

## HOUSE AMENDMENTS TO HOUSE BILL 3545

By COMMITTEE ON HOUSING AND HOMELESSNESS

April 15

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions; amending ORS  
2 94.709 and 100.450;”.

3 Delete lines 6 through 21 and insert:

4 **“SECTION 2. (1) As used in this section:**

5 **“(a) ‘Assessment’ has the meaning given that term in ORS 94.550 or 100.005, as applica-  
6 ble.**

7 **“(b) ‘Association’ means a homeowners association as defined in ORS 94.550 or an asso-  
8 ciation of unit owners as defined in ORS 100.005.**

9 **“(c) ‘Subject property’ means property that is subject to assessment by an association.**

10 **“(2)(a) Assessments shall accrue on subject property that has been deeded to a county  
11 under ORS 312.200 for the period beginning on the date on which the subject property is so  
12 deeded and ending on the earliest of the date on which:**

13 **“(A) The county transfers title to the subject property to another owner by sale or under  
14 ORS 271.330;**

15 **“(B) The county enters into a lease agreement for the subject property; or**

16 **“(C) The county determines that it will permanently retain title to the subject property.**

17 **“(b) Assessments that accrue as described in this subsection give rise to a lien against  
18 the subject property.**

19 **“(c) The amount of assessments secured by the lien shall not include costs or fee in-  
20 creases for payment of a fine, penalty, settlement or attorney fees that are the result of a  
21 violation of local, state or federal law by the association that imposes the assessments.**

22 **“(3)(a) Assessments that accrue during the period described in subsection (2) of this  
23 section are the liability of:**

24 **“(A) The owner that receives title to the subject property as described in subsection  
25 (2)(a)(A) of this section; or**

26 **“(B) The county if:**

27 **“(i) The county enters into a lease agreement for the subject property; or**

28 **“(ii) The county determines that it will permanently retain title to the subject property.**

29 **“(b) The lien must be satisfied by:**

30 **“(A) An owner described in paragraph (a)(A) of this subsection no later than the date on  
31 which the title to the subject property is received.**

32 **“(B) The county no later than thirty days following the date on which it enters into a  
33 lease agreement or determines that it will permanently retain title to the subject property.**

34 **“(4) The association that imposes the assessments on subject property:**

35 **“(a) May record any lien that arises under this section; and**

1       **“(b) Shall provide the county with notice of the assessments in accordance with the**  
2 **association’s dues schedule.**

3       **“SECTION 3.** ORS 94.709 is amended to read:

4       **“94.709. (1)** Whenever a homeowners association levies any assessment against a lot, the asso-  
5 ciation shall have a lien upon the individual lot for any unpaid assessments. The lien includes in-  
6 terest, late charges, attorney fees, costs or other amounts imposed under the declaration or bylaws  
7 or other recorded governing document. The lien is prior to a homestead exemption and all other  
8 liens or encumbrances upon the lot except:

9       “(a) Tax and assessment liens; and

10       “(b) A first mortgage or trust deed of record.

11       **“(2)** Recording of the declaration constitutes record notice and perfection of the lien for as-  
12 sessments. No further recording of a claim of lien for assessments or notice of a claim of lien under  
13 this section is required to perfect the association’s lien. The association shall record a notice of  
14 claim of lien for assessments under this section in the deed records of the county in which a lot is  
15 located before any suit to foreclose may proceed under subsection (4) of this section. The notice  
16 shall contain:

17       “(a) A true statement of the amount due for the unpaid assessments after deducting all just  
18 credits and offsets;

19       “(b) The name of the owner of the lot, or reputed owner, if known;

20       “(c) The name of the association;

21       “(d) The description of the lot as provided in ORS 93.600; and

22       “(e) A statement that if the owner of the lot thereafter fails to pay any assessments when due,  
23 as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of  
24 assessments automatically continue to accumulate with interest without the necessity of further re-  
25 cording.

26       **“(3)** The notice shall be verified by the oath of some person having knowledge of the facts and  
27 shall be recorded by the county recording officer. The record shall be indexed as other liens are  
28 required by law to be indexed.

