

DRAFT

SUMMARY

Establishes procedures for adoption of restated declaration, restated assignment of use of limited common elements and restated bylaws by condominium association.

Requires Real Estate Commissioner approval of restated declarations, limited residential condominium disclosure statements, nonresidential condominium documentation and amendments to declarations of condominiums. Establishes submission requirements and procedure for commissioner approval.

Requires amendment procedures contained in bylaws of condominium to be consistent with provisions of law in effect at time of recording.

A BILL FOR AN ACT

Relating to condominiums; creating new provisions; and amending ORS 87.015, 100.005, 100.020, 100.102, 100.105, 100.110, 100.116, 100.117, 100.120, 100.123, 100.125, 100.130, 100.135, 100.150, 100.155, 100.175, 100.260, 100.275, 100.405, 100.407, 100.410, 100.415, 100.530, 100.550, 100.600, 100.625, 100.635, 100.640, 100.645, 100.655, 100.660, 100.665, 100.675, 100.680 and 100.705.

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

DECLARATIONS AND PLATS

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 100.

SECTION 2. (1) An association of unit owners may adopt a resolution, without approval of unit owners, to prepare and record a restated declaration that must include:

1 (a) The word “Restated” in the declaration title.

2 (b) All previously adopted amendments that are recorded and in
3 effect.

4 (c) A statement that the association has adopted a resolution in
5 accordance with this subsection.

6 (d) A reference to the recording index numbers and date of record-
7 ing of the initial declaration and all previously recorded amendments
8 that are in effect and are being codified.

9 (e) A certification by the association that:

10 (A) The restated declaration includes all previously adopted
11 amendments that are recorded and in effect.

12 (B) Other changes were not made to the declaration except, if ap-
13 plicable, to correct scriveners’ errors or to conform format and style.

14 (2) The association may adopt a resolution, without specific ap-
15 proval of unit owners, to prepare and record a restated assignment of
16 use of limited common elements under this section, that must include:

17 (a) The words ‘Restated Assignment of Use of Limited Common
18 Elements’ followed by the title of the declaration and the name of the
19 condominium if the name is not part of the title of the declaration.

20 (b) An assignment of use of all limited common elements of the
21 type assigned in the declaration, a supplemental declaration or an
22 amendment to the declaration.

23 (c) A reference to the recording index numbers and date of record-
24 ing of the initial declarations and all supplemental declarations and
25 amendments that are recorded and in effect.

26 (d) The unit to which the use of each limited common element is
27 reserved.

28 (e) An allocation, if any, of use of a limited common element as-
29 signed to more than one unit.

30 (f) If the condominium is a flexible condominium or a staged con-
31 dominium, the location of each unit and limited common element as-

1 **signed to the unit by stage, supplemental declaration, applicable plat**
2 **or other method.**

3 **(g) A statement that the association has adopted a resolution in**
4 **accordance with this subsection.**

5 **(h) Any other information required by rule by the Real Estate**
6 **Commissioner.**

7 **(i) Certification by the association that:**

8 **(A) The restated assignment of use of limited common elements**
9 **includes all assignments of use of limited common elements of the**
10 **type assigned in the declaration or an amendment to the declaration.**

11 **(B) Other changes were not made to the restatement except to**
12 **correct scriveners' errors or to conform format and style.**

13 **(3) If the restated declaration or the restated assignment of use**
14 **conflicts with a recorded and effective document that supplemented**
15 **or amended the declaration or assignment, the document that supple-**
16 **mented or amended the declaration or assignment controls.**

17 **(4) A restated declaration or a restated assignment of use under this**
18 **section is not effective unless:**

19 **(a) Executed by the association and acknowledged;**

20 **(b) Approved by the commissioner under ORS 100.110; and**

21 **(c) Recorded in the office of the recording officer of every county**
22 **in which the condominium is located.**

23 **(5) The association shall file a copy of the recorded restated decla-**
24 **ration or assignment of use with the commissioner.**

25 **SECTION 3.** ORS 100.105 is amended to read:

26 100.105. (1) A declaration [*shall*] **must** contain:

27 (a) A description of the property, including property on which a unit or
28 a limited common element is located, whether held in fee simple, leasehold,
29 easement or other interest or combination thereof, that is being submitted
30 to the condominium form of ownership and that conforms to the description
31 in the surveyor's certificate provided under ORS 100.115 (1).

1 (b) Subject to subsection (11) of this section, a statement of the interest
2 in the property being submitted to the condominium form of ownership,
3 whether fee simple, leasehold, easement or other interest or combination
4 thereof.

5 (c) Subject to [subsection (5)] **subsections (5) and (6)** of this section, the
6 name by which the property [shall be] **is** known and a general description
7 of each unit and the building or buildings, including the number of stories
8 and basements of each building, the total number of units and the principal
9 materials of which they are constructed.

10 (d) The unit designation, a statement that the location of each unit is
11 shown on the plat, a description of the boundaries and area in square feet
12 of each unit and any other data necessary for proper identification. The area
13 of a unit [shall] **must** be the same as shown for that unit on the plat de-
14 scribed in ORS 100.115 (1).

15 (e) A notice in substantially the following form in at least 12-point type
16 [that is either] **in** all capitals or boldface:

17

18 NOTICE

19

20 THE SQUARE FOOTAGE AREAS STATED IN THIS DECLARATION
21 AND THE PLAT ARE BASED ON THE BOUNDARIES OF THE UNITS AS
22 DESCRIBED IN THIS DECLARATION AND MAY VARY FROM THE
23 AREA OF UNITS CALCULATED FOR OTHER PURPOSES.

24

25 (f) A description of the general common elements.

26 (g) An allocation to each unit of an undivided interest in the common
27 elements in accordance with ORS 100.515 and the method used to establish
28 the allocation.

29 (h) The designation of any limited common elements including:

30 (A) A general statement of the nature of the limited common element;

31 (B) A statement of the unit to which the use of each limited common

1 element is reserved, provided the statement is not a reference to an assign-
2 ment of use specified on the plat; and

3 (C) The allocation of use of any limited common element appertaining to
4 more than one unit.

5 (i) The method of determining liability for common expenses and right to
6 common profits in accordance with ORS 100.530.

7 (j) The voting rights allocated to each unit in accordance with ORS
8 100.525 or, in the case of condominium units committed as property in a
9 timeshare plan defined in ORS 94.803, the voting rights allocated in the
10 timeshare instrument.

11 (k) A statement of the **general nature of** use, residential or otherwise,
12 for which the building or buildings and each of the units is intended.

13 (L) A statement that the designated agent to receive service of process in
14 cases provided in ORS 100.550 (1) is named in the Condominium Information
15 Report which will be filed with the Real Estate Agency in accordance with
16 ORS 100.250 (1)(a).

17 (m) The method of amending the declaration and the percentage of voting
18 rights required to approve an amendment of the declaration in accordance
19 with ORS 100.135.

20 (n) A statement as to whether or not the association of unit owners pur-
21 suant to ORS 100.405 (5) and (8) has authority to grant leases, easements,
22 rights of way, licenses and other similar interests affecting the general and
23 limited common elements of the condominium and consent to vacation of
24 roadways within and adjacent to the condominium.

25 (o) If the condominium contains a floating structure described in ORS
26 100.020 (3), a statement regarding the authority of the board of directors of
27 the association, subject to ORS 100.410, to temporarily relocate the floating
28 structure without a majority vote of affected unit owners.

29 (p) Any restrictions on alienation of units. Any such restrictions created
30 by documents other than the declaration may be incorporated by reference
31 in the declaration to the official records of the county in which the property

1 is located.

2 (q) Any other details regarding the property that the person executing the
 3 declaration considers desirable. However, if a provision required to be in the
 4 bylaws under ORS 100.415 is included in the declaration, the voting re-
 5 quirements for amending the bylaws [*shall*] also govern the amendment of
 6 the provision in the declaration.

7 (2) In the event the declarant proposes to annex additional property to
 8 the condominium under ORS 100.125, the declaration [*shall*] also **must** con-
 9 tain a general description of the plan of development, including:

10 (a) The maximum number of units to be included in the condominium.

11 (b) The date after which any right to annex additional property will ter-
 12minate.

13 (c) A general description of the nature and proposed use of any additional
 14 common elements which declarant proposes to annex to the condominium, if
 15 such common elements might substantially increase the proportionate
 16 amount of the common expenses payable by existing unit owners.

17 (d) A statement that the method used to establish the allocation of undi-
 18 vided interest in the common elements, the method used to determine liabil-
 19 ity for common expenses and right to common profits and the method used
 20 to allocate voting rights for each unit annexed [*shall be*] **is** as stated in the
 21 declaration in accordance with subsection (1)(g), (i) and (j) of this section.

22 (e) Such other information as the Real Estate Commissioner [*shall*
 23 *require*] **requires** in order to carry out the purposes of [*ORS 100.015, 100.116,*
 24 *100.635 to 100.730 and 100.740 to 100.910*] **this chapter**.

25 (3) [*Except where*] **Unless** expressly prohibited by the declaration and
 26 subject to the requirements of ORS 100.135 (2) and subsections (9) and (10)
 27 of this section:

28 (a) Not later than two years following the termination [*dates*] **date** spec-
 29 ified in [*subsections (2)(b) and (7)(d)*] **subsection (2)(b)** of this section,
 30 [*such*] **the** termination [*dates*] **date** may be extended for a period not ex-
 31 ceeding [*two*] **five** years[; *and*].

1 **(b) Before the termination date specified in the declaration or sup-**
2 **plemental declaration under subsection (7)(d) of this section, the ter-**
3 **mination date may be extended for a period not exceeding five years.**

4 [(b)] **(c) The general description under subsection (2)(c) of this section and**
5 **the information included in the declaration or supplemental declaration**
6 **in accordance with subsection (7)(c), (g) and (h) of this section may be**
7 **changed by an amendment to the declaration or supplemental declaration**
8 **and plat or supplemental plat.**

9 (4) The information included in the declaration **or supplemental decla-**
10 **ration** in accordance with subsection (2)(a) and (d) of this section and sub-
11 section (7)(a), (b), (e), (f) and (k) of this section may not be changed unless
12 all owners agree to the change and [record] an amendment to the declaration
13 **or supplemental declaration and, if applicable, the plat or supple-**
14 **mental plat are recorded** in accordance with this chapter.

15 (5) The name of the property shall include the word “condominium” or
16 “condominiums” or the words “a condominium.”

17 (6) A condominium may not bear a name which is the same as or
18 deceptively similar to the name of any other condominium located in the
19 same county.

20 (7) If the condominium is a flexible condominium containing variable
21 property, the declaration shall also contain a general description of the plan
22 of development, including:

23 (a) A statement that the rights provided for under ORS 100.150 (1) are
24 being reserved.

25 (b) A statement:

26 (A) Of any limitations on rights reserved under ORS 100.150 (1), including
27 whether the consent of any unit owner [shall be] **is** required, and if so, a
28 statement of the method by which the consent [shall be] **is** ascertained; or

29 (B) That there are no limitations on rights reserved under ORS 100.150
30 (1).

31 (c) A statement of the total number of tracts of variable property within

1 the condominium, including:

2 (A) A designation of each tract as withdrawable **variable property** or
3 nonwithdrawable variable property;

4 (B) Identification of each variable tract by a label in accordance with
5 ORS 100.115 (1)(i);

6 (C) A statement of the method of labeling each tract depicted on the plat
7 in accordance with ORS 100.115 (1)(i); and

8 (D) A statement of the total number of tracts of each type of variable
9 property.

10 (d) The termination date, which is the date [*or time period*] after which
11 any right reserved under ORS 100.150 (1) will terminate, and a statement of
12 the circumstances, if any, that will terminate any right on or before the date
13 or time period specified. **Subject to ORS 100.120**, the **termination** date [*or*
14 *time period may not exceed seven years*] from the **date of** recording of the
15 conveyance of the first unit in the condominium to a person other than the
16 declarant **may not exceed:**

17 (A) **Twenty years, only if a condominium consists, or may consist**
18 **if the condominium is a flexible condominium, exclusively of units to**
19 **be used for nonresidential purposes; or**

20 (B) **Seven years.** [*Recording shall be in the county in which the property*
21 *is located.*]

22 (e) The maximum number of units that may be created.

23 (f) A statement that the method used to establish the allocations of un-
24 divided interest in the common elements, the method used to determine li-
25 ability for common expenses and right to common profits and the method
26 used to allocate voting rights as additional units are created [*shall be*] **is** the
27 same as stated in the declaration in accordance with subsection (1)(g), (i) and
28 (j) of this section.

29 (g) A general description of all existing improvements and the nature and
30 proposed use of any improvements that may be made on variable property if
31 the improvements might substantially increase the proportionate amount of

1 the common expenses payable by existing unit owners.

2 (h) A statement of whether or not the declarant reserves the right to
3 create limited common elements within any variable property, and if so, a
4 general description of the types that may be created.

5 (i) A statement that the plat shows the location and dimensions of all
6 withdrawable variable property that is labeled “WITHDRAWABLE VARI-
7 ABLE PROPERTY.”

8 (j) A statement that if by the termination date all or a portion of the
9 withdrawable variable property has not been withdrawn or reclassified, the
10 withdrawable property shall automatically be withdrawn from the condo-
11 minium as of the termination date.

12 (k) A statement of the rights of the association under ORS 100.155 (2).

13 (L) A statement of whether or not all or any portion of the variable
14 property may not be withdrawn from the condominium and, if so, with re-
15 spect to the nonwithdrawable variable property:

16 (A) A statement that the plat shows the location and dimensions of all
17 nonwithdrawable property that is labeled “NONWITHDRAWABLE VARI-
18 ABLE PROPERTY.”

19 (B) A description of all improvements that may be made and a statement
20 of the intended use of each improvement.

21 (C) A statement that, if by the termination date all or a portion of the
22 variable property designated as “nonwithdrawable variable property” has not
23 been reclassified, the property [*shall*] **is** automatically [*be*] reclassified as of
24 the termination date as a general common element of the condominium and
25 any interest in [*such*] **the** property held for security purposes [*shall be*] **is**
26 automatically extinguished by such classification.

27 (D) A statement of the rights of the association under ORS 100.155 (3).

28 (m) A statement by the local governing body or appropriate department
29 thereof that the withdrawal of any variable property designated as
30 “withdrawable variable property” in the declaration in accordance with
31 paragraph (L) of this subsection, will not violate any applicable planning or

1 zoning regulation or ordinance. The statement may be attached as an exhibit
2 to the declaration.

3 (8) The plan of development for any variable property included in the
4 declaration or any supplemental declaration of any stage in accordance with
5 subsection (7) of this section [*shall be*] **is** subject to any plan of development
6 included in the declaration in accordance with subsection (2) of this section,
7 except that the time limitation specified in subsection (7)(d) of this section
8 [*shall govern*] **governs** any right reserved under ORS 100.150 (1) with respect
9 to any variable property.

10 (9) The information included in the declaration in accordance with sub-
11 section (7)(j), (k) and (m) of this section may not be deleted by amendment.

12 (10)(a) **Subject to paragraph (c) of this subsection**, approval by the
13 unit owners [*shall not be*] **is not** required to redesignate **withdrawable**
14 variable property as “nonwithdrawable variable property” by supplemental
15 declaration or **by amendment to the declaration or supplemental decla-**
16 **ration** if [*such*] **the** redesignation is required by the local governing body
17 [*or appropriate department thereof*] to comply with any planning or zoning
18 regulation or ordinance.

19 (b) If as a result of [*such*] **a redesignation under paragraph (a) of this**
20 **subsection**, the information required to be included in the supplemental
21 declaration or an amendment under subsection (7)(L)(B) of this section is
22 inconsistent with the information included in the declaration or supple-
23 mental declaration in accordance with subsection (7)(g) of this section, an
24 amendment to the declaration **or supplemental declaration and plat or**
25 **supplemental plat** approved by at least 75 percent of owners [*shall be*] **is**
26 required.

27 (c) **If less than all of a tract designated withdrawable variable**
28 **property is redesignated “nonwithdrawable variable property,” the**
29 **supplemental declaration or amendment must include the statement**
30 **required by subsection (7)(m) of this section as to the redesignated**
31 **tract.**

1 (11) The statement of an interest in property other than fee simple sub-
2 mitted to the condominium form of ownership and any easements, rights or
3 appurtenances belonging to property submitted to the condominium form of
4 ownership, whether leasehold or fee simple, [shall] **must** include:

5 (a) A reference to the recording index numbers and date of recording of
6 the instrument creating the interest; or

7 (b) A reference to the law, administrative rule, ordinance or regulation
8 that creates the interest if the interest is created under law, administrative
9 rule, ordinance or regulation and not recorded in the office of the recording
10 officer of the county in which the property is located.

