

Senate Bill 329

Sponsored by Senator JOHNSON (at the request of Condominium Working Group) (Pre-session filed.)

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**.

Allows homeowners and condominium associations to hold electronic meetings. Makes changes to delivery of electronic notices.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to communities governed by declarations; creating new provisions; amending ORS 94.550,
3 94.572, 94.573, 94.635, 94.640, 94.650, 94.652, 94.670, 94.673, 94.780, 100.005, 100.117, 100.407,
4 100.420 and 100.423; and declaring an emergency.

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

ELECTRONIC MEETINGS AND NOTICE

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9 **SECTION 1.** ORS 94.640 is amended to read:

10 94.640. (1) The board of directors of an association may act on behalf of the association except
11 as limited by the declaration and the bylaws. In the performance of their duties, officers and mem-
12 bers of the board of directors are governed by this section and the applicable provisions of ORS
13 65.357, 65.361, 65.367, 65.369 and 65.377, whether or not the association is incorporated under ORS
14 chapter 65.

15 (2) Subject to subsection (7) of this section, unless otherwise provided in the bylaws, the board
16 of directors may fill vacancies in its membership for the unexpired portion of any term.

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

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

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

23 (6)(a) Unless otherwise provided in the declaration or bylaws, at a meeting of the owners at
24 which a quorum is present, the owners may remove a director from the board of directors, other
25 than directors appointed by the declarant or individuals who are ex officio directors, with or without
26 cause, by a majority vote of owners who are present and entitled to vote.

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

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

30 (B) The owners must vote on the removal of each director whose removal is proposed as a sep-
31 arate question.

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 (C) Removal of a director by owners is effective only if the matter of removal was an item on
2 the agenda and was stated in the notice of the meeting if notice is required under ORS 94.650.

3 (c) A director who is removed by the owners remains a director until a successor is elected by
4 the owners or the vacancy is filled as provided in subsection (7) of this section.

5 (7) Unless the declaration or bylaws specifically prescribe a different procedure for filling a
6 vacancy created by the removal of a director by owners, the owners shall fill a vacancy created by
7 the removal of a director by the owners at a meeting of owners. The notice of the meeting must
8 state that filling a vacancy is an item on the agenda.

9 [(8)(a) *All meetings of the board of directors of the association shall be open to owners, except that*
10 *at the discretion of the board, the board may close the meeting to owners other than board members*
11 *and meet in executive session to:]*

12 [(A) *Consult with legal counsel.*]

13 [(B) *Consider the following:*]

14 [(i) *Personnel matters, including salary negotiations and employee discipline;*]

15 [(ii) *Negotiation of contracts with third parties; or*]

16 [(iii) *Collection of unpaid assessments.*]

17 [(b) *Except in the case of an emergency, the board of directors of an association shall vote in an*
18 *open meeting whether to meet in executive session. If the board of directors votes to meet in executive*
19 *session, the presiding officer of the board of directors shall state the general nature of the action to be*
20 *considered and, as precisely as possible, when and under what circumstances the deliberations can be*
21 *disclosed to owners. The statement, motion or decision to meet in executive session must be included*
22 *in the minutes of the meeting.*]

23 [(c) *A contract or an action considered in executive session does not become effective unless the*
24 *board of directors, following the executive session, reconvenes in open meeting and votes on the contract*
25 *or an action, which must be reasonably identified in the open meeting and included in the minutes.*]

26 [(9) *The meeting and notice requirements in subsections (8) and (10) of this section may not be*
27 *circumvented by chance or social meetings or by any other means.*]

28 [(10) *In a planned community in which the majority of the lots are the principal residences of the*
29 *occupants, meetings of the board of directors must comply with the following:*]

30 [(a) *For other than emergency meetings, notice of board of directors' meetings shall be posted at*
31 *a place or places on the property at least three days prior to the meeting or notice shall be provided*
32 *by a method otherwise reasonably calculated to inform lot owners of such meetings;*]

33 [(b) *Emergency meetings may be held without notice, if the reason for the emergency is stated in*
34 *the minutes of the meeting; and*]

35 [(c) *Only emergency meetings of the board of directors may be conducted by telephonic communi-*
36 *cation or by the use of a means of communication that allows all members of the board of directors*
37 *participating to hear each other simultaneously or otherwise to be able to communicate during the*
38 *meeting. A member of the board of directors participating in a meeting by this means is deemed to be*
39 *present in person at the meeting.*]

40 [(11)] (8) The board of directors, in the name of the association, shall maintain a current mailing
41 address of the association.

42 [(12)] (9) The board of directors shall cause the information required to enable the association
43 to comply with ORS 94.670 (8) to be maintained and kept current.

44 [(13) *As used in this section, "meeting" means a convening of a quorum of members of the board*
45 *of directors at which association business is discussed, except a convening of a quorum of members of*

1 *the board of directors for the purpose of participating in litigation, mediation or arbitration pro-*
 2 *ceedings.]*

3 **SECTION 2.** Section 3 of this 2021 Act is added to and made a part of ORS 94.550 to 94.783.

4 **SECTION 3.** (1) Except as provided in subsection (2) of this subsection, all meetings of
 5 the board of directors of an association are open to owners' attendance. An owner does not
 6 have any right to participate in a meeting except as may be provided by the governing doc-
 7 uments or by the board.

8 (2)(a) The board may close the meeting to owners and meet in an executive session to:

9 (A) Consult with legal counsel; or

10 (B) Consider the following:

11 (i) Personnel matters, including salary negotiations and employee discipline;

12 (ii) Negotiation of contracts with third parties; or

13 (iii) Collection of unpaid assessments.

14 (b) Except in the case of an emergency, the board may not meet in executive session
 15 unless voted for by the board in an open meeting and the presiding officer of the board states
 16 the general nature of the action to be considered and, as precisely as possible, when and
 17 under what circumstances the deliberations can be disclosed to owners. The statement, mo-
 18 tion or decision to meet in executive session must be included in the minutes of the meeting.

19 (c) A contract or an action considered in executive session is not effective unless the
 20 board, following the executive session, reconvenes in an open meeting and votes to approve
 21 the contract or action, which must be included in the minutes.

22 (3) The meeting and notice requirements in this section may not be circumvented by
 23 chance or social meetings or by any other means.

24 (4) A meeting may be conducted as an electronic meeting if:

25 (a) The meeting allows all participating board members at the meeting to:

26 (A) Hear and communicate to each other simultaneously; and

27 (B) Have access to materials before or during the meeting necessary to participate or
 28 vote in the meeting.

29 (b) The meeting allows all persons attending the meeting to simultaneously hear all par-
 30 ticipating board members.

