

# House Bill 3341

Sponsored by Representative HELM (at the request of Condominium and HOA 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**.

Provides process and form by which associations may amend declarations and bylaws of planned community or condominium to remove unlawfully discriminatory provisions.

Extends until December 31, 2024, deadline by which associations must review declarations and bylaws.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to housing; and prescribing an effective date.

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

**SECTION 1. Sections 2 and 3 of this 2023 Act are added to and made a part of ORS chapter 93.**

**SECTION 2. (1) Notwithstanding ORS 94.590, 94.625, 100.110, 100.135, 100.411 or 100.413 or any requirement of the declaration or bylaws, an amendment to the declaration or bylaws of a planned community or condominium is effective and may be made and recorded in the county clerk's office of a county in which any portion of the property is situated without the vote of the owners or the board members and without the prior approval of the Real Estate Commissioner, county assessor or any other person if:**

**(a) The amendment is made to conform the declarations or bylaws to the requirements of ORS 93.270 (2); and**

**(b) The amendment is signed by the president and secretary of the homeowners association.**

**(2) The first page or cover sheet of an instrument amending the declaration or bylaws must comply with the recording requirements of ORS chapter 205 and must be in substantially the following form:**

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### AMENDMENT OF [DECLARATION/BYLAWS] TO COMPLY WITH ORS 93.270 (2).

**Pursuant to this section, the undersigned states:**

**1. The undersigned are the president and secretary for the [homeowners/condominium owners] association \_\_\_\_\_ (name) in \_\_\_\_\_ County.**

**2. This document amends the [declaration/bylaws] of the association.**

**3. The [declaration was/bylaws were] first recorded under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_.**

**4. The [declaration was/bylaws were] most recently amended or restated, if ever, under**

**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 instrument number (or book and page number) \_\_\_\_\_ recorded on  
2 \_\_\_\_\_.

3 5. The undersigned have determined that the current [declarations/bylaws] of the  
4 [planned community/condominium], as last amended or revised, may fail to comply with ORS  
5 93.270. The following amendments to the [declaration/bylaws] remove provisions that are not  
6 allowed and are unenforceable under ORS 93.270 (2). No other changes to the document are  
7 being made except as may be necessary to correct scriveners' errors or to conform format  
8 and style.

9 6. Under this section, a vote of the association is not required.

10 7. The description of the real property in \_\_\_\_\_ County affected by this  
11 document is:

12 \_\_\_\_\_  
13 \_\_\_\_\_

14  
15 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

16  
17 Name: \_\_\_\_\_  
18 President, \_\_\_\_\_ (association name)  
19 Address: \_\_\_\_\_  
20 \_\_\_\_\_  
21 Phone No.: \_\_\_\_\_

22  
23 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

24  
25 Name: \_\_\_\_\_  
26 Secretary, \_\_\_\_\_ (association name)  
27 Address: \_\_\_\_\_  
28 \_\_\_\_\_  
29 Phone No.: \_\_\_\_\_

30  
31 STATE OF OREGON )  
32 ) ss.  
33 County of \_\_\_\_\_ )

34 The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
35 20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

36 \_\_\_\_\_  
37 Notary Public for Oregon  
38 My commission expires: \_\_\_\_\_  
39 \_\_\_\_\_

40  
41 (3) If an instrument recorded under this section affects a condominium, the condominium  
42 association shall file a copy of the recorded instrument with the Real Estate Commissioner.

43 **SECTION 3.** Section 4, chapter 67, Oregon Laws 2021, as amended by section 5b, chapter 367,  
44 Oregon Laws 2021, is amended to read:

45 **Sec. 4.** (1) On or before December 31, [2022] **2024**, each homeowners association of a planned

1 **community first established before September 1, 2021**, shall review *[each governing document*  
2 *currently binding on the planned community, or the lots or the lot owners within]* **the declaration and**  
3 **bylaws of** the planned community and shall:

4 (a) Amend *[or restate]* each document as necessary to remove all restrictions against the use of  
5 the community or the lots not allowed under ORS 93.270 (2) **as provided under section 2 of this**  
6 **2023 Act**; or

7 (b) Execute and record a *[declaration]* **certification** that the homeowners association has re-  
8 viewed the *[governing documents binding on]* **declaration and bylaws of** the planned community and  
9 that the documents do not contain any restriction, rule or regulation against the use of the com-  
10 munity or the lots by a person or group of persons because of race, color, religion, sex, sexual ori-  
11 entation, gender identity, national origin, marital status, familial status, source of income, disability  
12 or the number of individuals, including family members, persons of close affinity or unrelated per-  
13 sons, who are simultaneously occupying a dwelling unit within occupancy limits.