29       **“(4)(a)** The proceedings to foreclose liens created by this section shall conform as nearly as  
30 possible to the proceedings to foreclose liens created by ORS 87.010 except, notwithstanding ORS  
31 87.055, a lien may be continued in force for a period of time not to exceed six years from the date  
32 the assessment is due. For the purpose of determining the date the assessment is due in those cases  
33 when subsequent unpaid assessments have accumulated under a notice recorded as provided in  
34 subsection (2) of this section, the assessment and claim regarding each unpaid assessment shall be  
35 deemed to have been levied at the time the unpaid assessment became due.

36       “(b) The lien may be enforced by the board of directors acting on behalf of the association.

37       **“(5)** Unless the declaration or bylaws provide otherwise, fees, late charges, fines and interest  
38 imposed pursuant to ORS 94.630 (1)(L), (n) and (o) are enforceable as assessments under this section.

39       **“(6)** This section does not prohibit an association from pursuing an action to recover sums for  
40 which subsection (1) of this section creates a lien or from taking a deed in lieu of foreclosure in  
41 satisfaction of the lien.

42       **“(7)** An action to recover a money judgment for unpaid assessments may be maintained without  
43 foreclosing or waiving the lien for unpaid assessments. A judgment entered on the action does not  
44 extinguish the lien. Payment of the judgment operates to satisfy the lien, or a portion of the lien,  
45 to the extent of the payment received.

1       **“(8) Notwithstanding any provision of this section to the contrary, a lien against a lot**  
2       **deeded to a county by tax foreclosure under ORS 312.200 shall arise and be recorded, enforced**  
3       **or foreclosed in accordance with section 2 of this 2025 Act.**

4       **“SECTION 4.** ORS 100.450 is amended to read:

5       **“100.450. (1)** Whenever an association of unit owners levies any assessment against a unit, the  
6       association of unit owners shall have a lien upon the individual unit and the undivided interest in  
7       the common elements appertaining to such unit for any unpaid assessments. The lien includes in-  
8       terest, late charges, attorney fees, costs or other amounts levied under the declaration or bylaws.  
9       The lien is prior to a homestead exemption and all other liens or encumbrances upon the unit ex-  
10      cept:

11      “(a) Tax and assessment liens; and

12      “(b) A first mortgage or trust deed of record unless:

13      “(A) The condominium consists of fewer than seven units, all of which are to be used for non-  
14      residential purposes;

15      “(B) The declaration provides that the lien of any mortgage or trust deed of record affecting the  
16      property shall be subordinate to the lien of the association provided under subsection (1) of this  
17      section; and

18      “(C) The holder of any mortgage or trust deed of record affecting the property when the decla-  
19      ration is recorded executes a separate subordination of the holder’s interest to the declaration  
20      which is attached as an exhibit and which states that the holder understands that the declaration  
21      subordinates the holder’s lien to the assessment lien of the association provided under subsection  
22      (1) of this section.

23      “(2) Recording of the declaration constitutes record notice and perfection of the lien for as-  
24      sessments. No further recording of a claim of lien for assessments or notice of a claim of lien under  
25      this section is required to perfect the association’s lien. The association shall record a notice of  
26      claim of lien for assessments under this section in the deed records of the county in which the unit  
27      is located before any suit to foreclose may proceed under subsection (4) of this section. The notice  
28      shall contain:

29      “(a) A true statement of the amount due for the unpaid assessments after deducting all just  
30      credits and offsets;

31      “(b) The name of the owner of the unit, or reputed owner, if known;

32      “(c) The name of the condominium and the designation of the unit as stated in the declaration  
33      or applicable supplemental declaration; and

34      “(d) A statement that if the owner of the unit thereafter fails to pay any assessments when due,  
35      as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of  
36      assessments automatically continue to accumulate with interest without the necessity of further re-  
37      cording.

38      “(3) The notice shall be verified by the oath of some person having knowledge of the facts and  
39      shall be recorded by the county recording officer. The record shall be indexed as other liens are  
40      required by law to be indexed.

41      “(4)(a) The proceedings to foreclose liens created by this section shall conform as nearly as  
42      possible to the proceedings to foreclose liens created by ORS 87.010 except, notwithstanding ORS  
43      87.055, a lien may be continued in force for a period of time not to exceed six years from the date  
44      the assessment is due. For the purpose of determining the date the assessment is due in those cases  
45      when subsequent unpaid assessments have accumulated under a notice recorded as provided in

1 subsection (2) of this section, the assessment and claim regarding each unpaid assessment shall be  
2 deemed to have been levied at the time the unpaid assessment became due.