31 (c) Any notice of the electronic meeting to board members or owners states:

32 (A) Whether the meeting may or must be attended by electronic means;

33 (B) The electronic means to be used;

34 (C) Subject to subsection (2) of this section, how owners may attend the electronic
 35 meeting by:

36 (i) Telephone;

37 (ii) If applicable, Internet connection; and

38 (iii) If applicable, by meeting at a physical location; and

39 (D) Any other information to enable an owner to attend the meeting.

40 (5) A person participating in an electronic meeting is considered present at the meeting
 41 for all purposes.

42 (6) In a planned community where the majority of the lots are the principal residences
 43 of the occupants, for meetings of the board other than emergency meetings, notice of
 44 meetings must include the information required under subsection (4)(c) of this section and
 45 must be:

1 (a) Posted at a place or places on the property at least three days prior to the meeting;
 2 or

3 (b) Provided by a method otherwise reasonably calculated to inform lot owners of the
 4 meetings, including by electronic communication under ORS 94.652.

5 (7) As used in ORS 94.640 and this section, “meeting” means a convening of a quorum
 6 of members of the board of directors at which association business is discussed, except a
 7 convening of a quorum of members of the board of directors for the purpose of participating
 8 in litigation, mediation or arbitration proceedings.

9 **SECTION 4.** ORS 94.650 is amended to read:

10 94.650. (1) The homeowners association shall [*hold*] **conduct** at least one meeting of the owners
 11 each calendar year.

12 (2)(a) Special meetings of the association may be called by the president of the board of direc-
 13 tors, by a majority of the board of directors or by the president or secretary upon receipt of a
 14 written request of a percentage of owners specified in the bylaws of the association. However, the
 15 bylaws may not require a percentage greater than 50 percent or less than 10 percent of the votes
 16 of the planned community for the purpose of calling a meeting.

17 (b) If the bylaws do not specify a percentage of owners that may request the calling of a special
 18 meeting, a special meeting [*shall*] **must** be called if 30 percent or more of the owners make the re-
 19 quest in writing. Notice of the special meeting [*shall*] **must** be given as specified in this section.

20 (c) Business transacted at a special meeting [*shall*] **must** be confined to the purposes stated in
 21 the notice.

22 (3) If the owners request a special meeting under subsection (2) of this section and the notice
 23 is not given within 30 days after the date the written request is delivered to the president or the
 24 secretary, an owner who signed the request may set the **date**, time and place of the meeting and
 25 give notice as provided in subsection (4) of this section.

26 (4) Not less than 10 or more than 50 days before any meeting called under this section, the
 27 secretary or other officer specified in the bylaws shall cause the notice to be hand delivered or
 28 mailed to the mailing address of each owner, or to the mailing address designated in writing by the
 29 owner, and to all mortgagees that have requested the notice.

30 (5) The notice of a meeting [*shall*] **must** state the **date**, time and place of the meeting and the
 31 items on the agenda, including the general nature of any proposed amendment to the declaration
 32 or bylaws, any budget changes or any proposal to remove a director or, **if the officer is elected**
 33 **by the owners, to remove an officer.**

34 (6) Mortgagees may designate a representative to attend a meeting called under this section.

35 (7) **A meeting of owners under this section, including special meetings, may be conducted**
 36 **as an electronic meeting if the electronic meeting:**

37 (a) **Allows all owners participating to hear each other simultaneously and to be able to**
 38 **communicate during the meeting.**

39 (b) **Provides for the verification that a person participating is an owner or is otherwise**
 40 **authorized to participate in the meeting.**

41 (c) **Provides for owners to have access to material necessary to participate or vote during**
 42 **or before the meeting.**

43 (8) **A person participating in an electronic meeting is considered present at the meeting**
 44 **for all purposes.**

45 **SECTION 5.** ORS 94.652 is amended to read:

1 94.652. (1) Subject to subsection (2) of this section and notwithstanding any requirement under
 2 the declaration or bylaws or ORS 94.550 to 94.783, in the discretion of the board of directors of the
 3 homeowners association, any notice, information or other written material required to be given to
 4 an owner or director under the declaration or bylaws or ORS 94.550 to 94.783, **that otherwise**
 5 **complies with the requirements of ORS 94.550 to 94.783**, may be given by electronic mail, fac-
 6 simile or other form of electronic communication.

7 (2) Notwithstanding subsection (1) of this section, electronic mail, facsimile or other form of
 8 electronic communication may not be used to give notice of:

- 9 (a) Failure to pay an assessment;
- 10 (b) Foreclosure of an association lien under ORS 94.709; or
- 11 (c) An action the association may take against an owner.

12 (3) An owner or director may decline to receive **or to continue to receive** notice by electronic
 13 mail, facsimile or other form of electronic communication and may direct the board of directors to
 14 provide notice in the manner required under the declaration or bylaws or ORS 94.550 to 94.783.

15 (4) **Notice by electronic communication under this section is considered delivered and**
 16 **effective when it:**

17 (a) **Is initiated to an address, location or system designated by the recipient for that**
 18 **purpose; or**

19 (b) **Is posted on an electronic network and a separate record of the posting has been**
 20 **delivered to the recipient together with instructions regarding how to obtain access to the**
 21 **posting on the electronic network.**

22 **SECTION 6.** ORS 100.420 is amended to read:

23 100.420. (1)[(a)] **Except as provided in subsection (2) of this section**, all meetings of the board
 24 of directors [*of the association of unit owners shall be open to unit owners except that, in the discretion*
 25 *of the board,*] **are open to unit owners' attendance. An owner does not have any right to par-**
 26 **ticipate in a meeting except as may be provided by the governing documents or the board.**

27 (2)(a) The board may close the meeting to unit owners and meet in executive session to:

- 28 (A) Consult with legal counsel.
- 29 (B) Consider the following:
 - 30 (i) Personnel matters, including salary negotiations and employee discipline;
 - 31 (ii) Negotiation of contracts with third parties; or
 - 32 (iii) Collection of unpaid assessments.

33 (b) Except in the case of an emergency, [*the board of directors of an association shall vote in an*
 34 *open meeting whether to meet in executive session. If the board of directors votes to meet in executive*
 35 *session, the presiding officer of the board of directors shall state] **the board may not meet in**
 36 **executive session unless voted for by the board in an open meeting and the presiding officer**
 37 **of the board states** the general nature of the action to be considered, as precisely as possible, when
 38 and under what circumstances the deliberations can be disclosed to owners. The statement, motion
 39 or decision to meet in executive session must be included in the minutes of the meeting.*

40 (c) A contract or an action considered in executive session [*does not become*] **is not** effective
 41 unless the board [*of directors*], following the executive session, reconvenes in open meeting and votes
 42 [*on*] **to approve** the contract or action, which must be reasonably identified in the open meeting and
 43 included in the minutes.