11 **SECTION 4.** ORS 100.110 is amended to read:

12 100.110. (1)(a) Before a declaration, supplemental declaration or an
13 amendment thereto may be recorded, it must be approved as provided in this
14 section by the county assessor of the county in which the property is located
15 and the Real Estate Commissioner.

16 (b) Before a declaration, supplemental declaration or, if required under
17 subsection (3) of this section, an amendment thereto may be recorded, it must
18 be approved by the tax collector of the county in which the property is lo-
19 cated.

20 (c) A declaration, supplemental declaration or amendment thereto may
21 not be approved unless the requirements of subsections (2) to (7) of this
22 section are met. Approval [shall] **must** be evidenced by execution of the
23 declaration or amendment or by a written approval attached thereto.

24 **(d) If the requirements of subsections (2) to (7) of this section are**
25 **met, the commissioner, county assessor and tax collector, if applica-**
26 **ble:**

27 **(A) Shall approve the declaration, supplemental declaration or**
28 **amendment; and**

29 **(B) May not impose additional requirements not specified in sub-**
30 **sections (2) to (7) of this section.**

31 (2) The county assessor of the county in which the property is located

1 shall approve a declaration, supplemental declaration or amendment thereto
2 if:

3 (a) The name complies with ORS 100.105 (5) and (6); and

4 (b) The plat complies with the requirements of ORS 100.115 or the plat
5 amendment complies with ORS 100.116.

6 (3) The tax collector of the county in which the property is located shall
7 approve the declaration or supplemental declaration, or an amendment that
8 adds property to the condominium, changes the boundary of a unit or creates
9 an additional unit from **all or parts of other units or from all or parts**
10 **of other units and** common elements for which a plat amendment is re-
11 quired under ORS 100.116, if:

12 (a) All ad valorem taxes, special assessments, fees, or other charges re-
13 quired by law to be placed upon the tax roll [*which*] **for the affected units**
14 **that** have or will become a lien upon the property during the tax year have
15 been paid;

16 (b) Advance payment of ad valorem taxes, special assessments, fees or
17 other charges [*which*] **for the affected units that** are not on the tax roll
18 and for which payment is required under paragraph (a) of this subsection has
19 been made to the tax collector utilizing the procedures contained in ORS
20 92.095 and 311.370; and

21 (c) The additional taxes, penalty, and any interest attributable thereto,
22 required because of disqualification of the [*property*] **affected units** from any
23 special assessment have been paid.

24 (4) Subject to subsection (6) of this section, the commissioner shall ap-
25 prove the declaration or amendment thereto if:

26 (a) The declaration or the amendment thereto complies with the require-
27 ments of ORS 100.105 and 100.135 **and other provisions of this chapter;**

28 (b) The bylaws adopted under ORS 100.410 comply with the requirements
29 of ORS 100.410 and 100.415 **and other provisions of this chapter;**

30 (c) The plat complies with the requirements of ORS 100.115 or the plat
31 amendment complies with ORS 100.116 **and other provisions of this chap-**

1 **ter;**

2 (d) The declaration is for a conversion condominium and the declarant
3 has submitted:

4 (A) An affidavit that the notice of conversion was given in accordance
5 with ORS 100.305 and that the notice period has expired;

6 (B) An affidavit that the notice of conversion was given in accordance
7 with ORS 100.305 and copies of the written consent of any tenants as pro-
8 vided in ORS 100.305 (6) or a signed statement that no tenants were entitled
9 to notice under ORS 100.305; or

10 (C) Any applicable combination of the requirements of subparagraphs (A)
11 and (B) of this paragraph; *[and]*

12 (e) A *[paper]* copy of the plat executed by the declarant and prepared in
13 conformance with ORS 100.115 or plat amendment prepared in conformance
14 with ORS 100.116 *[and]* **is submitted;**

15 (f) A certification of plat execution, on a form prescribed and furnished
16 by the commissioner, *[have been]* **is:**

17 **(A) Executed by the declarant, the professional land surveyor who**
18 **signed the surveyor's certificate on the plat, the attorney for the**
19 **declarant, a representative of the title insurance company that issued**
20 **the information required under ORS 100.640 (1)(e) or 100.660 (3)(f) or**
21 **another person authorized by the declarant in writing to execute the**
22 **certification; and**

23 **(B) Submitted stating that the *[paper]* copy is a true copy of the plat**
24 **signed by the declarant[. *The certification may be executed by the declarant,***
25 ***the professional land surveyor who signed the surveyor's certificate on the plat,***
26 ***the attorney for the declarant, a representative of the title insurance company***
27 ***that issued the information required under ORS 100.640 (5) or 100.660 (2)(d)***
28 ***or another person authorized by the declarant in writing to execute the certi-***
29 ***fication.]; and***

30 **(g) A copy of a reserve study has been submitted, if a disclosure**
31 **statement was accepted under ORS 100.655 and the reserve study was**

1 **not included pursuant to ORS 100.640 (1)(g).**

2 (5) The commissioner shall approve a supplemental declaration if:

3 (a) The supplemental declaration complies with the requirements of ORS
4 100.120 **and other provisions of this chapter;**

5 (b) The supplemental plat complies with the requirements of ORS 100.115;

6 (c) The supplemental declaration is for a conversion condominium and the
7 declarant has complied with the requirements of subsection (4)(d) of this
8 section; and

9 (d) A [*paper*] copy of the supplemental plat and a certification of plat
10 execution described in subsection (4)(e) **and (f)** of this section have been
11 submitted.

12 (6) Approval by the commissioner is not required for an amendment to a
13 declaration transferring the right of use of a limited common element pur-
14 suant to ORS 100.515 (5).

15 (7) Before the commissioner approves the declaration, supplemental dec-
16 laration or amendment thereto under this section:

17 (a) The declarant or other person requesting approval shall pay to the
18 commissioner a fee determined by the commissioner under ORS 100.670; and

19 (b) For an amendment or supplemental declaration, the Condominium In-
20 formation Report and the Annual Report described in ORS 100.260 [*shall*]
21 **must** be designated current by the Real Estate Agency as provided in ORS
22 100.255 and the fee required under ORS 100.670 [*shall*] **must** be paid.

23 (8) If the declaration, supplemental declaration or amendment thereto
24 approved by the commissioner under subsection (4) or (5) of this section is
25 not recorded in accordance with ORS 100.115 within one year from the date
26 of approval by the commissioner, the approval automatically expires and the
27 declaration, supplemental declaration or amendment thereto must be resub-
28 mitted for approval in accordance with this section. The commissioner's ap-
29 proval [*shall*] **must** set forth the date on which the approval expires.

30 **SECTION 5.** ORS 100.116 is amended to read:

31 100.116. (1) A plat, including any floor plans that are a part of a plat,

1 recorded before October 15, 1983, may be amended as provided in this section.

2 (2)(a) Except as otherwise provided in ORS 100.600, the following must
3 be made by a plat entitled "Plat Amendment":

4 (A) A change to the boundary of the property, a unit or a limited common
5 element;

6 (B) The creation of an additional unit from common elements; or

7 (C) A change to the configuration of other information required to be
8 graphically depicted on the plat.

9 (b) The plat amendment [*shall*] **must** reference in the title of the amend-
10 ment the recording information of the original plat and any previous plat
11 amendments.

12 (3) The plat amendment [*shall*] **must** comply with ORS 92.050, 92.060 (1),
13 (2) and (4), 92.080 and 92.120 and [*shall*] **must** include:

14 (a) A graphic depiction of the change;

15 (b) For a change to the boundary of the property, a surveyor's certificate
16 that complies with ORS 92.070;

17 (c) If the plat amendment is an amendment by correction under ORS
18 100.118, a statement that the plat amendment is an amendment by correction
19 under ORS 100.118;

20 (d) A certification, including signature and official seal, of a registered
21 professional land surveyor that:

22 (A) The plat amendment accurately depicts the amendments to the plat
23 described in the declaration amendment recorded under subsection (5) of this
24 section; and

25 (B) Any construction that changes the boundaries of a unit or limited
26 common element or the construction of any additional unit or limited com-
27 mon element has been completed; and

28 (e) A declaration **executed** by the [*chairperson and secretary on behalf of*
29 *the*] association [*of unit owners*] that the plat is being amended pursuant to
30 this section. If the amendment to the declaration required under subsection
31 (5) of this section is a correction amendment under ORS 100.117, the decla-

1 ration [*shall*] **must** be **made** by the declarant if the declarant adopts the
2 correction amendment under ORS 100.117.

3 (4) The declaration required under subsection (3)(e) of this section
4 [*shall*] **must** be executed and acknowledged [*in the manner provided for ac-*
5 *knowledgment of deeds*].

6 (5) The plat amendment [*shall*] **must** be accompanied by an amendment
7 to the declaration authorizing the plat amendment. The declaration amend-
8 ment [*shall*] **must** be executed, approved and recorded in accordance with
9 ORS 100.110 and 100.135 or [*ORS 100.117*], if the declaration amendment is
10 a correction amendment, [*under*] **with** ORS 100.117.

11 (6) Before a plat amendment may be recorded, it must be approved by the
12 city or county surveyor as provided in ORS 92.100. The surveyor shall ap-
13 prove the plat amendment if it complies with the requirements of this sub-
14 section. The person offering the plat amendment shall:

15 (a) Submit a copy of the proposed amendment to the declaration required
16 under subsections (3) to (5) of this section when the plat amendment is sub-
17 mitted.

18 (b) Submit the original or a copy of the executed amendment to the dec-
19 laration approved by the Real Estate Commissioner if required by law prior
20 to approval of the plat amendment.

21 (c) Upon request of the county assessor or county surveyor, file an exact
22 copy, certified by the surveyor who made the plat to be an exact copy of the
23 plat amendment, with the county assessor and the county surveyor. The ex-
24 act copy [*shall*] **must** be made on suitable drafting material having the
25 strength, stability and transparency required by the county surveyor.

26 (7) A change to a restriction or other information not required to be
27 graphically depicted on the plat, **or, in the discretion of the city or**
28 **county surveyor, a change to graphically depicted information that**
29 **changes the identity, nature or other descriptive information but does**
30 **not change the graphic depiction**, may be made by amendment of the
31 declaration without a plat amendment described in subsections (3) to (5) of

1 this section. A declaration amendment under this subsection [*shall*] **must**
2 include:

3 (a) References to recording index numbers and date of recording of the
4 declaration or plat and any applicable supplemental declarations, amend-
5 ments, supplemental plats or plat amendments.

6 (b) A description of the change to the plat.

7 (c) A statement that the amendment was approved in accordance with the
8 declaration and ORS 100.135.

9 (8) The declaration amendment described in subsection (7) of this section
10 [*shall*] **must** be executed, approved and recorded in accordance with ORS
11 100.110 and 100.135.

12 (9) Before the declaration amendment described in subsection (7) of this
13 section may be recorded, it must be approved by the city or county surveyor
14 as provided in ORS 92.100. The surveyor shall approve the declaration
15 amendment if it complies with subsection (7) of this section. [*Such*] **The** ap-
16 proval [*shall*] **must** be evidenced by execution of the amendment or by **at-**
17 **tached** written approval [*attached thereto*].

18 (10) Floor plans of a condominium for which a plat was not required at
19 the time of creation may be amended by amendment of the declaration. An
20 amendment under this subsection [*shall*] **must** include:

21 (a) References to recording index numbers and date of recording of the
22 declaration and any applicable supplemental declarations or amendments.

23 (b) A description of the change to the floor plans.

24 (c) A graphic depiction of any change to the boundaries of a unit or
25 common element and a statement by a registered architect, registered pro-
26 fessional land surveyor or registered professional engineer certifying that
27 such graphic depiction fully and accurately depicts the boundaries of the
28 unit or common element as it currently exists.

29 (11) The declaration amendment described in subsection (10) of this sec-
30 tion [*shall*] **must** be approved and recorded in accordance with ORS 100.110
31 and 100.135 except that any change to the floor plans need only comply with

1 the requirements of the unit ownership laws in effect at the time the floor
2 plans were initially recorded.

3 (12) After recording [of] any declaration amendment or plat amendment
4 pursuant to this section, the county surveyor [shall, upon] **may make ap-
5 propriate changes to** the surveyor's copy of all previously recorded plats
6 relating to the condominium and any copies filed under ORS 92.120 (3)[, *make
7 such appropriate marks or notations, including the date and the surveyor's
8 name or initials, with archival quality black ink in such manner as to denote
9 the changes. The recording index numbers and date of recording of the decla-
10 ration amendment and any plat amendment shall also be referenced on the
11 copy of each plat*]. The original plat may not be changed or corrected after
12 the plat is recorded.

13 (13) For performing the services described in subsections (6), (9) and (12)
14 of this section, the county surveyor shall collect from the person offering the
15 plat amendment or declaration amendment for approval a fee established by
16 the county governing body.

17 **SECTION 6.** ORS 100.117 is amended to read:

18 100.117. (1) As used in this section and ORS 100.118, "document" means
19 the declaration, supplemental declaration or bylaws of a condominium.

20 (2) Notwithstanding a provision in a document or this chapter, a docu-
21 ment or an amendment to a document may be corrected by a correction
22 amendment under this section to:

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

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

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

27 (B) The area in square feet of a unit specified in the declaration or sup-
28 plement declaration; and

29 (C) Liability of a unit for common expenses or right to common profits.

30 (c) Correct an inconsistency within a document or between or among the
31 documents or a plat, supplemental plat or plat amendment.

1 (d) Correct an ambiguity, inconsistency or error with respect to an ob-
2 jectively verifiable fact.

3 (e) Authorize a plat amendment by correction under ORS 100.118 or an
4 affidavit of correction under ORS 100.118.

5 (f) Correct a provision that was inconsistent with this chapter at the time
6 the document was recorded.

7 (g) Correct the omission of a provision required under this chapter.

8 (3) A correction amendment adopted under subsection (4) of this section
9 *[shall]* **must** include:

10 (a) The words “Correction Amendment” in or after the title;

11 (b) A reference to the recording index numbers and date of recording of
12 the declaration, bylaws, plat, the document being corrected and any other
13 applicable supplemental declarations, supplemental plats or amendments to
14 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**
17 **authorize the correction amendment.**

18 (4) The board of directors may adopt a correction amendment under this
19 section after giving notice as provided in subsection (8) of this section. No
20 action by the unit owners is required.

21 (5) The declarant of the condominium may unilaterally adopt a correction
22 amendment under this section to:

23 (a) A document or an amendment to a document, before the conveyance
24 of the first unit in the condominium.

25 (b) A supplemental declaration or an amendment to the supplemental
26 declaration, before conveyance of the first unit created by the supplemental
27 declaration.

28 (6) A correction amendment under this section is not effective unless:

29 (a) The amendment is approved by the Real Estate Commissioner under
30 ORS 100.110 and, to the extent required, ORS 100.410 **and section 13 of this**
31 **2019 Act**, the county assessor *[in accordance with]* **and, if required, the**

1 **county tax collector under** ORS 100.110 [*and, if required, the county tax*
2 *collector*];

3 (b) The amendment is certified by [*the chairperson and secretary of*] the
4 association [*of unit owners*] as [*being*] adopted in accordance with subsection
5 (4) of this section **and acknowledged** or is certified by the declarant under
6 subsection (5) of this section and acknowledged [*in the manner provided for*
7 *acknowledgement of deeds*]; and

8 (c) Is recorded.

9 (7) A correction amendment **to a declaration or a supplemental dec-**
10 **laration** that corrects the boundary of a unit, common element, variable
11 property or other property interest constitutes a conveyance to the extent
12 necessary to effectuate the correction.

13 (8)(a) Except for a correction amendment adopted by a declarant under
14 subsection (5) of this section, the notice of any meeting of the board of di-
15 rectors at which the board intends to consider adoption of a correction
16 amendment under this section must:

17 (A) State that the board intends to consider the adoption of a correction
18 amendment.

19 (B) Specify the document to be corrected.

20 (C) Include a description of the nature of the correction.

21 (b) At least three days before the meeting of the board of directors, a
22 notice of the meeting must be given to all owners in the manner described
23 in ORS 100.420 (4).

