

Senate Bill 963
Enrolled
GENERAL SUMMARY*
By Subject

AMENDMENTS TO
Oregon Planned Community Act (“PCA”)
& Oregon Condominium Act (“OCA”)

I.
ASSOCIATION OPERATION AND ADMINISTRATION
Mirror Amendments to PCA & OCA

A. BOARD OF DIRECTOR QUALIFICATIONS

- ▶ Specifies each director must be an individual and owner or co-owner.
- ▶ Prescribes exceptions.

New: Sec. 2 / Sec. 18

B. BOARD MEETINGS - EXECUTIVE SESSIONS

- ▶ Clarifies meaning of executive session.
- ▶ Permits consultation with legal counsel for any purpose to be in executive session.
- ▶ Revises format.

ORS 94.640 (Sec. 8) / ORS 100.420 (Sec. 28)

C. COMMON EXPENSES, ALLOCATION

- ▶ *PCA*: Permits association to exclusively assess one or more lots for any loss or cost incurred (not limited to common expense) that board determines is fault of responsible owners.
- ▶ *OCA*: Provides if board determines that any loss or cost incurred by association is the fault of one or more owners, the amount may be assessed exclusively against the units of responsible owners.

ORS 94.704 (Sec. 15) / ORS 100.530 (Sec. 33)

D. MANAGEMENT AGREEMENTS

- ▶ Excludes from limitations imposed for management agreements entered into before turnover meeting:
 - Performance-based energy or water efficiency contracts.
 - Contracts relating to renewable energy facilities or their output serving the planned community or condominium, including facilities leased to the association.
- ▶ Defines renewable energy facilities.
- ▶ Imposes conditions.

ORS 94.700 (Sec. 14) / ORS 100.485 (Sec. 30)

E. QUORUM REQUIREMENTS FOR ASSOCIATION MEETINGS

- ▶ Prescribes minimum quorum requirement of 20 percent for association meetings.
- ▶ Limits application of reduction of quorum requirement.

ORS 94.655 (Sec. 9) / ORS 100.408 (Sec. 25)

F. RECORDS & ACCOUNTS OF ASSOCIATION

- ▶ Requires proxies and ballots relating to amendments to governing documents to be maintained for one year from date amendment is recorded or is otherwise effective.
- ▶ Requires all association funds (in addition to assessments) to be maintained in federally insured accounts specified in section until disbursed.

- ▶ Permits purchase of obligations of U.S. government.
 - ▶ Revises which association communications with legal counsel that are not available for owner examination.
- ORS 94.670 (Sec. 13) / ORS 100.480 (Sec. 29)*

G. RESERVE ACCOUNT

- ▶ Makes reserve account subject to requirements and limitations of association bank accounts.
- See Sec. 13 (ORS 94.670) / Sec. 29 (ORS 100.480)*
- ▶ Clarifies and revises right of owners to reduce, increase and eliminate funding of reserve account.
- ORS 94.595 (Sec. 4) / ORS 100.175 (Sec. 23)*

H. RIGHT OF ENTRY BY ASSOCIATION

- ▶ *PCA*: Grants association right of entry to a lot to perform required maintenance, repairs and replacements and emergency repairs.
 - ▶ Prescribes requirements.
 - ▶ *OCA*: Revises and conforms right of entry of association under OCA to new requirements under PCA.
- ORS 94.733(Sec. 16) / ORS 100.540 (Sec. 34)*

I. RULES OF ORDER

- ▶ Makes provisions regarding right to challenge and validity of Robert's Rules of Order applicable to all rules of order adopted by association or board of directors.
- ORS 94.657(Sec. 10) / ORS 100.409 (Sec. 26)*

J. VOTING RIGHTS OF FIDUCIARIES

- ▶ Includes attorneys-in-fact and conservators as fiduciaries entitled to vote or grant consent with respect to a lot or unit owned or held in fiduciary capacity.
- ORS 94.658 (Sec. 11) / ORS 100.525 (Sec. 32)*

II.

AMENDMENTS AFFECTING PLANNED COMMUNITIES

A. ASSOCIATION INCORPORATION AND DISSOLUTION

- ▶ Provides if association is dissolved, association automatically continues under same name as an unincorporated association with all property, powers and obligations of incorporated association. Specifies:
 - Members of board of directors and officers prior to dissolution continue to serve.
 - Association is governed by bylaws and applicable provisions of articles of incorporation of incorporated association.
 - ▶ Provides a separate association is not created when association is reinstated after administrative dissolution or again incorporated. Association automatically continues without any further action as may otherwise be required under corporation laws. Specifies:
 - Association has all of the property, powers and obligations of unincorporated association existing immediately prior to reinstatement or incorporation.
 - Bylaws in effect prior to reinstatement or incorporation constitute bylaws of incorporated association.
 - Members of board of directors and officers prior to incorporation continue to serve.
 - ▶ Prescribes application.
- New (Sec. 3)*

B. BYLAWS

- ▶ *Content:* Adds reference to ORS 94.655 (Sec. 9) in paragraph requiring bylaws to provide for quorum requirements.