44 [(2)] (3) The meeting and notice requirements in this section may not be circumvented by chance
 45 or social meetings or by any other means.

1 [(3) *Except as provided in subsection (4) of this section, board of directors' meetings may be con-*
 2 *ducted by telephonic communication or by the use of a means of communication that allows all members*
 3 *of the board of directors participating to hear each other simultaneously or otherwise to be able to*
 4 *communicate during the meeting. A member of the board of directors participating in a meeting by this*
 5 *means is deemed to be present in person at the meeting.*]

6 **(4) A meeting may be conducted as an electronic meeting if:**

7 **(a) The meeting allows all participating board members at the meeting to:**

8 **(A) Hear and communicate to each other simultaneously; and**

9 **(B) Have access to materials before or during the meeting necessary to participate or**
 10 **vote in the meeting.**

11 **(b) The meeting allows all persons attending the meeting to simultaneously hear all par-**
 12 **ticipating board members.**

13 **(c) Any notice of the electronic meeting to board members or unit owners states:**

14 **(A) Whether the meeting may or must be attended by electronic means;**

15 **(B) The electronic means to be used;**

16 **(C) Subject to subsection (2) of this section, how unit owners may attend the electronic**
 17 **meeting by:**

18 **(i) Telephone;**

19 **(ii) If applicable, Internet connection; and**

20 **(iii) If applicable, by meeting at a physical location; and**

21 **(D) Any other information to enable a unit owner to attend the meeting.**

22 **(5) A person attending or participating in an electronic meeting is considered to be at-**
 23 **tending or participating at the meeting for all purposes.**

24 [(4)] **(6) In condominiums where the majority of the units are the principal residences of the**
 25 *occupants, [meetings of the board of directors shall comply with the following] for meetings other*
 26 **than emergency meetings, notice of the meeting must include the information required un-**
 27 **der subsection (4)(c) of this section and must be:**

28 (a) [*For other than emergency meetings, notice of board of directors' meetings shall be*] Posted at
 29 a place or places on the property at least three days prior to the meeting; or [*notice shall be*]

30 (b) Provided by a method otherwise reasonably calculated to inform unit owners of [*such*]
 31 *meetings.* **the meetings, including by electronic communication under ORS 100.423.**

32 [(b) *Only emergency meetings of the board of directors may be conducted by telephonic communi-*
 33 *cation or in a manner described in subsection (3) of this section.*]

34 [(5) *Subsection (4)(a) of this section first applies to property submitted to the provisions of this*
 35 *chapter prior to October 3, 1979, upon receipt by the board of directors of the association of unit owners*
 36 *of a written request from at least one unit owner that notice of board of directors meetings be given in*
 37 *accordance with subsection (4)(a) of this section.*]

38 [(6)] **(7) As used in this section, "meeting" means a convening of a quorum of members of the**
 39 **board of directors at which association business is discussed, except a convening of a quorum of**
 40 **members of the board of directors for the purpose of participating in litigation, mediation or arbi-**
 41 **tration proceedings.**

42 **SECTION 7.** ORS 100.407 is amended to read:

43 100.407. (1) The association of unit owners shall [*hold*] **conduct** at least one meeting of the
 44 owners each calendar year.

45 (2)(a) Special meetings of the association may be called by the chairperson or president of the

1 board of directors, by a majority of the board of directors or by the chairperson, president or sec-
 2 retary upon receipt of a written request of a percentage of unit owners specified in the bylaws.
 3 However, the bylaws may not require a percentage greater than 50 percent or less than 10 percent
 4 of the unit owners for the purpose of calling a meeting.

5 (b) If the bylaws do not specify a percentage of unit owners that may request the calling of a
 6 special meeting, a special meeting *[shall]* **must** be called if 30 percent or more of the unit owners
 7 make the request in writing. Notice of the special meeting *[shall]* **must** be given as specified in this
 8 section.

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

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

17 (b) The notice *[shall]* **must** state the **date**, time and place of the meeting and the items on the
 18 agenda, including the general nature of any proposed amendment to the declaration or bylaws, any
 19 budget changes or any proposal to remove a director or, **if the officer is elected by the owners,**
 20 **to remove an** officer of the association.

21 *[(c)]* (5) Mortgagees may designate a representative to attend a meeting called under this sec-
 22 tion.

23 **(6) A meeting of owners under this section, including special meetings, may be conducted**
 24 **as an electronic meeting if the electronic meeting:**

25 **(a) Allows all owners participating to hear each other simultaneously and to be able to**
 26 **communicate during the meeting.**

27 **(b) Provides for the verification that a person participating is an owner or is otherwise**
 28 **authorized to participate in the meeting.**

29 **(c) Provides for owners to have access to material necessary to participate or vote during**
 30 **or before the meeting.**

31 **(7) A person participating in an electronic meeting is considered present at the meeting**
 32 **for all purposes.**

33 **SECTION 8.** ORS 100.423 is amended to read:

34 100.423. (1) Subject to subsection (2) of this section and notwithstanding any requirement under
 35 the declaration or bylaws or this chapter, in the discretion of the board of directors of the associ-
 36 ation of unit owners, any notice, information or other written material required to be given to a unit
 37 owner or director under the declaration or bylaws or this chapter, **that otherwise complies with**
 38 **this chapter**, may be given by electronic mail, facsimile or other form of electronic communication
 39 acceptable to the board of directors.

40 (2) Notwithstanding subsection (1) of this section, electronic mail, facsimile or other form of
 41 electronic communication may not be used to give notice of:

42 (a) Failure to pay an assessment;

43 (b) Foreclosure of an association lien under ORS 100.450;

44 (c) An action the association may take against a unit owner; or

45 (d) An offer to use the dispute resolution program under ORS 100.405.

1 (3) A unit owner or director may decline to receive **or continue to receive** notice by electronic
 2 mail, facsimile or other form of electronic communication and may direct the board of directors to
 3 provide notice in the manner required under the declaration or bylaws or this chapter.

4 (4) **Notice by electronic communication under this section is considered delivered and**
 5 **effective when it:**

6 (a) **Is initiated to an address, location or system designated by the recipient for that**
 7 **purpose; or**

8 (b) **Is posted on an electronic network and a separate record of the posting has been**
 9 **delivered to the recipient together with instructions regarding how to obtain access to the**
 10 **posting on the electronic network.**

11
 12 **CONFORMING AMENDMENTS**
 13

14 **SECTION 9.** ORS 94.550 is amended to read:

15 94.550. As used in ORS 94.550 to 94.783:

16 (1) "Assessment" means any charge imposed or levied by a homeowners association on or
 17 against an owner or lot pursuant to the provisions of the declaration or the bylaws of the planned
 18 community or provisions of ORS 94.550 to 94.783.