24 (9) The owner of a unit materially affected by the correction must be
25 given notice of the meeting of the board of directors under subsection (8) of
26 this section in the manner required under ORS 100.407 (4).

27 (10) The board of directors shall provide a copy of the recorded correction
28 amendment and any plat amendment by correction or by affidavit of cor-
29 rection under ORS 100.118 recorded concurrently with the correction
30 amendment to any owner described under subsection (9) of this section and
31 to any owner if the correction changes that owner's:

1 (a) Allocation of voting rights;

2 (b) Liability for common expenses that changes the amount of any as-
3 sessment; or

4 (c) Allocation of interest in the common elements.

5 **SECTION 7.** ORS 100.120 is amended to read:

6 100.120. (1) To annex additional property to the condominium **under ORS**
7 **100.125** or to reclassify variable property under ORS [*100.125 or*] 100.150, a
8 supplemental declaration and a supplemental plat [*shall*] **must** be executed,
9 approved and recorded by **the declarant in each county in which the**
10 **property is located** at the time of each annexation or reclassification.
11 **Variable property may not be redesignated nonwithdrawable variable**
12 **property by an amendment to the declaration, plat, supplemental**
13 **declaration, or supplemental plat.**

14 (2) The supplemental plat [*shall*] **must** comply with ORS 100.115 and the
15 supplemental declarations [*shall*] **must**:

16 (a) Include a reference to recording index numbers and date of recording
17 of the initial declaration and bylaws.

18 (b) Be consistent with the provisions of the original declaration prepared
19 pursuant to ORS 100.105 and any prior recorded supplemental declarations.

20 (c) Contain the information required by ORS 100.105 (1) insofar as that
21 information relates to the property being annexed or reclassified.

22 (d) State the allocation of undivided interest in the common elements of
23 each unit previously submitted to the provisions of this chapter upon the
24 creation or annexation of the additional property.

25 (e) If the stage being annexed contains any variable property, include the
26 information required under ORS 100.105 (7) insofar as that information re-
27 lates to the property being annexed. The termination date [*shall*] **must** be
28 consistent with the information included in the declaration in accordance
29 with ORS 100.105 (2)(b) but may not exceed seven years from the recording
30 of the conveyance of the first unit in the stage to a person other than the
31 declarant. [*Recording shall be in the county in which the property is*

1 *located.]*

2 [(2)] (3) If the Condominium Information Report and the Annual Report
 3 described in ORS 100.250 are designated current as provided in ORS 100.255,
 4 all [*such*] supplemental declarations and plats shall be approved, executed
 5 and recorded as provided in ORS 100.100, 100.110 and 100.115. [*No*] A unit
 6 being annexed or created by a supplemental declaration [*shall*] **may not** be
 7 conveyed until after [*such*] **the** recording.

8 [(3)] (4) To withdraw all or a portion of variable property from a flexible
 9 condominium pursuant to ORS 100.150 (1)(b), a supplemental declaration and
 10 plat [*shall*] **must** be recorded in accordance with subsection [(2)] (3) of this
 11 section. The supplemental plat [*shall*] **must** comply with ORS 100.115 (2) and
 12 the supplemental declaration shall:

13 (a) Be consistent with the provisions of the declaration or supplemental
 14 declaration drawn pursuant to ORS 100.105 (7).

15 (b) Include a metes and bounds legal description of the variable property
 16 being withdrawn.

17 (c) Include a metes and bounds legal description of the resulting bounda-
 18 ries of the condominium after the withdrawal.

19 (d) State whether [*or not*] any variable property remains [*which*] **that** may
 20 be reclassified or withdrawn from the condominium **under ORS 100.150 (1)**
 21 and, if property may be withdrawn, include the statement required under
 22 ORS 100.105 (7)(m).

23 (e) If any variable property is being redesignated as “nonwithdrawable
 24 variable property[,]” **under ORS 100.150 (1)**, include the information re-
 25 quired under ORS 100.105 (7)(L).

26 [(4)] (5) Except as provided in subsection [(5)] (6) of this section, as to
 27 property submitted to unit ownership after October 4, 1977, additional units
 28 may not be added within property previously submitted to unit ownership
 29 unless all unit owners consent to an amendment to the declaration, plat and
 30 any floor plans recorded pursuant to ORS 100.116 in order to provide for such
 31 additional units.

1 [(5)] **(6)** As to property submitted to unit ownership before September 27,
2 1987, if the declaration provides that additional property may be annexed to
3 the condominium, any subsequent stage may contain variable property. The
4 termination date may not be later than the earlier of:

5 (a) The date specified in the declaration under ORS 100.105 (2)(b); or

6 (b) Seven years from the recording of the conveyance of the first unit in
7 the condominium to a person other than the declarant. [*Recording shall be*
8 *in the county in which the property is located.*]

9 **SECTION 8.** ORS 100.130 is amended to read:

10 100.130. (1) Subject to any limitations contained in the declaration, the
11 boundaries between adjoining units, including any intervening common ele-
12 ments, may be relocated or eliminated by an amendment to the declaration
13 **under this section.**

14 **(2)(a)** The owners of the affected units shall submit to the board of di-
15 rectors of the association a proposed amendment [*which shall identify*] **that**
16 **must:**

17 **(A) Include a reference to the recording index numbers and date**
18 **of recording of the declaration, bylaws, plat and any applicable**
19 **amendments, supplemental declaration and supplemental plat;**

20 **(B) State that the amendment is adopted and recorded under this**
21 **section;**

22 **(C) Identify** the units involved[, *state*];

23 **(D) State** any reallocations of common element interest, voting rights,
24 common expense liability and right to common profits [*and contain*]; **and**

25 **(E) Contain** words of conveyance.

26 **(b) If the declaration provides that the method of determining any**
27 **of the reallocations described in paragraph (a)(D) of this subsection is**
28 **based on the area of the unit, the reallocation must be calculated ac-**
29 **cording to the area of the affected units as originally stated in the**
30 **declaration, notwithstanding any change in the total area of the af-**
31 **ected units. The amendment may not change the allocations of any**

1 **other units.**

2 **(3)** The board of directors shall approve the amendment unless it deter-
3 mines within 45 days that the reallocations are unreasonable or the relo-
4 cation or elimination will impair the structural integrity or mechanical
5 systems of the condominium or lessen the support of any portion of the
6 condominium.

7 [(2)] **(4)** The board of directors of the association of unit owners may re-
8 quire the owners of the affected units to submit an opinion of a registered
9 architect or registered professional engineer that the proposed relocation or
10 elimination will not impair the structural integrity or mechanical systems
11 of the condominium or lessen the support of any portion of the condominium.

12 [(3)] **(5)** The board of directors of the association or any agent appointed
13 by the board of directors may supervise the work necessary to effect the
14 boundary relocation or elimination.

15 [(4)] **(6)** Any expenses incurred under subsections [(2)] **(4)** and [(3)] **(5)** of
16 this section shall be charged to the owners of the units requesting the
17 boundary relocation or elimination.

18 [(5)] *The amendment shall be executed by the owners and mortgagees or*
19 *trust deed beneficiaries of the affected units, certified by the chairperson and*
20 *secretary of the association and approved and recorded in accordance with*
21 *ORS 100.135 (2)(b).]*

22 **(7) An amendment described in this section must be:**

23 **(a) Executed by the owners and approved by the mortgagees or**
24 **trust deed beneficiaries of the affected units;**

25 **(b) Executed and certified by the association as required in ORS**
26 **100.135 (2);**

27 **(c) Approved by the Real Estate Commissioner, county tax collector**
28 **and county tax assessor as required by ORS 100.110; and**

29 **(d) Recorded in the deed records of each county in which the con-**
30 **dominium is located.**

31 [(6)] **(8)** An amendment to the plat and any floor plans necessary to show

1 the altered boundaries between the adjoining units shall be recorded in ac-
2 cordance with ORS 100.116.

3 **SECTION 9.** ORS 100.135 is amended to read:

4 100.135. (1) Unless otherwise provided in the declaration, an amendment
5 to the declaration may be proposed by a majority of the board of directors
6 of the association of unit owners or by at least 30 percent of the unit owners.

7 (2) Except as otherwise provided in ORS 100.005 to 100.627, an amendment
8 of the declaration is not effective unless:

9 (a) The amendment is approved by the unit owners as provided in this
10 section and the Real Estate Commissioner and county assessor according to
11 ORS 100.110; and

12 (b) The amendment[,] **is** certified by [*the chairperson and secretary of*] the
13 association [*of unit owners*] as being adopted in accordance with the decla-
14 ration and the provisions of this section, [*and*] acknowledged [*in the manner*
15 *provided for acknowledgment of deeds, is*] **and** recorded, notwithstanding a
16 provision in a declaration, including a declaration recorded before January
17 1, 2002, that requires amendments to be executed and acknowledged by all
18 owners approving the amendment.

19 (3) Except as otherwise provided in ORS 100.105 or 100.130 or this section,
20 the declaration may be amended only with the approval of at least 75 percent
21 of owners, or such greater percentage as may be required by the declaration.

22 (4) Unless the declaration requires a greater percentage:

23 (a) The declaration and plat may be amended to change a general common
24 element to a limited common element or change the boundary of a limited
25 common element with the approval of at least 75 percent of owners and ap-
26 proval of the owners of all units to which the limited common element
27 appertains.

28 (b) The declaration may be amended to change a limited common element,
29 or portion thereof, to a general common element with the approval of the
30 owners of all units to which the limited common element appertains and the
31 board of directors.

1 (5)(a)(A) Except as otherwise provided in ORS 100.120, 100.130, 100.515,
2 100.600, 100.605 and 100.625 and paragraph (b) of this subsection or other
3 provisions of the Oregon Condominium Act, an amendment [*that changes the*
4 *boundary of the property or a unit or creates an additional unit from common*
5 *elements shall*] **must** be approved by all unit owners[.] **if:**

6 (i) **The amendment changes the boundary of the property submitted**
7 **to the condominium form of ownership;**

8 (ii) **The amendment changes the boundary of a unit; or**

9 (iii) **The amendment creates an additional unit from common ele-**
10 **ments or part of one or more units, or both.**

11 (B) [*The*] **An** amendment [*constitutes a conveyance and shall*] **under this**
12 **subsection must** include words of conveyance and, if an additional unit is
13 created [*from common elements*], [*shall*] **must** state the name of the grantee
14 and unit designation. If an additional unit is created from common elements,
15 the association [*shall be named as*] **is** the initial grantee of the additional
16 unit. **A subsequent conveyance of the additional unit must be made**
17 **by a deed certified by the association and acknowledged.**

18 (C) [*In addition to the certification required under subsection (2)(b) of this*
19 *section,*] An amendment [*to*] **that changes** the boundary of a unit [*shall*]
20 **must** also be executed by the owners of all affected units, **and approved**
21 **by lenders holding a security in the unit.**

22 (b) An amendment that adds property owned by the association to the
23 condominium as a common element [*constitutes a conveyance and shall*]
24 **must:**

25 (A) Be approved by at least 75 percent of owners;

26 (B) Contain words of conveyance;

27 (C) Be [*executed by the chairperson and secretary of the association on be-*
28 *half of the unit owners and be*] certified **by the association** in accordance
29 with subsection (2)(b) of this section; and

30 (D) Be accompanied by a plat amendment in accordance with ORS 100.116
31 **if the amendment includes changes that are inconsistent with the**

1 **surveyor's certificate or other information on the plat, a supplemental**
2 **plat or a plat amendment, and that require a plat amendment under**
3 **ORS 100.116.**

4 (c) [*Nothing in*] Paragraph (b) of this subsection [*is intended to*] **does not**
5 require **that** property acquired or held by the association pursuant to ORS
6 100.405 (4)(i) [*to*] be added to the condominium.

7 **(d) If the association owns the fee title to the real property under-**
8 **lying a leasehold condominium, the association may amend the decla-**
9 **ration under paragraph (b) of this subsection to require the fee title**
10 **interest to submit to the requirements of this chapter.**

11 (6) Except as otherwise provided in ORS 100.005 to 100.627, an amendment
12 may not change the allocation of undivided interest in the common elements,
13 the method of determining liability for common expenses, the method of de-
14 termining the right to common profits or the method of determining voting
15 rights of any unit unless such amendment has been approved by the owners
16 of the affected units.

17 (7) The declaration may not be amended to limit or diminish any right
18 of a declarant reserved under ORS 100.105 (2) or (7) or any other special
19 declarant right without the consent of the declarant[. *However,*] **unless** the
20 declarant [*may waive*] **waives** the declarant's right of consent.

21 (8) [*Nothing in*] This section [*shall*] **does not** affect any other approval
22 that may be required by the declaration, bylaws or other instrument.

23 (9) During a period of declarant control reserved under ORS 100.200,
24 [*voting on*] an amendment under this section must be **voted on** without re-
25 gard to any weighted vote or other special voting allocation reserved by the
26 declarant unless the declaration provides that the declarant has the right to
27 exercise the voting rights with respect to specifically described amendments.
28 Nothing in this subsection prohibits a declarant from reserving the right
29 that declarant's consent is required for an amendment during a period of
30 declarant control reserved in the declaration.

31 (10) An amendment to a declaration or a supplemental declaration [*shall*

1 *be*] **is** conclusively presumed to have been regularly adopted in compliance
2 with all applicable procedures relating to such amendment unless an action
3 is brought within one year after the date [*such*] **the** amendment was recorded
4 or the face of the recorded amendment indicates that the amendment [*re-*
5 *ceived the approval of fewer*] **did not receive the** votes [*than are*] required
6 for [*such*] approval. [*However,*] Nothing in this subsection [*shall prevent*]
7 **prevents** the further amendment of an amended declaration or plat in ac-
8 cordance with ORS 100.005 to 100.627.

9 [(11)(a) *The board of directors, by resolution and without the further ap-*
10 *proval of the unit owners, may cause a restated declaration to be prepared and*
11 *recorded to codify individual amendments that have been adopted in accord-*
12 *ance with this section.*]

13 [(b) *A declaration restated under this subsection must:*]

14 [(A) *Include all previously adopted amendments that are in effect and may*
15 *not include any other changes except to correct scribes' errors or to conform*
16 *format and style;*]

17 [(B) *Include a statement that the board of directors has adopted a resol-*
18 *ution in accordance with paragraph (a) of this subsection and is causing the*
19 *declaration to be restated and recorded under this subsection;*]

20 [(C) *Include a reference to the recording index numbers and date of re-*
21 *coding of the initial declaration and all previously recorded amendments that*
22 *are in effect and are being codified;*]

23 [(D) *Include a certification by the chairperson and secretary of the associ-*
24 *ation that the restated declaration includes all previously adopted amendments*
25 *that are in effect, that amendments were approved by the county assessor and*
26 *tax collector if required under ORS 100.110 and that no other changes were*
27 *made except, if applicable, to correct scribes' errors or to conform format*
28 *and style;*]

29 [(E) *Be executed and acknowledged by the chairperson and secretary of the*
30 *association and recorded in the deed records of each county in which the con-*
31 *dominium is located; and*]

1 *[(F) Be approved by the commissioner, and by the county assessor and the*
2 *tax collector under ORS 100.110 if the restated declaration includes any*
3 *amendments required to be approved by the county assessor and the tax col-*
4 *lector under ORS 100.110 but not previously approved.]*

5 *[(c) The board of directors shall cause a copy of the recorded restated dec-*
6 *laration, including the recording information, to be filed with the commis-*
7 *sioner.]*

8 **(11) An amendment to a declaration or supplemental declaration,**
9 **including an amendment under this section or ORS 100.515 (5), must**
10 **conform to any format and include any additional information re-**
11 **quired by the commissioner.**

12 **SECTION 10.** ORS 100.150 is amended to read:

13 100.150. (1) With regard to a flexible condominium, before the termination
14 date, and by recording a supplemental declaration and a supplemental plat
15 in accordance with ORS 100.115 and 100.120, the declarant may:

16 (a) Reclassify all or a portion of the property designated as variable
17 **property** in the declaration and on the plat, as one or more general common
18 elements, limited common elements, units or a combination of the elements
19 and units[.];

20 (b) Unless designated in the declaration [*or*] **and** on the plat **or in a**
21 **supplemental declaration and on the supplemental plat** as
22 nonwithdrawable **variable** property, withdraw all or a portion of the vari-
23 able property from the condominium[.]; **and**

24 **(c) Subject to the requirements of ORS 100.105 (7)(m), change the**
25 **designation of all or a portion of variable property designated**
26 **withdrawable variable property in the declaration and on the plat or**
27 **in a supplemental declaration and on the supplemental plat to**
28 **nonwithdrawable variable property.**

29 (2) Until variable property is withdrawn or reclassified as provided in
30 subsection (1) of this section or under ORS 100.155 (1):

31 (a) The property [*shall be*] **is** a distinct classification of property and may

1 not be a common element or unit of the condominium.

