions in governing documents; creating new provisions; amending ORS 93.270; and prescribing an effective date.

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

**SECTION 1.** ORS 93.270 is amended to read:

93.270. (1) A person conveying or contracting to convey fee title to real property, or recording a declaration under ORS 94.580, may not include in an instrument for that purpose a provision:

(a) Restricting the use of the real property by any person or group of persons by reason of race, color, religion, sex, sexual orientation, national origin or disability.

(b) Restricting the use of the real property:

(A) As a certified or registered family child care home pursuant to ORS 329A.250 to 329A.450 or as the premises of an exempt family child care provider participating in the subsidy program under ORS 329A.500; or

(B) By any home or facility that is licensed under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunction with treatment or training or a combination thereof.

**(2) A condominium that includes units used for residential purposes or planned community, including a community not subject to ORS 94.550 to 94.783, may not include in a recorded instrument governing the community and may not enforce any provision that would restrict the use of the community or the lots or units of the community because of race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.**

~~[(2)]~~ **(3)** Any provision in an instrument executed in violation of subsection (1) **or (2)** of this section is void and unenforceable.

~~[(3)]~~ **(4)** An instrument that contains a provision restricting the use of real property in a manner listed in subsection (1)(b) of this section does not give rise to any public or private right of action to enforce the restriction.

~~[(4)(a)]~~ **(5)(a)** An instrument that contains a provision restricting the use of real property by requiring roofing materials with a lower fire rating than that required in the state building code established under ORS chapter 455 does not give rise to any public or private right of action to enforce the restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Pro-

hibitions on public or private right of action under this paragraph are limited solely to considerations of fire rating.

(b) As used in this subsection, "wildfire hazard zones" are areas that are legally declared by a governmental agency having jurisdiction over the area to have special hazards caused by a combination of combustible natural fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be determined using criteria established by the State Forestry Department.

**SECTION 2.** The amendments to ORS 93.270 by section 1 of this 2021 Act apply to instruments recorded on, before or after the effective date of this 2021 Act.

**SECTION 3.** Section 4 of this 2021 Act is added to and made a part of ORS 94.550 to 94.783.

**SECTION 4.** (1) On or before December 31, 2022, each homeowners association shall review each governing document currently binding on the planned community, or the lots or the lot owners within the planned community and shall:

(a) Amend or restate each document as necessary to remove all restrictions against the use of the community or the lots not allowed under ORS 93.270 (2); or

(b) Execute and record a declaration that the homeowners association has reviewed the governing documents binding on the planned community and that the documents do not contain any restriction, rule or regulation against the use of the community or the lots by a person or group of persons because of race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(2) Notwithstanding ORS 94.590 or 94.625 or any requirement of the declaration or bylaws, an amendment to or a restatement of the declaration or bylaws under subsection (1)(a) of this section is effective and may be recorded without the vote of the owners or the board members if the amendment or restatement includes a certification signed by the president and secretary of the homeowners association that the amended or restated declaration or bylaws does not change that document except as required under this section and as may be necessary to correct scriveners' errors or to conform format and style.

**SECTION 5.** Section 6 of this 2021 Act is added to and made a part of ORS chapter 100.

**SECTION 6.** (1) On or before December 31, 2022, each association of a condominium that includes units used for residential purposes shall review each governing document currently binding on the condominium or the units or unit owners within the condominium and shall:

(a) Amend or restate each document as necessary to remove all restrictions against the use of the condominium or the units not allowed under ORS 93.270 (2); or

(b) Execute and record a declaration that the association has reviewed the governing documents binding on the condominium and that the documents do not contain any restriction, rule or regulation against the use of the condominium or the units by a person or group of persons because of race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(2) Notwithstanding ORS 100.110, 100.135, 100.413 or any requirement of the declaration or bylaws, an amendment to or a restatement of the declaration or bylaws under this section, upon submission and approval of the Real Estate Commissioner under ORS 100.123, 100.125, 100.668 and 100.675, is effective and may be recorded without the vote of the owners or the board members if the amended or restated declaration or bylaws includes a certification signed by the president and secretary of the association that the amended or restated declaration or bylaws does not change that document except as required under this section and as may be necessary to correct scriveners' errors or to conform format and style.

**SECTION 7. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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**Passed by House April 10, 2021**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 10, 2021**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2021

**Approved:**

.....M,....., 2021

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2021

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Shemia Fagan, Secretary of State