3 “(b) The lien may be enforced by the board of directors acting on behalf of the association of  
4 unit owners.

5 “(c) An action to recover a money judgment for unpaid assessments may be maintained without  
6 foreclosing or waiving the lien securing the claim for unpaid assessments. A judgment entered on  
7 the action does not extinguish the lien. Payment on the judgment operates to satisfy the lien, or a  
8 portion of the lien, to the extent of the payment received.

9 “(d) An action to foreclose a lien under this section or recover a money judgment for unpaid  
10 assessments may not be maintained unless the Condominium Information Report and the Annual  
11 Report described in ORS 100.250 are designated current as provided in ORS 100.255.

12 “(5) Unless the declaration or bylaws provides otherwise, fees, late charges, fines and interest  
13 imposed pursuant to ORS 100.405 (4)(j), (k), (L) and (m) are enforceable as assessments under this  
14 section.

15 “(6) With respect to condominium units also constituting timeshare property as defined by ORS  
16 94.803, liens created by this section shall be assessed to the timeshare owners in the timeshare  
17 property according to the method for determining each owner’s liability for common expenses under  
18 the timeshare instrument and shall be enforced individually against each timeshare owner in the  
19 condominium unit.

20 “(7) Notwithstanding the priority established for a lien for unpaid assessments and interest un-  
21 der subsection (1) of this section, the lien shall also be prior to the lien of a first mortgage or trust  
22 deed of record for the unit and the undivided interest in the common elements, if:

23 “(a) The association of unit owners for the condominium in which the unit is located has given  
24 the lender under the mortgage or trust deed 90 days prior written notice that the owner of the unit  
25 is in default in payment of an assessment. The notice shall contain:

26 “(A) Name of borrower;

27 “(B) Recording date of trust deed or mortgage;

28 “(C) Recording information;

29 “(D) Name of condominium, unit owner and unit designation stated in the declaration or appli-  
30 cable supplemental declaration; and

31 “(E) Amount of unpaid assessment.

32 “(b) The notice under paragraph (a) of this subsection shall set forth the following in 10-point  
33 type:

34 “

35  
36 NOTICE: The lien of the association may become prior to that of the lender pursuant to ORS  
37 100.450.

38 “

39  
40 “(c) The lender has not initiated judicial action to foreclose the mortgage or requested issuance  
41 of a trustee’s notice of sale under the trust deed or accepted a deed in lieu of foreclosure in the  
42 circumstances described in ORS 100.465 prior to the expiration of 90 days following the notice by  
43 the unit owners’ association.

44 “(d) The unit owners’ association has provided the lender, upon request, with copies of any liens  
45 filed on the unit, a statement of the assessments and interest remaining unpaid on the unit and other

1 documents which the lender may reasonably request.

2 “(e) The borrower is in default under the terms of the mortgage or trust deed as to principal  
3 and interest.

4 “(f) A copy of the notice described in paragraph (a) of this subsection, together with an affidavit  
5 of notice by a person having knowledge of the facts, has been recorded in the manner prescribed in  
6 subsection (3) of this section. The affidavit shall recite the date and the person to whom the notice  
7 was given.

8 **“(8) Notwithstanding any provision of this section to the contrary, a lien against a unit  
9 deeded to a county by tax foreclosure under ORS 312.200 shall arise and be recorded, enforced  
10 or foreclosed in accordance with section 2 of this 2025 Act.**

11 **“SECTION 5. (1) Section 2 of this 2025 Act applies to subject property deeded to a county  
12 under ORS 312.200 on or after the effective date of this 2025 Act.**

13 **“(2) Notwithstanding subsection (1) of this section, for subject property to which a county  
14 holds title by operation of ORS 312.200 as of the effective date of this 2025 Act, the assess-  
15 ment accrual period under section 2 (2) of this 2025 Act shall begin on the effective date of  
16 this 2025 Act unless, before the effective date of this 2025 Act:**

17 **“(a) The county has determined to permanently retain title to the subject property; or**

18 **“(b) The county has entered into a lease agreement for the subject property.**

19 **“SECTION 6. This 2025 Act takes effect on the 91st day after the date on which the 2025  
20 regular session of the Eighty-third Legislative Assembly adjourns sine die.”.**

21

---