2 (b) The property [*shall be*] **is** considered a parcel of real property and
3 [*shall be*] **is** subject to separate assessment and taxation by any taxing unit
4 in like manner as other parcels of real property.

5 (c) Unless otherwise specifically provided in the declaration or supple-
6 mental declaration:

7 (A) The declarant [*shall be responsible for the payment of*] **shall pay** all
8 assessments, taxes and other expenses of the variable property. If the
9 declarant fails to pay any expenses of any variable property designated as
10 nonwithdrawable variable property, the board of directors may elect to pay
11 the expenses and assess the unit owners as a common expense. All costs in-
12 curred may be charged to the declarant.

13 (B) Ownership or occupancy of variable property [*shall*] **does** not confer
14 any right to use the common elements of the condominium.

15 (C) Ownership or occupancy of units [*shall*] **does** not confer any right to
16 use variable property.

17 (D) Variable property [*shall not be*] **is not** subject to assessments for ex-
18 penses of the condominium.

19

20

BYLAWS

21

22 **SECTION 11. Sections 12 and 13 of this 2019 Act are added to and**
23 **made a part of ORS chapter 100.**

24 **SECTION 12. (1) An association of unit owners may adopt a resol-**
25 **ution, without specific approval of the unit owners, to prepare and**
26 **record restated bylaws under this section. The resolution must in-**
27 **clude:**

28 (a) **The words “Restated Bylaws” in the title of the bylaws;**

29 (b) **All previously adopted amendments that are recorded and in**
30 **effect;**

31 (c) **A statement that the board of directors has adopted a resolution**

1 under this subsection to restate and record amended bylaws under this
2 section;

3 (d) A reference to the recording index numbers and date of record-
4 ing of the initial bylaws and of all previously recorded amendments to
5 the bylaws that are in effect and are being codified; and

6 (e) A certification by the association that:

7 (A) The restated bylaws include all previously adopted amendments
8 that are recorded and in effect; and

9 (B) Other changes were not made to the bylaws except, if applica-
10 ble, to correct scriveners' errors or to conform format and style.

11 (2) In the preparation of restated bylaws under this section, the
12 board may not make any changes to the bylaws except as necessary
13 to correct a scriveners' error or to conform format and style.

14 (3) If the restated bylaws conflict with the recorded and effective
15 document that amended the bylaws, the document that amended the
16 bylaws controls.

17 (4) A restatement of bylaws prepared and recorded under this sec-
18 tion must be:

19 (a) Executed and acknowledged by the chairperson or president of
20 the association and by the secretary of the association;

21 (b) Approved by the Real Estate Commissioner if required under
22 section 13 of this 2019 Act; and

23 (c) Recorded in the office of the recording officer of every county
24 in which the condominium is located.

25 SECTION 13. (1)(a) For bylaws recorded before October 3, 1989, an
26 amendment to the bylaws recorded on or after October 4, 1977, and
27 before October 3, 1989, is not effective unless approved by the Real
28 Estate Commissioner.

29 (b) Within five years after the recording of bylaws recorded on or
30 after October 3, 1989, an amendment to the bylaws must be approved
31 by the Real Estate Commissioner.

1 **(2) Except as provided by subsection (4) of this section, notwith-**
2 **standing a requirement in the bylaws that any amendment to the by-**
3 **laws be approved by the commissioner, amendments adopted more**
4 **than five years after recording the initial bylaws do not require ap-**
5 **proval by the commissioner.**

6 **(3) Bylaws that are restated under this chapter on or after July 14,**
7 **2003, and within five years of the recording of the bylaws must be ap-**
8 **proved by the commissioner.**

9 **(4) Bylaws recorded on or after the effective date of this 2019 Act**
10 **may require that any or all amendments to the bylaws or restatements**
11 **of the bylaws under section 12 of this 2019 Act be approved by the**
12 **commissioner under this section.**

13 **(5) The person submitting amended bylaws or restated bylaws for**
14 **approval shall submit a filing in accordance with section 19 of this 2019**
15 **Act and the fee required by ORS 100.670.**

16 **(6) Upon compliance with subsection (5) of this section, the com-**
17 **missioner shall approve:**

18 **(a) A bylaw amendment that complies with ORS 100.410 and 100.415**
19 **and this section; and**

20 **(b) Restated bylaws that comply with section 12 of this 2019 Act and**
21 **this section.**

22 **(7) If the amended bylaw or restated bylaws approved by the com-**
23 **missioner under this section are not recorded as required in ORS**
24 **100.410 or section 12 of this 2019 Act within one year from the date of**
25 **approval by the commissioner, the approval expires and the amended**
26 **bylaw or restated bylaws must be resubmitted for approval. The**
27 **commissioner's approval must set forth the date on which the ap-**
28 **proval expires.**

29 **(8) An association of unit owners may request that the commis-**
30 **sioner approve a bylaw amendment or restated bylaws under section**
31 **12 of this 2019 Act for which approval is not required under this sec-**

1 **tion, subject to subsections (5) and (7) of this section.**

2 **(9) The association shall submit a copy of the recorded bylaw**
3 **amendment or restated bylaws to the commissioner.**

4 **SECTION 14.** ORS 100.123 is amended to read:

5 100.123. (1) **As used in this section, “document” means a declaration,**
6 **supplemental declaration or bylaws, or an amendment thereto.**

7 [(1)] (2) A declarant may amend [*the declaration or bylaws*] **a document**
8 in order to comply with requirements of the Federal Housing Administration,
9 the United States Department of Veterans Affairs, Rural Development or the
10 Farm Service Agency of the United States Department of Agriculture, the
11 Federal National Mortgage Association, the Government National Mortgage
12 Association, the Federal Home Loan Mortgage Corporation, any department,
13 bureau, board, commission or agency of the United States or the State of
14 Oregon or any corporation wholly owned, directly or indirectly, by the
15 United States or the State of Oregon that insures, guarantees or provides
16 financing for a condominium or units in a condominium.

17 [(2)] (3) If [*the need to amend the declaration or the bylaws occurs*] **a need**
18 **arises to amend a document** after turnover to the association of unit
19 owners has occurred, the amendment must be approved by the association in
20 accordance with the approval provisions of the declaration or bylaws and
21 this chapter.

22 **(4) An amendment adopted by the declarant under this section must**
23 **include:**

24 **(a) A statement of the purpose of the amendment.**

25 **(b) A reference to the specific requirements of the entity specified**
26 **in subsection (2) of this section with which the original document does**
27 **not comply.**

28 **(c) A reference to the recording index numbers and date of record-**
29 **ing of the declaration, bylaws, plat, the document being amended and**
30 **any other applicable supplemental declarations, supplemental plats or**
31 **amendments to the documents.**

1 (d) A statement that the amendment is adopted under this section.

2 (5) An amendment adopted under this section is not effective unless
3 the amendment is:

4 (a) Approved by the Real Estate Commissioner under ORS 100.110
5 or section 19 of this 2019 Act, as applicable;

6 (b) Approved by the county tax assessor if required under ORS
7 100.110; and

8 (c) Executed by the declarant, acknowledged and recorded.

9 **SECTION 15.** ORS 100.410 is amended to read:

10 100.410. (1) The declarant shall adopt **and execute** on behalf of the asso-
11 ciation of unit owners the initial bylaws that govern the administration of
12 the condominium. The bylaws [*shall*] **must be approved by the Real Estate**
13 **Commissioner and** recorded simultaneously with the declaration as an ex-
14 hibit or as a separate instrument.

15 (2) Provisions of the bylaws that regulate amendments to the by-
16 laws:

17 (a) Must be consistent with the provisions of this chapter operative
18 on the date the bylaws are recorded.

19 (b) Control the amendment process; and

20 (c) May be used to amend provisions of the bylaws related to the
21 amendment process as needed to be in compliance with the provisions
22 of this chapter in effect on the date the amendment becomes effective.

23 [(2)] (3) Unless otherwise provided in the declaration or bylaws, amend-
24 ments to the bylaws may be proposed by a majority of the board of directors
25 or by at least 30 percent of the owners.

26 [(3)] (4) [*Subject to subsections (4) and (5) of this section and ORS 100.415*
27 *(1)(t),*] An amendment of the bylaws is not effective unless the amendment
28 is:

29 (a) In compliance with subsections (5), (6) and (7) of this section and
30 ORS 100.415 (1)(t);

31 [(a)] (b) Approved by at least a majority of the unit owners; [*and*]

1 [(b)] (c) Certified by the [*chairperson and secretary of the*] association [*of*
2 *unit owners*] as [*being*] adopted in accordance with the bylaws and the pro-
3 visions of this section[,] **and** acknowledged [*in the manner provided for ac-*
4 *knowledge of instruments and recorded.*];

5 **(d) Approved by the Real Estate Commissioner if required under**
6 **section 13 of this 2019 Act; and**

7 **(e) Recorded in the office of the recording officer of each county in**
8 **which the condominium is located.**

9 [(4)] (5) In condominiums that are exclusively residential:

10 (a) The bylaws may not [*provide that greater*] **require more** than a ma-
11 jority of the unit owners [*is required*] to amend the bylaws [*except for*
12 *amendments relating to age restrictions, pet restrictions, limitations on the*
13 *number of persons who may occupy units and limitations on the rental or*
14 *leasing of units*].

15 (b) [*An amendment relating to a matter specified in*] **Notwithstanding**
16 paragraph (a) of this subsection [*is*], **amendments relating to age re-**
17 **strictions, pet restrictions, limitations on the number of persons who**
18 **may occupy units and limitations on the rental or leasing of units are**
19 not effective unless approved by at least 75 percent of the owners or a
20 greater percentage specified in the bylaws.

21 **(6) If the declaration specifies that any of the units will be used for**
22 **residential purposes, an amendment to the bylaws relating to a matter**
23 **in subsection (5)(b) of this section is not effective unless the amend-**
24 **ment is approved by 75 percent, or any greater percent specified by the**
25 **bylaws, of the owners of units that the declaration specifies will be**
26 **used for residential purposes.**

27 [(5)] (7) The bylaws may not be amended to limit or diminish any special
28 declarant right without the consent of the declarant[. *However, the declarant*
29 *may waive*] **or unless the declarant has waived** the declarant's right of
30 consent.

31 [(6)(a)] *For five years after the recording of the initial bylaws, before any*

1 *amended bylaw may be recorded, the amended bylaw must be approved by the*
2 *Real Estate Commissioner. The commissioner shall approve such amendment*
3 *if the requirements of ORS 100.415 and this section have been satisfied.]*

4 *[(b) The approval by the commissioner under paragraph (a) of this sub-*
5 *section is not required for bylaws restated under subsection (10) of this section*
6 *unless the bylaws are restated during the five-year period after the recording*
7 *of the initial bylaws.]*

8 *[(c) If the amended bylaw approved by the commissioner under this sub-*
9 *section is not recorded as required in subsection (3) of this section within one*
10 *year from the date of approval by the commissioner, the approval automatically*
11 *expires and the amended bylaw must be resubmitted for approval as provided*
12 *in this section. The commissioner's approval shall set forth the date on which*
13 *the approval expires.]*

14 *[(7) Before the commissioner approves amended bylaws or restated bylaws*
15 *under this section, the person submitting the amended bylaws or restated by-*
16 *laws shall pay to the commissioner the fee provided by ORS 100.670.]*

17 (8) Notwithstanding a provision in the bylaws, including bylaws adopted
18 [prior to] **before** July 14, 2003, that requires an amendment to be executed,
19 or executed and acknowledged, by all owners approving the amendment,
20 amendments to the bylaws [under this section become effective after approval
21 by the owners if executed and certified on behalf of the association by the
22 chairperson and secretary in accordance with subsection (3)(b) of] **take effect**
23 **in accordance with** this section.

24 (9) An amendment to the bylaws [must be] **is** conclusively presumed to
25 have been regularly adopted in compliance with all applicable procedures
26 relating to the amendment unless **the presumption is effectively rebutted**
27 **in** an action [is] brought within one year after the effective date of the
28 amendment or the face of the amendment indicates that the amendment re-
29 ceived the approval of fewer votes than required for the approval. Nothing
30 in this subsection prevents the further amendment of an amended bylaw.

31 *[(10)(a) The board of directors, by resolution and without the further ap-*

1 *proval of unit owners, may cause restated bylaws to be prepared and recorded*
2 *to codify individual amendments that have been adopted in accordance with*
3 *this section.]*

4 *[(b) Bylaws restated under this subsection must:]*

5 *[(A) Include all previously adopted amendments that are in effect, state that*
6 *the amendments were approved by the commissioner as required under this*
7 *section and state that no other changes were made except, if applicable, to*
8 *correct scriveners' errors or to conform format and style;]*

9 *[(B) Include a statement that the board of directors has adopted a resol-*
10 *ution in accordance with paragraph (a) of this subsection and is causing the*
11 *bylaws to be restated and recorded under this subsection;]*

12 *[(C) Include a reference to the recording index numbers and date of re-*
13 *coding of the initial bylaws and all previously recorded amendments that are*
14 *in effect and are being codified;]*

15 *[(D) Include a certification by the chairperson and secretary of the associ-*
16 *ation that the restated bylaws include all previously adopted amendments that*
17 *are in effect, that amendments were approved by the commissioner if required*
18 *under this section and that no other changes were made except, if applicable,*
19 *to correct scriveners' errors or to conform format and style;]*

20 *[(E) Be executed and acknowledged by the chairperson and secretary of the*
21 *association and recorded in the deed records of each county in which the con-*
22 *dominium is located; and]*

23 *[(F) If required under subsection (6) of this section, be approved by the*
24 *commissioner.]*

25 *[(c) The board of directors shall cause a copy of the recorded restated by-*
26 *laws, including the recording information, to be filed with the commissioner.]*

27 **SECTION 16.** ORS 100.415 is amended to read:

28 100.415. (1) The bylaws shall include a reference to the declaration to
29 which the bylaws relate and shall provide for:

30 (a) The organization of the association of unit owners in accordance with
31 ORS 100.405, when the initial meeting [*shall*] **must** be held and the method

1 of calling that meeting.

2 (b) If required under ORS 100.205, the formation of a transitional com-
3 mittee in accordance with such section.

4 (c) The turnover meeting required under ORS 100.210, including when the
5 meeting [*shall*] **must** be called, the method of calling the meeting, the right
6 of a unit owner under ORS 100.210 (3) to call the meeting and a statement
7 of the purpose of the meeting.

8 (d)(A) The method of calling the annual meeting and all other meetings
9 of the unit owners in accordance with ORS 100.407; and

10 (B) The percentage of owners that constitutes a quorum under ORS
11 100.408.

12 (e)(A) The election of a board of directors and the number of persons
13 constituting the board;

14 (B) The terms of office of directors;

15 (C) The powers and duties of the board;

16 (D) The compensation, if any, of the directors;

17 (E) The method of removal from office of directors **under ORS 100.417**;
18 and

19 (F) The method of filling vacancies on the board.

20 (f) The method of calling meetings of the board of directors in accordance
21 with ORS 100.420 and a statement that all meetings of the board of directors
22 of the association of unit owners shall be open to unit owners.

23 (g) The election of a chairperson[,] **or president**, a secretary, a treasurer
24 and any other officers of the association **and any qualifications required**
25 **of each officer**.

26 (h) The preparation and adoption of a budget in accordance with ORS
27 100.412.

28 (i)(A) The maintenance, repair and replacement of the common elements
29 and association property;

30 (B) Payment for the expense of maintenance, repair and replacement of
31 common elements and association property and other expenses of the condo-

1 minium in accordance with ORS 100.530; and

2 (C) The method of approving payment vouchers.

3 (j) The employment of personnel necessary for the maintenance and repair
4 of the common elements.

5 (k) The manner of collecting assessments from the unit owners.

6 (L) Insurance coverage in accordance with ORS 100.435 and the responsi-
7 bility for payment of the amount of the deductible in an association insur-
8 ance policy.

9 (m) The preparation and distribution of the annual financial statement in
10 accordance with ORS 100.480.

11 (n) The reserve account and the preparation, review and update of the
12 reserve study and the maintenance plan required under ORS 100.175.