19 (2) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance,
 20 mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than
 21 one lot in a planned community, or an agreement affecting more than one lot by which the developer
 22 holds such planned community under an option, contract to sell or trust agreement.

23 (3) "Class I planned community" means a planned community that:

24 (a) Contains at least 13 lots or in which the declarant has reserved the right to increase the
 25 total number of lots beyond 12; and

26 (b) Has an estimated annual assessment, including an amount required for reserves under ORS
 27 94.595, exceeding \$10,000 for all lots or \$100 per lot based on:

28 (A) For a planned community created on or after January 1, 2002, the initial estimated annual
 29 assessment, including a constructive assessment based on a subsidy of the association through a
 30 contribution of funds, goods or services by the declarant; or

31 (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost
 32 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
 33 of January 1, 2002.

34 (4) "Class II planned community" means a planned community that:

35 (a) Is not a Class I planned community;

36 (b) Contains at least five lots; and

37 (c) Has an estimated annual assessment exceeding \$1,000 for all lots based on:

38 (A) For a planned community created on or after January 1, 2002, the initial estimated annual
 39 assessment, including a constructive assessment based on a subsidy of the association through a
 40 contribution of funds, goods or services by the declarant; or

41 (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost
 42 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
 43 of January 1, 2002.

44 (5) "Class III planned community" means a planned community that is not a Class I or II
 45 planned community.

1 (6) "Common expenses" means expenditures made by or financial liabilities incurred by the
2 homeowners association and includes any allocations to the reserve account under ORS 94.595.

3 (7) "Common property" means any real property or interest in real property within a planned
4 community which is owned, held or leased by the homeowners association or owned as tenants in
5 common by the lot owners, or designated in the declaration or the plat for transfer to the associ-
6 ation.

7 (8) "Condominium" means property submitted to the provisions of ORS chapter 100.

8 (9) "Declarant" means any person who creates a planned community under ORS 94.550 to
9 [94.785] **94.783**.

10 (10) "Declarant control" means any special declarant right relating to administrative control of
11 a homeowners association, including but not limited to:

12 (a) The right of the declarant or person designated by the declarant to appoint or remove an
13 officer or a member of the board of directors;

14 (b) Any weighted vote or special voting right granted to a declarant or to units owned by the
15 declarant so that the declarant will hold a majority of the voting rights in the association by virtue
16 of such weighted vote or special voting right; and

17 (c) The right of the declarant to exercise powers and responsibilities otherwise assigned by the
18 declaration or bylaws or by the provisions of ORS 94.550 to 94.783 to the association, officers of the
19 association or board of directors of the association.

20 (11) "Declaration" means the instrument described in ORS 94.580 which establishes a planned
21 community, and any amendments to the instrument.

22 (12) "Electric vehicle charging station" or "charging station" means a facility designed to de-
23 liver electrical current for the purpose of charging one or more electric motor vehicles.

24 **(13) "Electronic meeting" means a meeting that is conducted through telephone, tele-**
25 **conference, video conference, web conference or any other live electronic means where at**
26 **least one participant is not physically present.**

27 [(13)] (14) "Governing document" means articles of incorporation, bylaws, a declaration or a
28 rule, regulation or resolution that was properly adopted by the homeowners association or any other
29 instrument or plat relating to common ownership or common maintenance of a portion of a planned
30 community that is binding upon lots within the planned community.

31 [(14)] (15) "Governing entity" means an incorporated or unincorporated association, committee,
32 person or any other entity that has authority under a governing document to maintain commonly
33 maintained property, to impose assessments on lots or to act on matters of common concern on be-
34 half of lot owners within the planned community.

35 [(15)] (16) "Homeowners association" or "association" means the organization of owners of lots
36 in a planned community, created under ORS 94.625, required by a governing document or formed
37 under ORS 94.574.

38 [(16)] (17) "Majority" or "majority of votes" or "majority of owners" means more than 50 per-
39 cent of the votes in the planned community.

40 [(17)] (18) "Mortgagee" means any person who is:

41 (a) A mortgagee under a mortgage;

42 (b) A beneficiary under a trust deed; or

43 (c) The vendor under a land sale contract.

44 [(18)] (19) "Owner" means the owner of any lot in a planned community, unless otherwise spec-
45 ified, but does not include a person holding only a security interest in a lot.

1 [(19)] **(20)** “Percent of owners” or “percentage of owners” means the owners representing the
2 specified voting rights as determined under ORS 94.658.

3 [(20)(a)] **(21)(a)** “Planned community” means any subdivision under ORS 92.010 to 92.192 that
4 results in a pattern of ownership of real property and all the buildings, improvements and rights
5 located on or belonging to the real property, in which the owners collectively are responsible for
6 the maintenance, operation, insurance or other expenses relating to any property within the planned
7 community, including common property, if any, or for the exterior maintenance of any property that
8 is individually owned.

9 (b) “Planned community” does not mean:

10 (A) A condominium under ORS chapter 100;

11 (B) A subdivision that is exclusively commercial or industrial; or

12 (C) A timeshare plan under ORS 94.803 to 94.945.

13 [(21)] **(22)** “Purchaser” means any person other than a declarant who, by means of a voluntary
14 transfer, acquires a legal or equitable interest in a lot, other than as security for an obligation.

15 [(22)] **(23)** “Purchaser for resale” means any person who purchases from the declarant more than
16 two lots for the purpose of resale whether or not the purchaser for resale makes improvements to
17 the lots before reselling them.

18 [(23)] **(24)** “Recorded declaration” means an instrument recorded with the recording officer of
19 the county in which the planned community is located that contains covenants, conditions and re-
20 strictions that are binding upon lots in the planned community or that impose servitudes on the real
21 property.

22 [(24)] **(25)** “Special declarant rights” means any rights, in addition to the rights of the declarant
23 as a lot owner, reserved for the benefit of the declarant under the declaration or ORS 94.550 to
24 94.783, including but not limited to:

25 (a) Constructing or completing construction of improvements in the planned community which
26 are described in the declaration;

27 (b) Expanding the planned community or withdrawing property from the planned community
28 under ORS 94.580 (3) and (4);

29 (c) Converting lots into common property;

30 (d) Making the planned community subject to a master association under ORS 94.695; or

31 (e) Exercising any right of declarant control reserved under ORS 94.600.

32 [(25)] **(26)** “Successor declarant” means the transferee of any special declarant right.