14 (2) *[Notwithstanding ORS 94.590 or 94.625 or any requirement of the declaration or bylaws, an*  
15 *amendment to or a restatement of the declaration or bylaws under subsection (1)(a) of this section is*  
16 *effective and]* **A certification under subsection (1)(b) of this section:**

17 (a) May be recorded without the vote of the owners or the board members *[if the amendment*  
18 *or restatement includes a certification signed by the president and secretary of the homeowners asso-*  
19 *ciation that the amended or restated declaration or bylaws does not change that document except as*  
20 *required under this section and as may be necessary to correct scriveners' errors or to conform format*  
21 *and style.]; and*

22 (b) **Must be in substantially the following form:**

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23  
24  
25 **CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).**

26  
27 **Pursuant to section 4, chapter 67, Oregon Laws 2021, the undersigned states:**

28 **1. The undersigned are the president and secretary for the homeowners association**  
29 \_\_\_\_\_ (name) in \_\_\_\_\_ County.

30 **2. The declaration was first recorded under instrument number (or book and page num-**  
31 **ber) \_\_\_\_\_ recorded on \_\_\_\_\_. The declaration was most re-**  
32 **cently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded**  
33 **on \_\_\_\_\_.**

34 **3. The bylaws were first recorded, if ever, under instrument number (or book and page**  
35 **number) \_\_\_\_\_ recorded on \_\_\_\_\_. The bylaws were most re-**  
36 **cently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded**  
37 **on \_\_\_\_\_.**

38 **4. The undersigned have determined that the current declarations and bylaws of the**  
39 **planned community, as last amended or revised, conform with ORS 93.270 (2) and that there**  
40 **are no provisions that would restrict the use of the community or the lots or units of the**  
41 **community because of race, color, religion, sex, sexual orientation, gender identity, national**  
42 **origin, marital status, familial status, source of income, disability or the number of individ-**  
43 **uals, including family members, persons of close affinity or unrelated persons, who are si-**  
44 **multaneously occupying a dwelling unit within occupancy limits. Any such provision that**  
45 **may inadvertently remain is void and unenforceable.**

5. Under this section, a vote of the association is not required.

6. The description of the real property in \_\_\_\_\_ County affected by this document is:

\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Name: \_\_\_\_\_

President, \_\_\_\_\_ (association name)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Name: \_\_\_\_\_

Secretary, \_\_\_\_\_ (association name)

STATE OF OREGON )

) ss.

County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon

My commission expires: \_\_\_\_\_

**SECTION 4.** Section 6, chapter 67, Oregon Laws 2021, as amended by section 5c, chapter 367, Oregon Laws 2021, is amended to read:

**Sec. 6.** (1) On or before December 31, [2022] **2024**, each association of a condominium **first established before September 1, 2021**, 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 declaration and bylaws of** 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) **as provided under section 2 of this 2023 Act**; or

(b) Execute and record a [declaration] **certification** that the association has reviewed the [governing documents binding on] **declaration and bylaws of** 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, gender identity, 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 by-laws, 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] **A certification under subsection (1)(b) of this section:**

(a) 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.]; and

(b) Must be in substantially the following form:

CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).

Pursuant to section 6, chapter 67, Oregon Laws 2021, the undersigned states:

1. The undersigned are the president and secretary for the condominium owners association \_\_\_\_\_ (name) in \_\_\_\_\_ County.

2. The declaration was first recorded under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_. The declaration was most recently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded on \_\_\_\_\_.

3. The bylaws were first recorded, if ever, under instrument number (or book and page number) \_\_\_\_\_ recorded on \_\_\_\_\_. The bylaws were most recently amended or restated, if ever, under instrument number \_\_\_\_\_ recorded on \_\_\_\_\_.

4. The undersigned have determined that the current declarations and bylaws of the condominium, as last amended or revised, conform with ORS 93.270 (2) and that there are no provisions that would restrict the use of the community or the lots or units of the community because of race, color, religion, sex, sexual orientation, gender identity, 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. Any such provision that may inadvertently remain is void and unenforceable.

5. Under this section, a vote of the association is not required.

6. The description of the real property in \_\_\_\_\_ County affected by this document is:

\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Name: \_\_\_\_\_  
President, \_\_\_\_\_ (association name)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Name: \_\_\_\_\_  
Secretary, \_\_\_\_\_ (association name)

STATE OF OREGON )

1 ) ss.

2 County of \_\_\_\_\_ )

3 The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_  
4 20\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_.

5 \_\_\_\_\_  
6 Notary Public for Oregon

7 My commission expires: \_\_\_\_\_  
8 \_\_\_\_\_

9

10 **SECTION 5.** (1) The amendments to sections 4 and 6, chapter 67, Oregon Laws 2021, by  
11 sections 3 and 4 of this 2023 Act are intended to extend the deadline for compliance with  
12 those sections and to clarify the process by which associations may comply with those  
13 sections.

14 (2) Sections 4 and 6, chapter 67, Oregon Laws 2021, as amended by sections 3 and 4 of this  
15 2023 Act, do not apply to a planned community or condominium that:

16 (a) Was established on or after September 1, 2021; or

17 (b) Complied with the requirements of section 4 or 6, chapter 67, Oregon Laws 2021, that  
18 were in effect before the effective date of this 2023 Act, notwithstanding the former deadline  
19 for compliance of December 31, 2022.

20 **SECTION 6.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
21 regular session of the Eighty-second Legislative Assembly adjourns sine die.

22 \_\_\_\_\_