13 (o) The filing of an Annual Report and any amendment with the Real
14 Estate Agency in accordance with ORS 100.250.

15 (p) The method of adopting and of amending administrative rules and
16 regulations governing the details of the operation of the condominium and
17 use of the common elements.

18 (q) Restrictions on and requirements respecting the enjoyment and main-
19 tenance of the units and the common elements as are designed to prevent
20 unreasonable interference with the use of their respective units and of the
21 common elements by the several unit owners.

22 (r) Any restrictions on use or occupancy of units. Any such restrictions
23 created by documents other than the bylaws may be incorporated by refer-
24 ence in the bylaws to the official records of the county in which the property
25 is located.

26 (s) The method of amending the bylaws in accordance with ORS
27 100.410[.] **and section 13 of this 2019 Act.**

28 (t) Any other details regarding the property that the declarant considers
29 desirable. However, if a provision required to be in the declaration under
30 ORS 100.105 is included in the bylaws, the voting requirements for amending
31 the declaration [*shall*] also govern the amendment of the provision in the

1 bylaws.

2 (u) In the event additional units are proposed to be annexed or created
3 pursuant to ORS 100.125 or 100.150, the method of apportioning common ex-
4 penses in the event new units are added during the course of the fiscal year.

5 (2) The bylaws may provide that the responsibility for payment of the
6 amount of the deductible may be prescribed by resolution adopted by the
7 board of directors.

8 **SECTION 17.** ORS 100.530 is amended to read:

9 100.530. (1) Unless otherwise provided in the declaration, the common
10 profits of the property [*shall be*] **are** distributed among, and the common
11 expenses [*shall be*] **are** charged to, the unit owners according to the allo-
12 cation of undivided interest of each unit in the common elements.

13 (2) [*No*] **A** unit owner, by the owner's own action, may **not** claim ex-
14 emption from liability for contribution toward the common expenses by
15 [*waiver by the owner of*] **waiving** the **owner's** use or enjoyment of any of the
16 common elements or by [*abandonment by the owner of*] **abandoning** the
17 owner's unit. An owner may not claim an offset against an assessment for
18 failure of the association to perform its obligations.

19 (3) Subject to subsection (4) of this section:

20 (a) The declarant shall pay assessments due for operating expenses on all
21 unsold units:

22 (A) From the date of conveyance of the first unit in the condominium; and

23 (B) For a staged or flexible condominium, from the date of recording the
24 applicable supplemental declaration and supplemental plat recorded pursuant
25 to ORS 100.120.

26 (b) From the date of conveyance of the first unit in the condominium, the
27 declarant shall pay assessments due for reserves on all unsold units.

28 (c) The declarant may defer payment of accrued assessments for reserves
29 required under ORS 100.175 for a unit until the date the unit is conveyed.
30 However, the declarant may not defer payment of accrued assessments for
31 reserves:

1 (A) Beyond the date of the turnover meeting provided for in the bylaws
2 in accordance with ORS 100.210; or

3 (B) If a turnover meeting is not held, the date the owners assume ad-
4 ministrative control of the association.

5 (d) Failure of the declarant to deposit the balance due within 30 days af-
6 ter the due date constitutes a violation under ORS 100.545.

7 (e) The books and records of the association shall reflect the amount the
8 declarant owes for all reserve account assessments.

9 (4)(a) The association may not assess units owned by the declarant for
10 additional capital improvements without the written consent of the declarant
11 as long as:

12 (A) In a single stage condominium, the declarant owns more than two
13 units or five percent of the units, whichever is greater.

14 (B) In a staged or flexible condominium, the declarant owns more than
15 two units or five percent of the units submitted to the provisions of this
16 chapter, whichever is greater, or the termination date has not expired.

17 (b) The declarant may waive the declarant's right of consent provided in
18 paragraph (a) of this subsection.

19 (5)(a) Except with respect to assessments for reserves required by ORS
20 100.175, a declaration or bylaws may provide that, until the turnover meet-
21 ing, the declarant may elect to defer commencement of all or part of common
22 expense assessments as to all units in a condominium or as to all units in
23 a stage of a condominium or as to all units created by a supplemental dec-
24 laration and plat pursuant to ORS 100.150.

25 (b) If a declarant so elects to defer commencement of all or part of com-
26 mon expense assessments, declarant shall pay as they accrue and be respon-
27 sible for all or part of the common expenses attributable to the condominium
28 or attributable to the stage of the condominium or the units and common
29 elements created by such supplemental declaration and plat for which as-
30 sements have been deferred, until assessments commence for all common
31 expenses.

1 (c) The declarant shall give not less than 10 days' written notice to all
2 affected unit owners prior to the commencement of common expense assess-
3 ments if such a deferral occurs.

4 (6) If the board of directors determines that any loss or cost incurred by
5 the association is the fault of one or more owners, the association may, **after**
6 **notice and a hearing before the board of directors**, assess the amount
7 of the loss or cost exclusively against the units of the responsible owners.

8
9 **DOCUMENT FILINGS AND DISCLOSURES**

10
11 **SECTION 18. Sections 19 and 20 of this 2019 Act are added to and**
12 **made a part of ORS chapter 100.**

13 **SECTION 19. (1) Submission of any document to the Real Estate**
14 **Commissioner for approval under ORS 100.110, 100.135 or 100.410 or**
15 **sections 2, 12, 13 or 20 of this 2019 Act or any other provision of this**
16 **chapter must include:**

17 (a) **The original executed document and a copy of the executed**
18 **document;**

19 (b) **Any form prescribed and furnished by the commissioner for**
20 **submission of a specified document;**

21 (c) **The fee required under ORS 100.670; and**

22 (d) **Any documents required for submission under subsections (2)**
23 **to (5) of this section.**

24 (2) **For approval of a declaration, the following must be submitted:**

25 (a) **The original adopted bylaws of the condominium and a copy of**
26 **the executed bylaws;**

27 (b) **A copy of the plat executed by the declarant and prepared in**
28 **conformance with ORS 100.115 or plat amendment prepared in con-**
29 **formance with ORS 100.116 and a certification of plat execution on a**
30 **form prescribed and furnished by the commissioner;**

31 (c) **A copy of a preliminary title report, title insurance policy or**

1 condominium guarantee that has been issued within the preceding 30
2 days, including a map showing the location of property described in
3 the report, policy or guarantee, or other evidence of title satisfactory
4 to the commissioner; and

5 (d) Unless previously submitted to the commissioner under this
6 chapter, a copy of all restrictive covenants, reservations or other
7 documents that may create an encumbrance on or limit the use of the
8 property other than those restrictions contained in the declaration or
9 bylaws.

10 (3) For approval of a supplemental declaration, any documents de-
11 scribed in subsection (2) of this section that were amended by the
12 supplemental declaration or have otherwise changed since the docu-
13 ments were previously filed under this section must be submitted.

14 (4) For approval of an amendment to a declaration, restated decla-
15 ration or plat, the following must be submitted:

16 (a) For amendments requiring consent or approval of a specific unit
17 owner or mortgagee:

18 (A) Evidence of the required consent or approval; and

19 (B) Evidence of unit ownership or interest of the mortgagee; and

20 (b) Any documents described in subsection (2) of this section that
21 were amended by the amended declaration, restated declaration or plat
22 or have otherwise changed since the documents were previously filed
23 under this section.

24 (5) For approval of an amendment to the bylaws, if the amendment
25 requires the consent or approval of a specific unit owner or mortgagee,
26 the following must be submitted:

27 (a) Evidence of the required consent or approval; and

28 (b) Evidence of unit ownership or interest of the mortgagee.

29 **SECTION 20.** (1) A declarant that proposes to submit real property
30 to the condominium form of ownership under this chapter and does
31 not intend to sell units in the condominium for which the developer

1 **must file a disclosure statement under ORS 100.635 may request ap-**
2 **proval of the declaration by:**

3 **(a) Submitting the fee required by ORS 100.670; and**

4 **(b) Filing a limited residential condominium disclosure statement**
5 **described in subsection (2) of this section with the Real Estate Com-**
6 **missioner.**

7 **(2) A limited residential condominium disclosure statement must**
8 **include general information, provided on a form prescribed and fur-**
9 **nished by the commissioner, including:**

10 **(a) The name and address of the condominium and the county in**
11 **which the condominium is located.**

12 **(b) The name, address and telephone number of the declarant and**
13 **any agent of the declarant.**

14 **(c) The original and a copy of the adopted declaration and any**
15 **supplemental declaration of the condominium that complies with ORS**
16 **100.105 and 100.120, if applicable.**

17 **(d) The original and a copy of the adopted bylaws of the condo-**
18 **minium that complies with ORS 100.415.**

19 **(e) A copy of the full size plat prepared in conformance with ORS**
20 **100.115.**

21 **(f) A copy of a preliminary title report, title insurance policy or**
22 **condominium guarantee that has been issued within the preceding 30**
23 **days, including a map showing the location of property described in**
24 **the report, policy or guarantee, or other evidence of title satisfactory**
25 **to the commissioner.**

26 **(g) A copy of all restrictive covenants, reservations and other**
27 **encumbrances on the property not evidenced in the declaration or by-**
28 **laws.**

29 **(h) A statement from the county assessor that the name of the**
30 **condominium is acceptable under ORS 100.105.**

31 **(i) An executed and acknowledged affidavit of compliance, in a form**

1 **prescribed and furnished by the commissioner that requires the**
2 **declarant to:**

3 **(A) Agree to comply with ORS 100.660, 100.705, 100.725 and 100.740**
4 **before the declarant sells any unit in the condominium;**

5 **(B) Assert understanding that violations of ORS 100.660, 100.705,**
6 **100.725 or 100.740 are subject to civil penalties and sanctions under ORS**
7 **100.900 and 100.905 and criminal penalties under ORS 100.990; and**

8 **(C) Assert understanding that violations of ORS 100.705 are subject**
9 **to ORS 646.605 to 646.656 in addition to any other sanctions provided**
10 **by law.**

11 **(3) After review of the limited residential condominium disclosure**
12 **statement filed under this section, the commissioner may require the**
13 **declarant to file additional documents and information related to the**
14 **limited residential condominium that the commissioner deems neces-**
15 **sary to review and approve the declaration under ORS 100.110.**

16 **SECTION 21.** ORS 100.635 is amended to read:

17 100.635. **(1)** Except as provided by ORS 100.660 and 100.665, prior to ne-
18 gotiating within this state for the sale of a condominium unit located in
19 another state, or prior to the sale of any condominium unit located within
20 this state, the developer shall file [*the following information*] with the Real
21 Estate Commissioner, **in any form prescribed by the commissioner:**

22 [(1)] **(a)** General information on the condominium, including:

23 [(a)] **(A)** The name and address of the condominium and the county in
24 which the condominium is located; and

25 [(b)] **(B)** The name, address and telephone number of the developer.

26 [(2)] **(b)** Two copies of the disclosure statement for the condominium
27 prepared in accordance with ORS 100.655.

28 [(3)] **(c)** The documents for and other information on the condominium
29 as required by ORS 100.640.

30 [(4)] **(2)** The filing [*shall be accompanied by a*] **must include the fee** [*as*
31 *provided in*] **required by** ORS 100.670.

1 **SECTION 22.** ORS 100.640 is amended to read:

2 100.640. (1) The following documents and information [*shall*] **must** be
3 submitted to the Real Estate Commissioner as part of the filing required
4 under ORS 100.635:

5 [(1)] (a) A copy of the proposed or recorded declaration or supplemental
6 declaration of condominium ownership drawn in conformance with ORS
7 100.105 or 100.120, or the law applicable in the state where the condominium
8 was created;

9 [(2)] (b) A copy of the proposed or recorded bylaws drawn in conformance
10 with ORS 100.415 or the law applicable in the state where the condominium
11 was created;

12 [(3)] (c) A copy of the full size plat prepared in conformance with ORS
13 100.115 (1) or the law applicable in the state where the condominium was
14 created, or a copy of the **proposed** site plan **showing unit designations**
15 **and locations**;

16 [(4)] (d) A statement from the county assessor or county surveyor that the
17 name for the condominium is acceptable under ORS 100.105 (6);

18 [(5)] (e) A copy of a preliminary title report, title insurance policy or
19 condominium guarantee that has been issued within the preceding 30 days,
20 including a map showing the location of property described in the report,
21 policy or guarantee or other evidence of title satisfactory to the commis-
22 sioner;

23 [(6)] (f) A copy of all restrictive covenants, reservations or other docu-
24 ments that may create an encumbrance on or limit the use of the property
25 other than those restrictions contained in the declaration or bylaws;

26 [(7)] (g) **Subject to subsection (2) of this section and unless the in-**
27 **formation is contained in the disclosure statement,** a copy of the reserve
28 study required by ORS 100.175 and other sources of information that serve
29 as a basis for calculating reserves in accordance with ORS 100.175[, *unless*
30 *the information is contained in the disclosure statement*];

31 [(8) *The following sample forms:*]

1 [(a)] **(h) A sample form of a** unit sales agreement, including the notice
2 to purchaser of cancellation rights in accordance with ORS 100.730 and
3 100.740, the statement required by ORS 93.040 (2) and any warranty required
4 under ORS 100.185; [and]

5 [(b)] **(i) A sample form of** a receipt for documents required under ORS
6 100.725;

7 [(9) *If required by ORS 100.680:*]

8 [(a)] **(j) A copy of the escrow agreement** drawn in conformance with ORS
9 100.680 and executed by both the declarant and the escrow agent[.] **if re-**
10 **quired by ORS 100.680;**

11 **(k) If individual escrow agreements or instructions [are to] will** be exe-
12 cuted by the purchaser **and are required by ORS 100.680**, other than the
13 standard escrow instruction required by the escrow agent, [submit] **a sample**
14 **form and a letter from the escrow agent, agreeing to the establishment of the**
15 **escrows and the procedure set forth in the sample form; [and]**

16 [(b)] **(L) A unit sales agreement** drawn in conformance with [ORS
17 100.680] **section 29 of this 2019 Act;**

18 [(10)] **(m) If any of the sales will be by means of an installment contract**
19 **of sale:**

20 [(a)] **(A) A copy of the escrow agreement or escrow instructions** executed
21 **by the developer and the escrow agent providing for the establishment of**
22 **collection escrows and the deposit of documents in accordance with ORS**
23 **100.720; and**

24 [(b)] **(B) The proposed installment contract of sale form, if available;**

25 [(11)] **(n) Any other documents by which the purchasers will be bound;**

26 [(12)] **(o) Any report or disclosure statement issued for the condominium,**
27 **by the federal government and any other state; and**

28 [(13)] **(p) A statement of any additional facts or information [which] that**
29 **the developer desires to submit to the commissioner.**

30 **(2) If a disclosure statement required under ORS 100.655 must be**
31 **adopted and issued before real property may be submitted to the con-**

1 **dominium, a reserve study under ORS 100.175 is not required if the**
2 **disclosure statement includes the information specified in ORS 100.655**
3 **(1)(h)(C).**

4 **SECTION 23.** ORS 100.645 is amended to read:

5 100.645. (1) The information required by ORS 100.635 [*shall*] **must** be kept
6 current by the developer. Any material change in the information furnished
7 to the Real Estate Commissioner shall be reported by the developer within
8 10 days after the change occurs. The report [*shall be*] **must:**

9 **(a) Be on a form prescribed and furnished by the commissioner for**
10 **submission of specified information.**

11 **(b) Include a revised disclosure statement that reflects any changes**
12 **in the information described in ORS 100.655.**

13 **(c) Be** accompanied by a filing fee as required by ORS 100.670.

14 (2) A developer [*shall be*] **is** responsible for the accuracy of and for pro-
15 viding all information required by ORS 100.635 and any information required
16 under this section for as long as the developer retains any unsold interest
17 in the condominium to which the information pertains.

18 **(3) After review of the report submitted under this section, the**
19 **commissioner may:**

20 **(a) Require the developer to submit any other documents and in-**
21 **formation relating to the report the commissioner considers necessary**
22 **in order to determine the report complies with this chapter.**

23 **(b) Require the developer to issue a revised disclosure statement.**

24 **SECTION 24.** ORS 100.655 is amended to read:

25 100.655. (1) The disclosure statement submitted to the Real Estate Com-
26 missioner as part of a filing under ORS 100.635 [*shall*] **must** contain the
27 following information:

28 (a) The name and address of the condominium, and the name, address and
29 telephone number of the developer[;].