33 [(26)] **(27)** “Turn over” means the act of turning over administrative responsibility pursuant to
34 ORS 94.609 and 94.616.

35 [(27)] **(28)** “Unit” means a building or portion of a building located upon a lot in a planned
36 community and designated for separate occupancy or ownership, but does not include any building
37 or portion of a building located on common property.

38 [(28)] **(29)** “Votes” means the votes allocated to lots in the declaration under ORS 94.580 (2).

39 **SECTION 10.** ORS 94.572 is amended to read:

40 94.572. (1) A Class I or Class II planned community created before January 1, 2002, that was
41 not created under ORS 94.550 to 94.783 is subject to this section and ORS 94.550, 94.573, 94.574,
42 94.576, 94.577, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641,
43 94.642, 94.645, 94.647, 94.650, 94.652, 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670,
44 94.675, 94.676, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733,
45 94.762, 94.770, 94.775, 94.777, 94.779 and 94.780 **and section 3 of this 2021 Act** to the extent that

1 those statutes are consistent with any governing documents of the planned community.

2 (2) If the governing documents of a planned community described in subsection (1) of this section
3 do not provide for the formation of a homeowners association, the requirements of this section are
4 not effective until the formation of an association in accordance with ORS 94.574.

5 (3) If a provision of the governing documents of a planned community described in subsection
6 (1) of this section is inconsistent with this section, the owners may amend the governing documents
7 using the procedures in ORS 94.573.

8 **SECTION 11.** ORS 94.573 is amended to read:

9 94.573. (1)(a)(A) The owners in a Class I or Class II planned community created before January
10 1, 2002, that was not created under ORS 94.550 to 94.783 may amend any provision of the planned
11 community's governing documents to conform with this section and ORS 94.550, 94.572, 94.574,
12 94.576, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642,
13 94.645, 94.647, 94.650, 94.652, 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675,
14 94.676, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.762,
15 94.770, 94.775, 94.777, 94.779 and 94.780 **and section 3 of this 2021 Act.**

16 (B) An amendment to any provision of a planned community's governing documents made pur-
17 suant to this paragraph must be executed in accordance with the procedures for the adoption of
18 amendments prescribed by, and subject to any limitations specified in, the planned community's
19 governing documents.

20 (C) Nothing in this section or ORS 94.572 requires the owners to amend a declaration or bylaws
21 to include the information required by ORS 94.580 or 94.635.

22 (b) If a planned community's governing documents do not provide procedures to amend the pro-
23 visions of the governing documents:

24 (A) The owners may amend the inconsistent provisions of a governing document other than by-
25 laws to conform with this section and ORS 94.550, 94.572, 94.574, 94.576, 94.590, 94.595 (5) to (9),
26 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652,
27 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675, 94.676, 94.680, 94.690, 94.695,
28 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.762, 94.770, 94.775, 94.777 and 94.780
29 **and section 3 of this 2021 Act** by a vote of at least 75 percent of the owners in the planned com-
30 munity.

31 (B) The owners may amend the inconsistent provisions of the bylaws to conform with this sec-
32 tion and ORS 94.550, 94.572, 94.574, 94.576, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and
33 (4), 94.639, 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652, 94.655, 94.657, 94.658, 94.660, 94.661,
34 94.662, 94.665, 94.670, 94.675, 94.676, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719,
35 94.723, 94.728, 94.733, 94.762, 94.770, 94.775, 94.777, 94.779, and 94.780 **and section 3 of this 2021**
36 **Act** by a vote of at least a majority of the owners in the planned community.

37 (C) The owners may adopt an amendment to the provisions of a governing document at a meet-
38 ing held in accordance with the governing documents or by another procedure permitted by the
39 governing documents that follows the procedures prescribed in ORS 94.647, 94.650 or 94.660.

40 (2) The owners of a planned community described in subsection (1) of this section shall execute,
41 certify and record an amendment adopted pursuant to subsection (1) of this section to:

42 (a) A recorded declaration as provided in ORS 94.590 (2), (3) and (5).

43 (b) The bylaws or any other governing document as provided in ORS 94.590 (3). If the bylaws
44 or other governing document to which the amendment relates were recorded, the owners shall cause
45 an amendment to the bylaws or other governing document to be recorded in the office of the re-

1 cording officer of every county in which the planned community is located.

2 (3) An amendment adopted pursuant to subsection (1) of this section shall include:

3 (a) A reference to the recording index numbers and date of recording of the governing document,
4 if recorded, to which the amendment relates; and

5 (b) A statement that the amendment is adopted.

6 **SECTION 12.** ORS 94.635 is amended to read:

7 94.635. The bylaws of an association adopted under ORS 94.625, or amended or adopted under
8 ORS 94.630, shall provide for the following:

9 (1) The organization of the association of owners in accordance with ORS 94.625 and 94.630,
10 including when the initial meeting shall be held and the method of calling that meeting.

11 (2) If a Class I planned community, the formation of a transitional advisory committee in ac-
12 cordance with ORS 94.604.

13 (3) The turnover meeting required under ORS 94.609, including the time by which the meeting
14 shall be called, the method of calling the meeting, the right of an owner under ORS 94.609 (3) to call
15 the meeting and a statement of the purpose of the meeting.

16 (4)(a) The method of calling the annual meeting and all other meetings of the owners in ac-
17 cordance with ORS 94.650; and

18 (b) The percentage of votes that constitutes a quorum in accordance with ORS 94.655.

19 (5)(a) The election of a board of directors and the number of persons constituting the board;

20 (b) The powers and duties of the board;

21 (c) Any compensation of the directors; and

22 (d) The method of removing directors from office in accordance with ORS 94.640 (6).

23 (6) The terms of office of directors.

24 (7) The method of calling meetings of the board of directors in accordance with [*ORS 94.640*
25 *(10)*] **section 3 (6) of this 2021 Act** and a statement that all meetings of the board of directors shall
26 be open to owners.

27 (8) The offices of president, secretary and treasurer and any other offices of the association, and
28 the method of selecting and removing officers and filling vacancies in the offices.

29 (9) The preparation and adoption of a budget in accordance with ORS 94.645.

30 (10)(a) The program for maintenance, upkeep, repair and replacement of the common property;

31 (b) The method of payment for the expense of the program and other expenses of the planned
32 community; and

33 (c) The method of approving payment vouchers.

34 (11) The employment of personnel necessary for the administration of the planned community
35 and maintenance, upkeep and repair of the common property.

36 (12) The manner of collecting assessments from the owners.

37 (13) Insurance coverage in accordance with ORS 94.675 and 94.685.

38 (14) The preparation and distribution of the annual financial statement required under ORS
39 94.670.

40 (15) The method of adopting administrative rules and regulations governing the details for the
41 operation of the planned community and use of the common property.