ORS 94. 635 (Sec.7)

- ▶ *Amendment:* Requires once bylaws are recorded, all amendments to bylaws thereafter must be recorded.

ORS 94. 625 (Sec.5)

C. COMMON PROPERTY

- ▶ Adds provisions governing consenting to roadway vacations and granting of leases, easements and other similar interest in common property.

- ▶ Conforms to requirements of OCA, as amended by Sec. 24 (ORS 100.405).

ORS 94. 665 (Sec.12)

D. POWERS OF ASSOCIATION

- ▶ Adds reference to ORS 94.665 (Sec. 12) in paragraph regarding granting of easements and other concessions affecting common property.

ORS 94.630 (Sec.6)

E. APPLICATION OF ACT TO PLANNED COMMUNITIES NOT ESTABLISHED UNDER ACT

- ▶ Amends ORS 94.572 (application of Act to certain planned communities not established under Act) to include new Sections 2 and 3.

ORS 94.572 (Sec. 3a)

III.

AMENDMENTS AFFECTING CONDOMINIUMS

A. AMENDMENTS TO DECLARATION

- ▶ Prescribes amendment requirements when an additional unit is created from common elements.

ORS 100.135 (Sec. 21)

B. APPLICATION OF OCA

- ▶ Defines nonresidential purposes for use in certain provisions.

- ▶ Provides an association is exempt from specific filing provisions with Real Estate Agency if not more than two additional units are created from common elements.

ORS 100.020 (Sec. 20)

C. ASSOCIATION INCORPORATION AND DISSOLUTION

- ▶ Clarifies that a separate association is not created when association is incorporated. Provides:

- No further action as may otherwise be required under corporation laws is required.
- Members of board of directors and officers prior to incorporation continue to serve.
- Bylaws prior to incorporation constitute bylaws of incorporated association.

- ▶ Clarifies if an incorporated association is dissolved, it automatically continues as an unincorporated association under same name. Provides:

- Association has all of the property, powers and obligations of incorporated association existing immediately prior to dissolution.
- Members of board of directors and officers prior to dissolution continue to serve.
- Association is governed by bylaws and applicable provisions of articles of incorporation of incorporated association.

ORS 100.405 (Sec. 24)

D. BOUNDARIES OF UNITS

- ▶ Corrects drafting error. Makes section a default section that does not apply if the declaration provides otherwise.

ORS 100.510 (Sec. 31)

E. CONDOMINIUM FORM OF OWNERSHIP/LOCAL JURISDICTION

- ▶ Prohibits local jurisdiction from discriminating against condominium form of ownership.

New (Sec. 19)

F. COMMON ELEMENTS

- ▶ Revises requirements governing consenting to roadway vacations and granting of leases, easements and other similar interests in the general common elements. Conforms to requirements for PCA, as amended under ORS 94.665 (Sec. 12).

ORS 100.405 (Sec. 24)

G. BYLAWS

- ▶ Adds reference to ORS 100.408 (Sec. 25) in paragraph requiring bylaws to provide for quorum requirements.

ORS 100.415 (Sec. 27)

H. REMOVAL OF PROPERTY FROM CONDOMINIUM

- ▶ Revises requirements for removal of a portion of the property from the condominium.

ORS 100.600 (Sec. 35)

I. VARIABLE PROPERTY, AUTOMATIC STATUS

- ▶ Requires county assessor to reflect on assessor records the status of any variable property affected by automatic property reclassification.
- ▶ Removes requirement that county surveyor include certain information regarding reclassification or withdrawal of variable property on surveyor's copy of plat.

ORS 100.155 (Sec. 22)

J. CORRECTION AMENDMENTS

- ▶ Prescribes requirements and procedures to make corrections to recorded declarations, bylaws and other governing documents and plats.

New Sec. 43, 43a and 43b

K. APPROVAL OF DOCUMENTS BY REAL ESTATE COMMISSIONER

- ▶ Reduces period that commissioner's approval of declarations, supplemental declarations and amendments to declarations, supplemental declarations and bylaws is valid from two years to one year.

ORS 100.110 (Sec. 40) and 100.410 (Sec. 26a)

**IV.
MISCELLANEOUS**

A. CONFORMS STATUTORY REFERENCES

B. ADDS NEW SECTIONS TO APPLICABLE ACT

C. MAKES CHANGES TO CONFORM TO NEW SECTIONS.

**This is a general summary to assist when reviewing the entire bill.*

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