30 (b) A general narrative description of the condominium stating the total
31 number of units, a description of the types of units, the total number of units

1 that may be included in the condominium pursuant to ORS 100.105 (2), and
2 a precise statement of the nature of the interest which is being offered[;].

3 **(c) A reference to the recording index numbers and date of record-**
4 **ing of the declaration, bylaws and plat with the county recording of-**
5 **ficer or a statement that the proposed condominium is not yet**
6 **submitted to the condominium form of ownership.**

7 [(c)] **(d)** If at the time of filing:

8 (A) The construction of the project is not completed, general disclosure
9 of the status of construction and the actual or scheduled dates of completion
10 of buildings, recreational facilities and other common elements, including a
11 statement describing any recreational facilities or improvements to the
12 common elements that the developer reserves the right to develop or prom-
13 ises to develop, or a statement that there are no such facilities or improve-
14 ments; or

15 (B) The construction of the project is completed, the actual dates of
16 completion of buildings, recreational facilities and other common elements
17 if known by the developer[;].

18 [(d)] **(e)** The nature and significant terms of any financing offered by the
19 developer to purchasers of the condominium units[;].

20 [(e)] **(f)** Copies of any warranties for structural elements and mechanical
21 and other systems or a brief description of such warranties[;].

22 [(f)(A)] **(g)(A)** A current or projected budget of the association of unit
23 owners for the operation and maintenance and any other common expenses
24 of the condominium, including an amount for a subsidy of the association
25 by the declarant, if any, by a contribution of funds, goods or services;

26 (B) A brief statement of the method of determining liability for common
27 expenses and the right to common profits; and

28 (C) The following notice in at least 12-point type [*that is either*] **and in**
29 **all capitals or boldface:**

30

31 NOTICE TO PROSPECTIVE PURCHASERS

1 THE PROJECTION OF THE BUDGET OF THE ASSOCIATION OF UNIT
2 OWNERS FOR THE OPERATION AND MAINTENANCE AND OTHER
3 COMMON EXPENSES OF THE CONDOMINIUM IS ONLY AN ESTIMATE,
4 PREPARED WITH DUE CARE.

5 _____
6 [(g)] **(h)** If a provision for reserves under ORS 100.175 is included in the
7 budget disclosed under paragraph [(f)] **(g)** of this subsection:

8 (A) A statement identifying the information constituting the basis for the
9 reserve assessment under ORS 100.175; [and]

10 (B) A statement that the information constituting the basis for the re-
11 serve assessment identified under ORS 100.175 is available for review upon
12 written request to the declarant or the designated person, unless included in
13 the disclosure statement; **and**

14 **(C) If the reserve study is not submitted with the filing required by**
15 **ORS 100.635, the following notice in at least 12-point type and in all**
16 **capitals or boldface:**

17 _____

18 **NOTICE TO PROSPECTIVE PURCHASERS**

19
20 **THE RESERVE STUDY IS NOT CURRENTLY AVAILABLE FOR RE-**
21 **VIEW. THE REAL ESTATE COMMISSIONER MAY NOT APPROVE**
22 **THE DECLARATION FOR RECORDING UNLESS THE RESERVE**
23 **STUDY HAS BEEN SUBMITTED. WHEN COMPLETED, THE RE-**
24 **SERVE STUDY WILL BE AVAILABLE FOR REVIEW AT THE OF-**
25 **FICE OF THE REAL ESTATE COMMISSIONER OR UPON WRITTEN**
26 **REQUEST TO THE DECLARANT OR DESIGNATED PERSON. PRO-**
27 **SPECTIVE PURCHASERS SHOULD CONTACT THE DECLARANT**
28 **REGARDING THE ANTICIPATED AVAILABILITY OF THE RESERVE**
29 **STUDY OR ANY OTHER INFORMATION ABOUT THE PROPOSED**
30 **CONDOMINIUM.**

31 _____

1 [(h)] (i) In the case of a conversion condominium, a statement of:

2 (A) The present condition of all structural components and major me-
3 chanical and utility installations in the condominium, including the approx-
4 imate date of construction and a reasonable estimate of the remaining useful
5 life of, at a minimum, the roof, siding, plumbing, electrical, HVAC system,
6 asphalt, sidewalks and decks;

7 (B) **In at least 12-point type and in all capitals or boldface**, whether
8 [or not] the assessment of conditions under subparagraph (A) of this
9 paragraph[, *which shall be in at least 12-point type that is all capitals or*
10 *boldface,*] was prepared by a registered engineer, registered architect or cer-
11 tified home inspector; and

12 (C) The statutory procedure required to create a conversion
13 condominium[;].

14 [(i)] (j) A cross-reference to the portions of the declaration, any supple-
15 mental declaration and bylaws containing the general power and authority
16 of the board of directors, the method of apportionment of voting rights
17 among the [*members of the association of*] unit owners and a statement of the
18 nature and extent of control of the board of directors retained by the devel-
19 oper by voting rights or otherwise[;].

20 [(j)] (k) A list of the documents by which purchasers may be bound, in-
21 cluding the declaration, bylaws, ground leases, management agreement,
22 easements, covenants, restrictions and conditions[;].

23 [(k)] (L) A statement of whether there are any restrictions on alienation
24 of units or any use or occupancy restrictions, such as limitations on resi-
25 dential or commercial use, pets, age of occupants or number of occupants,
26 and a cross-reference to those portions of the declaration, any supplemental
27 declaration, bylaws or any other document containing the principal pro-
28 visions relating to those restrictions[; and].

29 [(L)] (m) If the condominium is a staged condominium[:],

30 [(A)] whether the declarant reserves the right to annex additional prop-
31 erty to the condominium pursuant to ORS 100.125 and, if so:

1 [(i)] (A) The maximum number of units;

2 [(ii)] (B) The date after which annexation right terminates;

3 [(iii)] (C) The description of additional common elements declarant re-
4 serves right to annex to the property and whether such common elements
5 might substantially increase the proportionate amount of common expenses
6 by current unit owners; and

7 [(iv)] (D) The effect of annexation of additional units on allocation of
8 interest in the common elements and voting rights.

9 [(B)] (n) If the condominium or any stage being filed under ORS 100.635
10 contains or may contain any variable property, a statement of the rights re-
11 served by the declarant under ORS 100.150 (1) and the results specified in
12 ORS 100.155 if such rights are not exercised.

13 (o) **Any additional information required under ORS 100.675.**

14 (2) In lieu of the disclosure statement required under subsection (1) of this
15 section, the commissioner may accept a disclosure report issued or approved
16 by another state or governmental agency.

17 [(3) *No disclosure statement is required for condominiums described in*
18 *ORS 100.660.*]

19 [(4)] (3) The declarant is not liable to the association or the owners with
20 respect to a statement of condition or estimate of useful life contained in the
21 disclosure statement if:

22 (a) The declarant did not have actual knowledge of any inaccuracies in
23 the statement at the time of delivery of the disclosure statement to the pur-
24 chaser; and

25 (b) The declarant relied upon reports prepared by registered engineers or
26 registered architects in making the statement or, if the condominium has
27 four or fewer units, reports prepared by registered engineers, registered ar-
28 chitects or certified home inspectors.

29 **SECTION 25.** ORS 100.660 is amended to read:

30 100.660. [*A developer of a condominium located in this state, that consists*
31 *exclusively of units to be used for nonresidential purposes or that consists of*

1 *units to be offered for sale as a security under ORS 59.005 to 59.505, 59.710 to*
2 *59.830, 59.991 and 59.995, shall submit to the Real Estate Commissioner a fil-*
3 *ing that consists of:]*

4 **(1) As used in this section, “nonresidential condominium” means a**
5 **condominium in which all units are available exclusively for nonresi-**
6 **dential uses or all units are to be offered for sale as a security under**
7 **ORS 59.005 to 59.505.**

8 **(2) A declarant that proposes to submit real property to the condo-**
9 **minium form of ownership under this chapter as a nonresidential**
10 **condominium shall file with the Real Estate Commissioner nonresi-**
11 **dential condominium documentation described in subsection (3) of this**
12 **section and pay the fee required by ORS 100.670.**

13 *[(1)]* **(3) The nonresidential condominium documentation must in-**
14 **clude general information on the condominium, provided on a form pre-**
15 **scribed and furnished by the Real Estate Commissioner, including:**

16 (a) The name and address of the condominium and the county in which
17 the condominium is located; *[and]*

18 (b) The name, address and telephone number of the *[developer]* **declarant**
19 and any agent of the *[developer; and]* **declarant;**

20 *[(2) The following documentation:]*

21 *[(a)]* **(c) The original executed declaration [or supplemental declaration]**
22 **and a copy [thereof, drawn in conformance] that complies with ORS 100.105**
23 **[and 100.120], if applicable;**

24 *[(b)]* **(d) The original executed bylaws[,] and a copy [thereof, drawn in**
25 **conformance] that complies with ORS 100.415;**

26 *[(c)]* **(e) A copy of the full size plat prepared in conformance with ORS**
27 **100.115 and accompanied by a certificate of plat execution as required**
28 **under ORS 100.110 (4)(f);**

29 *[(d)]* **(f) A copy of a current preliminary title report or title insurance**
30 **policy or condominium guarantee that [has been] was issued within the pre-**
31 **ceding 30 days, including a map showing the location of property [described**

1 *therein,]* **that conforms to the description in the surveyor's certificate**
2 **on the plat** or other evidence of title satisfactory to the commissioner;

3 [(e)] **(g)** A copy of all restrictive covenants, reservations or other docu-
4 ments containing provisions that may create an encumbrance on or limit the
5 use of the property other than those restrictions contained in the declara-
6 tion, supplemental declaration or bylaws; and

7 [(f)] **(h)** A statement from the county assessor that the name for the
8 condominium is acceptable under ORS 100.105 (5).

9 **(4) After review of the nonresidential condominium documentation**
10 **filed under this section, the commissioner may require the declarant**
11 **to file additional documents and information related to the nonresi-**
12 **dential condominium documentation that the commissioner deems**
13 **necessary to review and approve the documentation.**

14 **SECTION 26.** ORS 100.675 is amended to read:

15 100.675. [(1)(a) *Upon receipt of an informational filing, submitted as re-*
16 *quired under ORS 100.005 to 100.910 and the prescribed filing fee, within five*
17 *working days after receipt of the filing the Real Estate Commissioner shall*
18 *inventory the filing and acknowledge whether the filing contains all required*
19 *documents and information. If the filing contains all required documents and*
20 *information, the commissioner shall issue a notice acknowledging their*
21 *receipt.]*

22 [(b) *If the filing under paragraph (a) of this subsection does not contain the*
23 *required documents and information, the commissioner shall issue a notice of*
24 *receipt of a partial filing, a statement itemizing the required documents and*
25 *information that must be submitted, and a statement that the filing will not*
26 *be acknowledged as containing all required documents and information until*
27 *the itemized documents and information have been received and inventoried*
28 *by the commissioner.]*

29 [(c) *Within 45 days from the date that the filing has been inventoried and*
30 *acknowledged as containing all the required documents and information, the*
31 *commissioner shall review the filing to determine whether the documents and*

1 *information submitted conform to the statutory requirements of ORS 100.005*
2 *to 100.910 and, upon determination of their conformity shall adopt and issue*
3 *the disclosure statement filed under ORS 100.655.]*

4 *[(2) For any document filed with the commissioner that requires the*
5 *commissioner's approval under ORS 100.005 to 100.910, the commissioner shall*
6 *issue a notice of receipt for the filing within five days following receipt by the*
7 *commissioner of the document. The document shall be considered approved by*
8 *the commissioner on the expiration of 45 days following issuance by the com-*
9 *missioner of the notice of receipt, unless within the 45-day period:]*

10 *[(a) The commissioner notifies the person making the filing in writing of*
11 *the portions of the document that do not comply with the applicable require-*
12 *ments of ORS 100.005 to 100.910; or]*

13 *[(b) The commissioner notifies the person making the filing in writing that*
14 *the document complies with the applicable requirements of ORS 100.005 to*
15 *100.910 and is approved.]*

16 **(1) Within five working days after receipt of the prescribed filing**
17 **fee under ORS 100.670 and information filed under ORS 100.635 or**
18 **100.660 or section 13 or 20 of this 2019 Act, the Real Estate Commis-**
19 **sioner shall inventory the filing and determine whether the filing in-**
20 **cludes all required information and documentation and designate the**
21 **filing as:**

22 **(a) Complete, if the commissioner determines that all required in-**
23 **formation and documentation is included; or**

24 **(b) Partially complete, if the commissioner determines that all re-**
25 **quired information and documentation is not included.**

26 **(2) If the commissioner designates the filing as complete under**
27 **subsection (1)(a) of this section, the commissioner shall issue a notice**
28 **of complete filing to the declarant.**

29 **(3) If the commissioner designates the filing as partially complete**
30 **under subsection (1)(b) of this section, the commissioner shall issue**
31 **to the declarant a notice of partial filing that:**

1 (a) Itemizes the information and documentation that must be filed;
2 and

3 (b) States that the filing will not be designated as complete until
4 the commissioner receives the itemized information and documenta-
5 tion required.

6 (4) Within 45 days after the commissioner designates a filing as
7 complete under subsection (1)(a) of this section, the commissioner
8 shall review the filing and:

9 (a) Notify the declarant or developer in writing and specify what
10 information or documentation in the filing does not meet the applica-
11 ble requirements under this chapter or what additional information is
12 necessary to review and approve the filing; or

13 (b) Approve the filing.

14 (5) If the commissioner does not comply with subsection (4) of this
15 section within 45 days after the date the filing is designated as com-
16 plete, the filing is deemed approved.

17 (6) Upon approving the filing under this section, the commissioner
18 shall:

19 (a) If the filing is made under ORS 100.635, adopt and issue the
20 disclosure statement under ORS 100.655; and

21 (b) Provide written notice of the approval to the person making the
22 filing.

23 **SECTION 27.** ORS 100.680 is amended to read:

24 100.680. (1) Unless the developer of a condominium has complied with
25 [subsections] **subsection** (2) [and (3)] of this section, the developer and a
26 purchaser may not enter into a unit sales agreement before the recording of
27 the declaration or supplemental declaration and plat under ORS 100.115 or,
28 if the condominium is located outside of this state, before the condominium
29 has been created under the laws of the jurisdiction within which the condo-
30 minium is located.

31 (2) Any purchaser's funds, the unit sales agreement, any notes or security

1 documents and any loan commitments [*shall*] **must** be placed in an escrow
2 located within this state with a person or firm authorized under ORS 696.505
3 to 696.582. The escrow instructions may not allow distribution of the
4 purchaser's funds until the declaration or any applicable supplemental dec-
5 laration is recorded and the legal title or other interest bargained for has
6 been transferred to the purchaser as provided in the unit sales agreement.
7 If any funds of the purchaser are invested, the funds [*shall*] **must** be invested
8 in federally insured accounts or other investments approved by the Real Es-
9 tate Commissioner. If the developer defaults under the unit sales agreement,
10 the purchaser's funds held in escrow and all income earned from investment
11 of the funds held in escrow [*shall*] **must** be returned.

12 [(3) *A unit sales agreement shall contain:*]

13 [(a) *The unit designation;*]

14 [(b) *The full amount of the purchase price, including the amount and form*
15 *of earnest money paid by the purchaser;*]

16 [(c) *The name and address of the escrow agent to hold the purchaser's*
17 *funds and a reference to the escrow instructions controlling the escrow;*]

18 [(d) *If the purchaser's funds are to be invested, the name of the financial*
19 *institution where the funds will be deposited and to whom any interest*
20 *earnings will accrue under all possible circumstances;*]

21 [(e) *The date of closing with any conditions and requirements of closing;*]

22 [(f) *The closing procedure;*]

23 [(g) *Any authority of the developer to terminate the sale and, in the case*
24 *of termination, any forfeiture provisions;*]

25 [(h) *If the developer specifies any contingency, the date other than closing*
26 *when all purchaser's funds and interest earnings will be returned to the pur-*
27 *chaser if the contingency is not met;*]

28 [(i) *Provision that the purchaser will recover any funds paid to the devel-*
29 *oper and any interest earnings upon default by the developer;*]

30 [(j) *Any rights reserved by the developer to modify the declaration, any*
31 *supplemental declaration, bylaws, plat or other documents by which the pur-*

1 *chaser is or will be bound;]*

2 *[(k) Notice to the purchaser of cancellation rights under ORS 100.730 and*
3 *100.740;]*

4 *[(L) For the sale of newly constructed units, any express warranty required*
5 *under ORS 100.185; and]*

6 *[(m) Any other provisions deemed necessary by the developer and*
7 *purchaser.]*

8 *[(4)]* **(3)** In lieu of the requirements of subsection (2) of this section, the
9 commissioner may approve any alternative requirement or method *[which]*
10 **that** the commissioner finds will *[assure]* **ensure** the same protection to the
11 purchaser as the protection provided by the escrow.