42 (16) The method of amending the bylaws in accordance with ORS 94.630. The bylaws may re-
43 quire no greater than an affirmative majority of votes to amend any provision of the bylaws.

44 (17) If additional property is proposed to be annexed pursuant to ORS 94.580 (3), the method of
45 apportioning common expenses if new lots are added during the fiscal year.

1 (18) Any other details regarding the planned community that the declarant or the association
2 consider desirable. However, if a provision required to be in the declaration under ORS 94.580 is
3 included in the bylaws, the voting requirements for amending the declaration shall govern the
4 amendment of that provision of the bylaws.

5 **SECTION 13.** ORS 94.670 is amended to read:

6 94.670. (1) A homeowners association shall retain within this state the documents, information
7 and records delivered to the association under ORS 94.616 and all other records of the association
8 for not less than the period specified for the record in ORS 65.771 or any other applicable law ex-
9 cept that:

10 (a) The documents specified in ORS 94.616 (3)(o), if received, must be retained as permanent
11 records of the association.

12 (b) Proxies and ballots must be retained for one year from the date of determination of the vote,
13 except that proxies and ballots relating to an amendment to the declaration, bylaws or other gov-
14 erning document must be retained for one year from the date the amendment is effective.

15 (2)(a) All assessments, including declarant subsidies and all other association funds, shall be
16 deposited and maintained in the name of the association in one or more separate federally insured
17 accounts, including certificates of deposit, at a financial institution, as defined in ORS 706.008, other
18 than an extranational institution. Except as provided in paragraph (b) of this subsection, funds must
19 be maintained in an association account until disbursed.

20 (b) Subject to any limitations imposed by the declaration or bylaws, funds of the association
21 maintained in accounts established under this subsection may be used to purchase obligations of the
22 United States government.

23 (c) All expenses of the association shall be paid from the association account.

24 (3) The association shall keep financial records sufficiently detailed for proper accounting pur-
25 poses.

26 (4) Within 90 days after the end of the fiscal year, the board of directors shall:

27 (a) Prepare or cause to be prepared an annual financial statement consisting of a balance sheet
28 and income and expenses statement for the preceding fiscal year; and

29 (b) Distribute to each owner and, upon written request, any mortgagee of a lot, a copy of the
30 annual financial statement.

31 (5) Subject to ORS 94.671, the association of a planned community that has annual assessments
32 exceeding \$75,000 shall cause the financial statement required under subsection (4) of this section
33 to be reviewed within 300 days after the end of the fiscal year by an independent certified public
34 accountant licensed in the State of Oregon in accordance with the Statements on Standards for
35 Accounting and Review Services issued by the American Institute of Certified Public Accountants.

36 (6) The association of a planned community created on or after January 1, 2004, or the associ-
37 ation of a planned community described in ORS 94.572 that has annual assessments of \$75,000 or less
38 shall cause the most recent financial statement required by subsection (4) of this section to be re-
39 viewed in the manner described in subsection (5) of this section within 300 days after the association
40 receives a petition requesting review signed by at least a majority of the owners.

41 (7) An association subject to the requirements of subsection (5) of this section may elect, on an
42 annual basis, not to comply with the requirements of subsection (5) of this section by an affirmative
43 vote of at least 60 percent of the owners, not including the votes of the declarant with respect to
44 lots owned by the declarant.

45 (8)(a) The association shall provide, within 10 business days of receipt of a written request from

1 an owner, a written statement that provides:

2 (A) The amount of assessments due from the owner and unpaid at the time the request was re-
3 ceived, including:

- 4 (i) Regular and special assessments;
- 5 (ii) Fines and other charges;
- 6 (iii) Accrued interest; and
- 7 (iv) Late payment charges.

8 (B) The percentage rate at which interest accrues on assessments that are not paid when due.

9 (C) The percentage rate used to calculate the charges for late payment or the amount of a fixed
10 charge for late payment.

11 (b) The association is not required to comply with paragraph (a) of this subsection if the asso-
12 ciation has commenced litigation by filing a complaint against the owner and the litigation is
13 pending when the statement would otherwise be due.

14 (9)(a) Except as provided in paragraph (b) of this subsection, the association shall make the
15 documents, information and records described in subsections (1) and (4) of this section and all other
16 records of the association reasonably available for examination and, upon written request, available
17 for duplication by an owner and any mortgagee of a lot that makes the request in good faith for a
18 proper purpose.

19 (b) Records kept by or on behalf of the association may be withheld from examination and du-
20 plication to the extent the records concern:

21 (A) Personnel matters relating to a specific identified person or a person's medical records.

22 (B) Contracts, leases and other business transactions that are currently under negotiation to
23 purchase or provide goods or services.

24 (C) Communications with legal counsel that relate to matters specified in subparagraphs (A) and
25 (B) of this paragraph and the rights and duties of the association regarding existing or potential
26 litigation or criminal matters.

27 (D) Disclosure of information in violation of law.

28 (E) Documents, correspondence or management or board reports compiled for or on behalf of the
29 association or the board of directors by its agents or committees for consideration by the board of
30 directors in executive session held in accordance with [ORS 94.640 (8)] **section 3 (2) of this 2021**
31 **Act.**

32 (F) Documents, correspondence or other matters considered by the board of directors in execu-
33 tive session held in accordance with [ORS 94.640 (8)] **section 3 (2) of this 2021 Act.**

34 (G) Files of individual owners, other than those of a requesting owner or requesting mortgagee
35 of an individual owner, including any individual owner's file kept by or on behalf of the association.

36 (10) The association shall maintain a copy, suitable for the purpose of duplication, of the fol-
37 lowing:

38 (a) The declaration and bylaws, including amendments or supplements in effect, the recorded
39 plat, if feasible, and the association rules and regulations currently in effect.

40 (b) The most recent financial statement prepared pursuant to subsection (4) of this section.

41 (c) The current operating budget of the association.

42 (d) The reserve study, if any, described in ORS 94.595.

43 (e) Architectural standards and guidelines, if any.

44 (11) The association, within 10 business days after receipt of a written request by an owner,
45 shall furnish the requested information required to be maintained under subsection (10) of this sec-

1 tion.

2 (12) The board of directors, by resolution, may adopt reasonable rules governing the frequency,
3 time, location, notice and manner of examination and duplication of association records and the
4 imposition of a reasonable fee for furnishing copies of any documents, information or records de-
5 scribed in this section. The fee may include reasonable personnel costs for furnishing the docu-
6 ments, information or records.