12 **SECTION 28. Section 29 of this 2019 Act is added to and made a part**
13 **of ORS chapter 100.**

14 **SECTION 29. A unit sales agreement must contain:**

15 **(1) The unit designation;**

16 **(2) The full amount of the purchase price, including the amount and**
17 **form of earnest money paid by the purchaser;**

18 **(3) If required under ORS 100.680, the name and address of the**
19 **escrow agent to hold the purchaser's funds and a reference to the**
20 **escrow instructions controlling the escrow;**

21 **(4) If the purchaser's funds are to be invested, the name of the fi-**
22 **ancial institution where the funds will be deposited and to whom any**
23 **interest earnings will accrue under all possible circumstances;**

24 **(5) The date of closing with any conditions and requirements of**
25 **closing;**

26 **(6) The closing procedure;**

27 **(7) Any authority of the developer to terminate the sale and, in the**
28 **case of termination, any forfeiture provisions;**

29 **(8) If the developer specifies any contingency, the date other than**
30 **closing when all purchaser's funds and interest earnings will be re-**
31 **turned to the purchaser if the contingency is not met;**

1 **(9) A provision that the purchaser will recover any funds paid to the**
2 **developer and any interest earnings upon default by the developer;**

3 **(10) Any rights reserved by the developer to modify the declaration,**
4 **any supplemental declaration, bylaws, plat or other documents by**
5 **which the purchaser is or will be bound;**

6 **(11) Notice to the purchaser of cancellation rights under ORS 100.730**
7 **and 100.740;**

8 **(12) For the sale of newly constructed units, any express warranty**
9 **required under ORS 100.185; and**

10 **(13) Any other provisions deemed necessary by the developer and**
11 **purchaser.**

12 **SECTION 30.** ORS 100.705 is amended to read:

13 100.705. (1) Except as provided in ORS 100.665[, *no developer or agent of*
14 *a]* **or section 20 of this 2019 Act, a developer, or an agent of the devel-**
15 **oper [shall] may not** enter into a unit sales agreement prior to the issuance
16 of the disclosure statement for the condominium.

17 (2) A copy of the disclosure statement for a condominium [shall] **must**
18 be given to the prospective purchaser of a unit in the condominium by the
19 developer or an agent of the developer, not later than the date the unit sales
20 agreement is fully executed by all parties. The developer shall take a receipt
21 from the prospective purchaser upon delivery of a copy of the disclosure
22 statement, and such receipts [shall] **must** be kept on file within this state
23 in the possession of the developer or the agent of the developer subject to
24 inspection by the Real Estate Commissioner for a period of three years from
25 the date the receipt is taken.

26 (3) The disclosure statement [shall] **may** not be used for advertising pur-
27 poses unless it is used in its entirety. No portion of the disclosure statement
28 [shall] **may** be underscored, highlighted, italicized or printed in larger or
29 heavier type than the balance of the statement unless the true copy of the
30 statement so emphasizes such portion.

31 (4) The commissioner may furnish at cost copies of the disclosure state-

1 ment for the use of developers.

2 (5) Violations of this section [*shall be*] **are** subject to the provisions of
3 ORS 336.184 and 646.605 to 646.656, in addition to other sanctions provided
4 by law.

5

6

MISCELLANEOUS PROVISIONS

7

8 **SECTION 31.** ORS 100.405 is amended to read:

9 100.405. (1)(a) An association of unit owners [*shall*] **must** be organized to
10 serve as a means through which the unit owners may take action with regard
11 to the administration, management and operation of the condominium.

12 (b) The association of a condominium created on or after September 27,
13 2007, [*shall*] **must** be organized:

14 (A) As a corporation for profit or a nonprofit corporation; or

15 (B) If the condominium consists of four or fewer units, excluding units
16 used for parking, storage or other use ancillary to a unit, as an unincor-
17 porated association, corporation for profit or a nonprofit corporation.

18 (c) If the association is incorporated[,]:

19 (A) The name of the association [*shall*] **must** include the complete name
20 of the condominium.

21 (B) **The articles of incorporation must be consistent with the dec-**
22 **laration and bylaws.**

23 (d) **For an association described in paragraph (b)(A) of this sub-**
24 **section, the association must be incorporated before conveyance of the**
25 **first individual unit unless all units in the condominium are conveyed**
26 **or transferred to one person in one transaction.**

27 [(d)] (e) Notwithstanding a provision in the declaration or bylaws of a
28 condominium created before September 27, 2007, that states that the associ-
29 ation [*shall*] **must** be unincorporated or that requires approval of owners to
30 incorporate as a nonprofit corporation under ORS chapter 65, an unincor-
31 porated association may be incorporated as a nonprofit corporation under

1 ORS chapter 65 if the board of directors adopts a resolution that states the
2 association will be incorporated.

3 [(e)] (f) A separate association is not created when an unincorporated
4 association formed under this section is incorporated, reinstated after ad-
5 ministrative dissolution under ORS 60.654 or 65.654 or again incorporated
6 following dissolution. The association automatically continues and, without
7 any further action by incorporators, directors or officers that may otherwise
8 be required under Oregon corporation laws:

9 (A) The incorporated association has all of the property, powers and ob-
10 ligations of the association that existed immediately prior to incorporation
11 in addition to the powers and obligations under Oregon corporation laws.

12 (B) The bylaws in effect immediately prior to incorporation or rein-
13 statement constitute the bylaws of the incorporated association.

14 (C) The members of the board of directors and the officers continue to
15 serve as directors and officers.

16 [(f)] (g) If an incorporated association is at any time dissolved, whether
17 inadvertently or deliberately:

18 (A) The association continues as an unincorporated association under the
19 same name.

20 (B) The unincorporated association has all of the property, powers and
21 obligations of the incorporated association existing immediately prior to
22 dissolution.

23 (C) The unincorporated association [shall be] **is** governed by the bylaws,
24 and to the extent applicable, the articles of incorporation of the incorporated
25 association.

26 (D) The board of directors and the officers serving immediately prior to
27 the dissolution continue to serve as the directors and officers of the unin-
28 corporated association.

29 (2) Membership in the association of unit owners [shall be] **is** limited to
30 unit owners.

31 (3) The affairs of the association [shall be] **are** governed by a board of

1 directors as provided for in the bylaws adopted under ORS 100.410.

2 (4) Subject to the provisions of the condominium's declaration and bylaws,
3 and whether or not the association is unincorporated, the association may:

4 (a) Adopt and amend bylaws and rules and regulations;

5 (b) Adopt and amend budgets for revenues, expenditures and reserves and
6 levy and collect assessments for common expenses from unit owners;

7 (c) Hire and terminate managing agents and other employees, agents and
8 independent contractors;

9 (d) Defend against any claims, proceedings or actions brought against it;

10 (e) Subject to subsection (11) of this section, initiate or intervene in liti-
11 gation or administrative proceedings in its own name, and without joining
12 the individual unit owners, in the following:

13 (A) Matters relating to the collection of assessments and the enforcement
14 of declarations and bylaws;

15 (B) Matters arising out of contracts to which the association is a party;

16 (C) Actions seeking equitable or other nonmonetary relief regarding
17 matters that affect the common interests of the unit owners, including but
18 not limited to the abatement of nuisance;

19 (D) Matters relating to or affecting common elements, including but not
20 limited to actions for damage, destruction, impairment or loss of use of any
21 common element;

22 (E) Matters relating to or affecting the units or interests of unit owners
23 including but not limited to damage, destruction, impairment or loss of use
24 of a unit or portion thereof, if:

25 (i) Resulting from a nuisance or a defect in or damage to a common ele-
26 ment; or

27 (ii) Required to facilitate repair to any common element; and

28 (F) Any other matter to which the association has standing under law or
29 pursuant to the declaration, bylaws or any articles of incorporation;

30 (f) Make contracts and incur liabilities;

31 (g) Regulate the use, maintenance, repair, replacement and modification

1 of common elements;

2 (h) Cause additional improvement to be made as a part of the common
3 elements;

4 (i) Acquire by purchase, lease, devise, gift or voluntary grant real or
5 personal property or any interest therein and take, hold, possess and convey
6 real or personal property or any interest therein;

7 (j) Impose and receive any payments, fees or charges for the use, rental
8 or operation of the common elements;

9 (k) Impose charges for late payments of assessments, attorney fees for
10 collection of assessments and, after giving written notice and an opportunity
11 to be heard, levy reasonable fines for violations of the declaration, bylaws
12 and rules and regulations of the association, provided that the charge im-
13 posed or fine levied by the association is based:

14 (A) On a schedule contained in the declaration or bylaws, or an amend-
15 ment to either that is delivered to each unit, mailed to the mailing address
16 of each unit or mailed to the mailing addresses designated in writing by the
17 owners; or

18 (B) On a resolution adopted by the board of directors or the association
19 that is delivered to each unit, mailed to the mailing address of each unit or
20 mailed to the mailing addresses designated by the owners in writing;

21 (L) Adopt rules regarding the termination of utility services paid for out
22 of assessments of the association and access to and use of recreational and
23 service facilities available to unit owners that must provide for written no-
24 tice and an opportunity to be heard before the association may terminate the
25 rights of any owners to receive such benefits or services until the correction
26 of any violation covered by the rule has occurred;

27 (m) Impose reasonable charges for the preparation and recordation of
28 amendments to the declaration or statements of assessments;

29 (n) Assign its right to future income, including the right to receive com-
30 mon expense assessments;

31 (o) Provide for the indemnification of its officers and executive board, as

1 may be limited by ORS 61.218 (3)(d) (1987 Replacement Part), and maintain
2 directors' and officers' liability insurance;

3 (p) Exercise any other powers conferred by the declaration or bylaws;

4 (q) Exercise all other powers that may be exercised in this state by any
5 such association; and

6 (r) Exercise any other powers determined by the association to be neces-
7 sary and proper for the governance and operation of the association.

8 (5) Subject to subsection (6) of this section, unless expressly limited or
9 prohibited by the declaration, the association has the authority to grant,
10 execute, acknowledge and deliver on behalf of the unit owners leases, ease-
11 ments, rights of way, licenses and other similar interests affecting the gen-
12 eral common elements and consent to vacation of roadways within and
13 adjacent to the condominium.

14 (6)(a)(A) Except as provided in subparagraph (B) of this paragraph, the
15 granting of a lease, easement, right of way, license or other similar interest
16 pursuant to subsection (5) of this section [*shall be*] **must first be** approved
17 by at least 75 percent of owners present at a meeting of the association or
18 with the consent of at least 75 percent of all owners solicited by any means
19 the board of directors determines is reasonable. If a meeting is held to con-
20 duct the vote, the meeting notice must include a statement that the approval
21 of the grant will be an item of business on the agenda of the meeting.

22 (B) Unless the declaration otherwise provides:

23 (i) The granting of a lease, easement, right of way, license or other simi-
24 lar interest affecting the general common elements for a term of two years
25 or less shall require the approval of a majority of the board of directors.

26 (ii) The granting of a lease, easement, right of way, license or other sim-
27 ilar interest affecting the general common elements for a term of more than
28 two years to a public body, as defined in ORS 174.109, [*or*] to a utility [*or*],
29 **to a communications company or to any other person** for installation and
30 maintenance of power, gas, electric, water or other utility and communi-
31 cation lines and services requires the approval of a majority of the board of

1 directors.

2 (iii) The granting of a lease, easement, license or other similar interest
3 to an owner for the exclusive use of a part of the general common elements
4 to which the owner's unit provides primary access requires the approval of
5 a majority of the board of directors. If the approval by the board of directors
6 includes the right of the owner to make improvements to the general common
7 elements to which the owner is being granted exclusive use, ORS 100.535
8 applies to the general common elements to the same extent that ORS 100.535
9 applies to a unit, including the right of the board under ORS 100.535 to re-
10 quire an owner, at owner's expense, to submit an opinion of a registered ar-
11 chitect or registered professional engineer that the proposed improvement
12 will not impair the structural integrity or mechanical systems of the condo-
13 minium.

14 (b) Unless the declaration otherwise provides, the consent to vacation of
15 roadways within and adjacent to the condominium must be approved first
16 by at least a majority of unit owners present and voting at a meeting of the
17 association or with consent of at least a majority of all owners solicited by
18 any means the board of directors determines is reasonable. If a meeting is
19 held to conduct the vote, the meeting notice must include a statement that
20 the roadway vacation will be an item of business on the agenda of the
21 meeting.

22 (7) The instrument granting an interest or consent pursuant to subsection
23 (5) of this section [*shall*] **must** be executed by [*the chairperson and secretary*
24 *of*] the association and acknowledged [*in the manner provided for acknowl-*
25 *edgment of such instruments by such officers*] and shall state that such grant
26 or consent was approved, if appropriate, by at least the percent of owners
27 required under subsection (6) of this section.

28 (8)(a) Unless expressly prohibited by the declaration, any action permitted
29 under subsections (5) and (6) of this section regarding a general common
30 element may be taken with respect to any limited common element as pro-
31 vided in this subsection.

1 (b) Except as provided in paragraph (c) of this subsection, the easement,
2 lease or other action under this section requires the approval or consent of
3 the owner of the unit to which the use of the limited common element is
4 reserved and the holder of a first mortgage or first trust deed affecting the
5 unit. However, if the use of the limited common element is reserved for five
6 or more units:

7 (A) When the action is for more than two years, the owners of 75 percent
8 of the units to which the use of the limited common element is reserved must
9 approve or consent.

10 (B) When the action is for two years or less, the owners of a majority of
11 the units to which the use of the limited common element is reserved must
12 approve or consent.

13 (c) The instrument granting an interest or consent under this section
14 must:

15 (A) Be executed by the [*chairperson and secretary of the*] association and
16 acknowledged [*in the manner provided for acknowledgment of the instruments*
17 *by the officers*].

18 (B) State that the grant or consent is given pursuant to this subsection.

19 (C) Include a certification **executed** by the [*chairperson and secretary*]
20 **association stating** that the action was approved by the owners in accord-
21 ance with this subsection.

22 (9) Except as otherwise provided in the association's declaration or by-
23 laws, the board of directors of the association may modify, close, remove,
24 eliminate or discontinue the use of a general common element facility or
25 improvement or portion of the common element landscaping, regardless of
26 whether such facility, improvement or landscaping is mentioned in the dec-
27 laration or shown on the plat provided that:

28 (a) [*Nothing in*] This subsection [*shall be construed as limiting*] **does not**
29 **limit** the authority of the board of directors, in its discretion, to seek ap-
30 proval of such modification, closure, removal, elimination or discontinuance
31 by the unit owners; and

1 (b) Modification, closure, removal, elimination or discontinuance other
2 than on a temporary basis of any swimming pool, spa or recreation or com-
3 munity building must be approved by at least a majority of the unit owners
4 voting on such matter at a meeting or by written ballot held in accordance
5 with the declaration, bylaws or ORS 100.425.

6 (10)(a) A permit or authorization issued by the board of directors pursuant
7 to authority granted to the board under law, the declaration or the bylaws,
8 may be recorded in the deed records of the county where the condominium
9 is located. An instrument recorded under this subsection [*shall*] **must**:

10 (A) Include the name of the condominium and a reference to where the
11 declaration and any applicable supplemental declarations are recorded;

12 (B) Identify, by the designations stated in the declaration or applicable
13 supplemental declaration, all affected units and common elements;

14 (C) Include such other information and signatures as may be required by
15 law, under the declaration or bylaws or as the board of directors may desire;
16 and

17 (D) Be executed by the [*chairperson and secretary of the*] association and
18 acknowledged [*in the manner provided for acknowledgment of such instru-*
19 *ments by the officers*].

20 (b) The board of directors may record an amendment, modification, ter-
21 mination or other instrument relating to the permit or authorization de-
22 scribed in this subsection. Any such instrument shall include a reference to
23 the location of the recorded instrument and be executed by the [*chairperson*
24 *and secretary of the*] association and acknowledged [*in the manner provided*
25 *for acknowledgment of such instruments*].