7 **SECTION 14.** ORS 94.673 is amended to read:

8 94.673. (1) The homeowners association of a subdivision that received preliminary plat approval
9 before July 1, 1982, shall comply with the provisions of ORS 94.640 (1), (3) , (4) and (8) [to (11)] and
10 94.670 **and section 3 of this 2021 Act** if:

11 (a) An owner submits a written request to the homeowners association to comply with the pro-
12 visions;

13 (b) The subdivision otherwise conforms to the description of a planned community under ORS
14 94.550; and

15 (c) The subdivision is not otherwise exempted under ORS 94.570.

16 (2) A homeowners association board of directors is not subject to ORS 94.780 unless the asso-
17 ciation fails to comply with subsection (1) of this section after receiving a written request from an
18 owner.

19 **SECTION 15.** ORS 94.780 is amended to read:

20 94.780. (1) Failure of the declarant, association, any association member or any other person
21 subject to ORS 94.550 to 94.783 to comply with applicable sections of ORS 94.550 to [94.785 shall
22 be] **94.783 is** cause for suit or action to remedy the violation or to recover actual damages. The
23 prevailing party is entitled to reasonable attorney fees and court costs.

24 (2) Failure of an association to accept administrative responsibility under ORS 94.616 [shall be]
25 **is** a defense for the declarant against an action brought under this section.

26 (3) A suit or action arising under this section must be commenced within one year after the
27 discovery or identification of the alleged violation.

28 **SECTION 16.** ORS 100.005 is amended to read:

29 100.005. As used in this chapter, unless the context requires otherwise:

30 (1) "Acknowledged" means, with respect to a signature on a document or a signed document,
31 that the document is acknowledged in the form and manner provided for the acknowledgment of a
32 deed.

33 (2) "Assessment" means any charge imposed or levied by the association of unit owners on or
34 against a unit owner or unit pursuant to provisions of the declaration or the bylaws of the condo-
35 minium or provisions of this chapter.

36 (3) "Association of unit owners" or "association" means the association provided for under ORS
37 100.405.

38 (4) "Association property" means any real property or interest in real property acquired, held
39 or possessed by the association provided for under ORS 100.405.

40 (5) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance,
41 mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than
42 one unit in a condominium, or an agreement affecting more than one such unit by which the devel-
43 oper holds such condominium under an option, contract to sell or trust agreement.

44 (6) "Building" means a multiple-unit building or single-unit buildings, or any combination
45 thereof, comprising a part of the property. "Building" also includes a floating structure described

1 in ORS 100.020 (3)(b)(D).

2 (7) “Certified by the association” or “executed by the association” means signed by the secre-
 3 tary and the president or chairperson of the association.

4 (8) “Commissioner” means the Real Estate Commissioner.

5 (9) “Common elements” means the general common elements and the limited common elements.

6 (10) “Common expenses” means:

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

8 (b) Expenses declared common by this chapter or by the declaration or the bylaws of the par-
 9 ticular condominium.

10 (11) “Condominium” means:

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

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

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

15 (C) Any easements, rights and appurtenances belonging to the property submitted to the con-
 16 dominium form of ownership under this chapter; and

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

20 (12) “Conversion condominium” means real property that a declarant intends to submit to the
 21 condominium form of ownership under this chapter on which there is a building, improvement or
 22 structure that was occupied prior to any negotiation and that is:

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

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

25 (13) “Declarant” means a person who records a declaration under ORS 100.100 or a supple-
 26 mental declaration under ORS 100.110.

27 (14) “Declaration” means the instrument described in ORS 100.105 by which the condominium
 28 is created and as modified by any amendment recorded in accordance with ORS 100.135 or supple-
 29 mental declaration recorded in accordance with ORS 100.120.

30 (15) “Developer” means a declarant or any person that acquires an interest in a condominium
 31 from declarant, successor declarant or subsequent developer for the primary purpose of resale.

32 (16) “Electric vehicle charging station” or “charging station” means a facility designed to de-
 33 liver electrical current for the purpose of charging one or more electric motor vehicles.

34 **(17) “Electronic meeting” means a meeting that is conducted through telephone, tele-**
 35 **conference, video conference, web conference or any other live electronic means where at**
 36 **least one participant is not physically present.**

37 [(17)] (18) “Flexible condominium” means a condominium containing variable property that may
 38 be redesignated, reclassified or withdrawn from the condominium pursuant to ORS 100.150 (1).

39 [(18)] (19) “General common elements,” unless otherwise provided in a declaration, means all
 40 portions of the condominium that are not part of a unit or a limited common element, including but
 41 not limited to the following:

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

44 (b) The foundations, columns, girders, beams, supports, bearing and shear walls, windows, except
 45 glazing and screening, unit access doors, except glazing and screening, roofs, halls, corridors, lob-

1 bies, stairs, fire escapes, entrances and exits of a building;

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

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

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

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

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

10 [(19)] (20) "Governing document" means articles of incorporation, bylaws, a declaration or a
11 rule, regulation or resolution that was properly adopted by the association of unit owners or any
12 other instrument or plat relating to common ownership or common maintenance of a portion of a
13 condominium that is binding upon units within the condominium.

14 [(20)] (21) "Leasehold" means the interest of a person, firm or corporation that is the lessee
15 under a lease from the owner in fee and that files a declaration creating a condominium under ORS
16 100.100.

17 [(21)] (22) "Limited common elements" means those common elements designated in the decla-
18 ration, as reserved for the use of a certain unit or number of units, to the exclusion of the other
19 units.

20 [(22)] (23) "Majority" or "majority of unit owners" means more than 50 percent of the voting
21 rights allocated to the units by the declaration.

22 [(23)] (24) "Mortgagee" means any person who is:

23 (a) A mortgagee under a mortgage;

24 (b) A beneficiary under a trust deed; or

25 (c) The vendor under a land sale contract.

26 [(24)] (25) "Negotiation" means any activity preliminary to the execution by either developer
27 or purchaser of a unit sales agreement, including but not limited to advertising, solicitation and
28 promotion of the sale of a unit.

29 [(25)] (26) "Nonwithdrawable variable property" means property which pursuant to ORS 100.150
30 (1)(b):

31 (a) Is designated nonwithdrawable in the declaration and on the plat; and

32 (b) Which may not be withdrawn from the condominium without the consent of all of the unit
33 owners.

34 [(26)] (27) "Percent of owners" or "percentage of owners" means the percent of the voting rights
35 determined under ORS 100.525.

36 [(27)] (28) "Purchaser" means an actual or prospective purchaser of a condominium unit pursu-
37 ant to a sale.

38 [(28)] (29) "Recorded" means to cause to be recorded by the county officer in the real property
39 records for each county in which the condominium is located.

40 [(29)] (30) "Recording officer" means the county officer charged with the duty of filing and re-
41 cording deeds and mortgages or any other instruments or documents affecting the title to real
42 property.

43 [(30)] (31) "Reservation agreement" means an agreement relating to the future sale of a unit
44 which is not binding on the purchaser and which grants purchaser the right to cancel the agreement
45 without penalty and obtain a refund of any funds deposited at any time until purchaser executes a

1 unit sales agreement.

2 [(31)] (32) "Sale" means any disposition or transfer of a condominium unit, or an interest or
 3 estate therein, by a developer, including the offering of the property as a prize or gift when a
 4 monetary charge or consideration for whatever purpose is required by the developer. As used in this
 5 subsection, "interest or estate" includes a lessee's interest in a unit for more than three years or
 6 less than three years if the interest may be renewed under the terms of the lease for a total period
 7 of more than three years. "Interest or estate" does not include any interest held for security pur-
 8 poses or a timeshare regulated or otherwise exempt under ORS 94.803 and 94.807 to 94.945.

9 [(32)] (33) "Special declarant right" means any right, in addition to the regular rights of the
 10 declarant as a unit owner, reserved for the benefit of or created by the declarant under the decla-
 11 ration, bylaws or the provisions of this chapter.

12 [(33)] (34) "Staged condominium" means a condominium that provides for annexation of addi-
 13 tional property pursuant to ORS 100.115 and 100.120.

14 [(34)] (35) "Successor declarant" means the transferee of any special declarant right.

15 [(35)] (36) "Termination date" means that date described in ORS 100.105 (2)(b) or (7)(d).

16 [(36)] (37) "Transitional committee" means the committee provided for under ORS 100.205.

17 [(37)] (38) "Turnover meeting" means the meeting provided for under ORS 100.210.

18 [(38)] (39) "Unit" or "condominium unit" means a part of the property which:

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

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

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

22 [(39)] (40) "Unit designation" means the number, letter or combination thereof designating a unit
 23 in the declaration and on the plat.

24 [(40)] (41) "Unit owner" means, except to the extent the declaration or bylaws provide other-
 25 wise, the person owning fee simple interest in a unit, the holder of a vendee's interest in a unit
 26 under a recorded installment contract of sale and, in the case of a leasehold condominium, the
 27 holder of the leasehold estate in a unit.

28 [(41)] (42) "Unit sales agreement" means a written offer or agreement for the sale of a condo-
 29 minium unit which when fully executed will be binding on all parties. "Unit sales agreement" in-
 30 cludes but is not limited to an earnest money receipt and agreement to purchase and other such
 31 agreements which serve as an agreement of sale for a cash transaction or which are preliminary to
 32 the execution of an installment contract of sale, but does not include a reservation agreement.

33 [(42)] (43) "Variable property" means property described in ORS 100.150 (2) and designated as
 34 variable property in the declaration and on the plat.

35 [(43)] (44) "Voting rights" means the portion of the votes allocated to a unit by the declaration
 36 in accordance with ORS 100.105 (1)(j).

37 **SECTION 17.** ORS 100.117 is amended to read:

38 100.117. (1) As used in this section and ORS 100.118, "document" means the declaration, sup-
 39 plemental declaration or bylaws of a condominium.

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

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

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

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

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

- 1 (C) Liability of a unit for common expenses or right to common profits.
- 2 (c) Correct an inconsistency within a document or between or among the documents or a plat,
- 3 supplemental plat or plat amendment.
- 4 (d) Correct an ambiguity, inconsistency or error with respect to an objectively verifiable fact.
- 5 (e) Authorize a plat amendment by correction under ORS 100.118 or an affidavit of correction
- 6 under ORS 100.118.
- 7 (f) Correct a provision that was inconsistent with this chapter at the time the document was
- 8 recorded.
- 9 (g) Correct the omission of a provision required under this chapter.
- 10 (3) A correction amendment adopted under subsection (4) of this section must include:
- 11 (a) The words "Correction Amendment" in or after the title;
- 12 (b) A reference to the recording index numbers and date of recording of the declaration, bylaws,
- 13 plat, the document being corrected and any other applicable supplemental declarations, supplemental
- 14 plats or amendments to the documents;
- 15 (c) A statement of the purpose of the correction; and
- 16 (d) A reference to any provisions of subsection (2) of this section that authorize the correction
- 17 amendment.
- 18 (4) The board of directors may adopt a correction amendment under this section after giving
- 19 notice as provided in subsection (8) of this section. No action by the unit owners is required.
- 20 (5) The declarant of the condominium may unilaterally adopt a correction amendment under this
- 21 section to:
- 22 (a) A document or an amendment to a document, before the conveyance of the first unit in the
- 23 condominium.
- 24 (b) A supplemental declaration or an amendment to the supplemental declaration, before
- 25 conveyance of the first unit created by the supplemental declaration.
- 26 (6) A correction amendment under this section is not effective unless:
- 27 (a) The amendment is approved by the Real Estate Commissioner under ORS 100.110 and, to the
- 28 extent required, ORS 100.410 and 100.413, by the county assessor and by the county tax collector,
- 29 if required, under ORS 100.110;
- 30 (b) The amendment is certified by the association as adopted in accordance with subsection (4)
- 31 of this section and acknowledged or is certified by the declarant under subsection (5) of this section
- 32 and acknowledged; and
- 33 (c) Is recorded.
- 34 (7) A correction amendment to a declaration or a supplemental declaration that corrects the
- 35 boundary of a unit, common element, variable property or other property interest constitutes a
- 36 conveyance to the extent necessary to effectuate the correction.
- 37 (8)(a) Except for a correction amendment adopted by a declarant under subsection (5) of this
- 38 section, the notice of any meeting of the board of directors at which the board intends to consider
- 39 adoption of a correction amendment under this section must:
- 40 (A) State that the board intends to consider the adoption of a correction amendment.
- 41 (B) Specify the document to be corrected.
- 42 (C) Include a description of the nature of the correction.
- 43 (b) At least three days before the meeting of the board of directors, a notice of the meeting must
- 44 be given to all owners in the manner described in ORS 100.420 [(4)] (6).
- 45 (9) The owner of a unit materially affected by the correction must be given notice of the meeting

1 of the board of directors under subsection (8) of this section in the manner required under ORS
2 100.407 (4).

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

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

10
11 **UNIT CAPTIONS**

12
13 **SECTION 18. The unit captions used in this 2021 Act are provided only for the conven-**
14 **ience of the reader and do not become part of the statutory law of this state or express any**
15 **legislative intent in the enactment of this 2021 Act.**

16
17 **EMERGENCY CLAUSE**

18
19 **SECTION 19. This 2021 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
21 **on its passage.**

22 _____