26 (11)(a) Subject to paragraph (f) of this subsection, before initiating liti-
27 gation or an administrative proceeding in which the association and an
28 owner have an adversarial relationship, the party that intends to initiate
29 litigation or an administrative proceeding shall offer to use any dispute re-
30 solution program available within the county in which the condominium is
31 located that is in substantial compliance with the standards and guidelines

1 adopted under ORS 36.175. The written offer must be hand-delivered or
2 mailed by certified mail, return receipt requested, to the address, contained
3 in the records of the association, for the other party.

4 (b) If the party receiving the offer does not accept the offer within 10 days
5 after receipt by written notice hand-delivered or mailed by certified mail,
6 return receipt requested, to the address, contained in the records of the as-
7 sociation, for the other party, the initiating party may commence the liti-
8 gation or the administrative proceeding. The notice of acceptance of the offer
9 to participate in the program must contain the name, address and telephone
10 number of the body administering the dispute resolution program.

11 (c) If a qualified dispute resolution program exists within the county in
12 which the condominium is located and an offer to use the program is not
13 made as required under paragraph (a) of this subsection, litigation or an
14 administrative proceeding may be stayed for 30 days upon a motion of the
15 noninitiating party. If the litigation or administrative action is stayed under
16 this paragraph, both parties shall participate in the dispute resolution pro-
17 cess.

18 (d) Unless a stay has been granted under paragraph (c) of this subsection,
19 if the dispute resolution process is not completed within 30 days after receipt
20 of the initial offer, the initiating party may commence litigation or an ad-
21 ministrative proceeding without regard to whether the dispute resolution is
22 completed.

23 (e) Once made, the decision of the court or administrative body arising
24 from litigation or an administrative proceeding may not be set aside on the
25 grounds that an offer to use a dispute resolution program was not made.

26 (f) The requirements of this subsection do not apply to circumstances in
27 which irreparable harm to a party will occur due to delay or to litigation
28 or an administrative proceeding initiated to collect assessments, other than
29 assessments attributable to fines.

30 **SECTION 32.** ORS 100.600 is amended to read:

31 100.600. (1)(a) Subject to ORS 100.605, the condominium may be terminated

1 if all of the unit owners remove the property from the provisions of this
2 chapter by executing and recording an instrument to that effect and the
3 holders of all liens affecting the units consent thereto or agree, in either
4 case by instruments duly recorded, that their liens be transferred to the un-
5 divided interest of the unit owner in the property after the termination. The
6 instrument shall state the interest of each unit owner and lienholder as de-
7 termined under ORS 100.610.

8 (b) The recording of an instrument of termination shall vacate the plat
9 but shall not vacate or terminate any recorded covenants, restrictions, ease-
10 ments or other interests not imposed under the declaration or bylaws or any
11 easement granted by the plat unless the instrument of termination otherwise
12 provides.

13 (c) Before the instrument of termination may be recorded, it must be
14 signed by the county assessor for the purpose of acknowledging that the
15 county assessor has been notified of the proposed termination.

16 (d) The person offering the instrument of termination for recording shall
17 cause a copy of the recorded instrument, including the recording information,
18 to be filed with the commissioner, the county assessor and the county sur-
19 veyor. Upon receipt of the instrument of termination, the county surveyor
20 [*shall*] **may** make appropriate annotations[, *including the date and surveyor's*
21 *name or initials, with archival quality black ink*] on the surveyor's copy of
22 the plat and any copies filed under ORS 92.120. Corrections or changes are
23 not allowed on the original plat once it is recorded with the county clerk.

24 (e) Failure to file the copies as required under paragraph (d) of this sub-
25 section does not invalidate the termination.

26 (2) A portion of the property may be removed from the provisions of this
27 chapter by recording simultaneously with the recording officer an amend-
28 ment to the declaration and an amended plat approved as required under
29 ORS 100.110, 100.116 and 100.135. The amendment to the declaration shall:

30 (a) Include a metes and bounds legal description of the property being
31 removed;

1 (b) Include a metes and bounds legal description of the resulting bound-
2 aries of the condominium after the removal;

3 (c) State the interest of each owner in the property being removed;

4 (d) State the allocation of interest of each unit in the common elements
5 after the removal;

6 (e) Be approved and executed by the owner of any unit being removed and
7 the owner of any unit to which a limited common element being removed
8 pertains and acknowledged in the manner provided for acknowledgment of
9 deeds;

10 (f) Be approved by the holder of any first mortgage on a unit or limited
11 common element being removed;

12 (g) Be approved by at least 90 percent of owners, including any owner
13 whose approval is required under paragraph (e) of this subsection;

14 (h) Be approved by any other mortgagees whose approval is required un-
15 der the declaration or bylaws;

16 (i) Include any other approvals required by the declaration or bylaws; and

17 (j) Include a statement by the local governing body or appropriate de-
18 partment thereof that the removal will not violate any applicable planning
19 or zoning regulation or ordinance. The statement may be attached as an ex-
20 hibit to the amendment.

21 (3) The amended plat required under subsection (2) of this section [*shall*]
22 **must**:

23 (a) Comply with ORS 100.116;

24 (b) Include a "Statement of Removal" that the property described on the
25 amended plat is removed from the condominium and that the condominium
26 exists as described and depicted on the amended plat. The statement [*shall*]
27 **must** be made **and executed** by [*the chairperson and secretary of*] the asso-
28 ciation and acknowledged [*in the manner provided for acknowledgment of*
29 *deeds*]; and

30 (c) Include such signatures of approval as may be required by local ordi-
31 nance or regulation.

1 (4) The tax collector for any taxing unit having a lien for taxes or as-
2 sessments [*shall have authority to*] **may** consent to such a transfer of any tax
3 or assessment lien under subsection (1) of this section or the removal of a
4 portion of the property under subsection (2) of this section.

5 **SECTION 33.** ORS 100.665 is amended to read:

6 100.665. [*A vendor under a land sale contract, a mortgagee of a mortgage*
7 *or a beneficiary of a trust deed who becomes a developer by reason of acquiring*
8 *a unit or units in a condominium through foreclosure of its lien or acceptance*
9 *of a deed in lieu thereof, is not required to submit a filing to the Real Estate*
10 *Commissioner under ORS 100.635, or to distribute a disclosure statement un-*
11 *der ORS 100.705 or provide the notice to purchaser required under ORS*
12 *100.740 if the vendor, mortgagee or beneficiary sells, in a single sale, all of the*
13 *units so acquired to a developer who agrees to comply with the provisions of*
14 *ORS 100.635 and 100.705 before negotiating a sale of the unit or units to oth-*
15 *ers.*] **A declarant or a mortgagee that acquires title to a unit in a**
16 **condominium through foreclosure of a mortgage or lien, by a trustee's**
17 **sale, by contract forfeiture, by other judicial procedure or by accept-**
18 **ance of a deed in lieu of foreclosure or forfeiture, may sell a unit to**
19 **a developer without:**

20 (1) **Filing a disclosure statement with the Real Estate Commissioner**
21 **pursuant to ORS 100.635;**

22 (2) **Distributing the disclosure statement pursuant to ORS 100.705;**
23 **or**

24 (3) **Providing notice to a purchaser pursuant to ORS 100.740.**

25 **SECTION 34.** ORS 100.005 is amended to read:

26 100.005. As used in this chapter, unless the context requires otherwise:

27 (1) **“Acknowledged” means, with respect to a signature on a docu-**
28 **ment or a signed document, that the document is acknowledged in the**
29 **form and manner provided for the acknowledgment of a deed.**

30 (2) **“Assessment” means any charge imposed or levied by the association**
31 **of unit owners on or against a unit owner or unit pursuant to provisions of**

1 the declaration or the bylaws of the condominium or provisions of [ORS
2 100.005 to 100.910] **this chapter.**

3 [(2)] (3) “Association of unit owners” or “association” means the associ-
4 ation provided for under ORS 100.405.

5 [(3)] (4) “Association property” means any real property or interest in real
6 property acquired, held or possessed by the association provided for under
7 ORS 100.405.

8 [(4)] (5) “Blanket encumbrance” means a trust deed or mortgage or any
9 other lien or encumbrance, mechanic’s lien or otherwise, securing or evi-
10 dencing the payment of money and affecting more than one unit in a con-
11 dominium, or an agreement affecting more than one such unit by which the
12 developer holds such condominium under an option, contract to sell or trust
13 agreement.

14 [(5)] (6) “Building” means a multiple-unit building or single-unit
15 buildings, or any combination thereof, comprising a part of the property.
16 “Building” also includes a floating structure described in ORS 100.020
17 (3)(b)(D).

18 [(6)] (7) **“Certified by the association” or “executed by the associ-
19 ation” means signed by the secretary and the president or chairperson
20 of the association.**

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

22 [(7)] (9) “Common elements” means the general common elements and the
23 limited common elements.

24 [(8)] (10) “Common expenses” means:

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

27 (b) [*Expenses agreed upon as common by all the unit owners; and*]

28 [(c)] Expenses declared common by [ORS 100.005 to 100.627] **this chapter**
29 or by the declaration or the bylaws of the particular condominium.

30 [(9)] (11) “Condominium” means:

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

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

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

4 (C) Any easements, rights and appurtenances belonging to the property
5 submitted to the [*provisions of ORS 100.005 to 100.627*] **condominium form**
6 **of ownership under this chapter**; and

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

10 [(10)] (12) “Conversion condominium” means [*a condominium in*] **real**
11 **property that a declarant intends to submit to the condominium form**
12 **of ownership under this chapter on** which there is a building, improve-
13 ment or structure that was occupied prior to any negotiation and that is:

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

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

17 [(11)] (13) “Declarant” means a person who records a declaration under
18 ORS 100.100 or a supplemental declaration under ORS 100.110.

19 [(12)] (14) “Declaration” means the instrument described in ORS 100.105
20 by which the condominium is created and as modified by any amendment
21 recorded in accordance with ORS 100.135 or supplemental declaration re-
22 corded in accordance with ORS 100.120.

23 [(13)] (15) “Developer” means a declarant or any person [*who purchases*]
24 **that acquires** an interest in a condominium from declarant, successor
25 declarant or subsequent developer for the primary purpose of resale.

26 [(14)] (16) “Electric vehicle charging station” or “charging station” means
27 a facility designed to deliver electrical current for the purpose of charging
28 one or more electric motor vehicles.

29 [(15)] (17) “Flexible condominium” means a condominium containing
30 property that may be reclassified or withdrawn from the condominium pur-
31 suant to ORS 100.150 (1).

1 [(16)] (18) “General common elements,” unless otherwise provided in a
2 declaration, means all portions of the condominium that are not part of a
3 unit or a limited common element, including but not limited to the following:

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

6 (b) The foundations, columns, girders, beams, supports, bearing and shear
7 walls, windows, except glazing and screening, unit access doors, except
8 glazing and screening, roofs, halls, corridors, lobbies, stairs, fire escapes,
9 entrances and exits of a building;

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

12 (d) Installations of central services such as power, light, gas, hot and cold
13 water, heating, refrigeration, air conditioning, waste disposal and
14 incinerating;

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

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

19 (g) All other elements of a building and the condominium necessary or
20 convenient to their existence, maintenance and safety, or normally in com-
21 mon use.

22 [(17)] (19) “Governing document” means articles of incorporation, bylaws,
23 a declaration or a rule, regulation or resolution that was properly adopted
24 by the association of unit owners or any other instrument or plat relating
25 to common ownership or common maintenance of a portion of a condominium
26 that is binding upon units within the condominium.

27 [(18)] (20) “Leasehold” means the interest of a person, firm or corporation
28 that is the lessee under a lease from the owner in fee and that files a dec-
29 laration creating a condominium under ORS 100.100.

30 [(19)] (21) “Limited common elements” means those common elements
31 designated in the declaration, as reserved for the use of a certain unit or

1 number of units, to the exclusion of the other units.

2 [(20)] **(22)** “Majority” or “majority of unit owners” means more than 50
3 percent of the voting rights allocated to the units by the declaration.

4 [(21)] **(23)** “Mortgagee” means any person who is:

5 (a) A mortgagee under a mortgage;

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

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

8 [(22)] **(24)** “Negotiation” means any activity preliminary to the execution
9 by either developer or purchaser of a unit sales agreement, including but not
10 limited to advertising, solicitation and promotion of the sale of a unit.

11 [(23)] **(25)** “Nonwithdrawable property” means property which pursuant
12 to ORS 100.150 (1)(b):

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

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

16 [(24)] **(26)** “Percent of owners” or “percentage of owners” means the per-
17 cent of the voting rights determined under ORS 100.525.

18 [(25)] **(27)** “Purchaser” means an actual or prospective purchaser of a
19 condominium unit pursuant to a sale.

20 **(28) “Recorded” means to cause to be recorded by the county officer**
21 **in the real property records for each county in which the condomi-**
22 **ium is located.**

23 [(26)] **(29)** “Recording officer” means the county officer charged with the
24 duty of filing and recording deeds and mortgages or any other instruments
25 or documents affecting the title to real property.

26 [(27)] **(30)** “Reservation agreement” means an agreement relating to the
27 future sale of a unit which is not binding on the purchaser and which grants
28 purchaser the right to cancel the agreement without penalty and obtain a
29 refund of any funds deposited at any time until purchaser executes a unit
30 sales agreement.

31 [(28)] **(31)** “Sale” means any disposition or transfer of a condominium

1 unit, or an interest or estate therein, by a developer, including the offering
2 of the property as a prize or gift when a monetary charge or consideration
3 for whatever purpose is required by the developer. As used in this subsection,
4 “interest or estate” includes a lessee’s interest in a unit for more than three
5 years or less than three years if the interest may be renewed under the terms
6 of the lease for a total period of more than three years. “Interest or estate”
7 does not include any interest held for security purposes or a timeshare reg-
8 ulated or otherwise exempt under ORS 94.803 and 94.807 to 94.945.

9 [(29)] **(32)** “Special declarant right” means any right, in addition to the
10 regular rights of the declarant as a unit owner, reserved for the benefit of
11 or created by the declarant under the declaration, bylaws or the provisions
12 of this chapter.

13 [(30)] **(33)** “Staged condominium” means a condominium [*which*] **that**
14 provides for annexation of additional property pursuant to ORS 100.115 and
15 100.120.

16 [(31)] **(34)** “Successor declarant” means the transferee of any special
17 declarant right.

18 [(32)] **(35)** “Termination date” means that date described in ORS 100.105
19 (2)(b) or (7)(d).

20 [(33)] **(36)** “Transitional committee” means the committee provided for
21 under ORS 100.205.

22 [(34)] **(37)** “Turnover meeting” means the meeting provided for under ORS
23 100.210.

24 [(35)] **(38)** “Unit” or “condominium unit” means a part of the property
25 which:

- 26 (a) Is described in ORS 100.020 (3);
- 27 (b) Is intended for any type of independent ownership; and
- 28 (c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

29 [(36)] **(39)** “Unit designation” means the number, letter or combination
30 thereof designating a unit in the declaration and on the plat.

31 [(37)] **(40)** “Unit owner” means, except to the extent the declaration or

1 bylaws provide otherwise, the person owning fee simple interest in a unit,
2 the holder of a vendee's interest in a unit under a recorded installment
3 contract of sale and, in the case of a leasehold condominium, the holder of
4 the leasehold estate in a unit.

5 [(38)] (41) "Unit sales agreement" means a written offer or agreement for
6 the sale of a condominium unit which when fully executed will be binding
7 on all parties. "Unit sales agreement" includes but is not limited to an ear-
8 nest money receipt and agreement to purchase and other such agreements
9 which serve as an agreement of sale for a cash transaction or which are
10 preliminary to the execution of an installment contract of sale, but does not
11 include a reservation agreement.

12 [(39)] (42) "Variable property" means property described in ORS 100.150
13 (2) and designated as variable property in the declaration and on the plat.

14 [(40)] (43) "Voting rights" means the portion of the votes allocated to a
15 unit by the declaration in accordance with ORS 100.105 (1)(j).

16

17

CONFORMING AMENDMENTS

18

19 **SECTION 35.** ORS 100.407 is amended to read:

20 100.407. (1) The association of unit owners shall hold at least one meeting
21 of the owners each calendar year.

22 (2)(a) Special meetings of the association may be called by the chairperson
23 **or president** of the board of directors, by a majority of the board of direc-
24 tors or by the chairperson, **president** or secretary upon receipt of a written
25 request of a percentage of unit owners specified in the bylaws. However, the
26 bylaws may not require a percentage greater than 50 percent or less than 10
27 percent of the unit owners for the purpose of calling a meeting.

28 (b) If the bylaws do not specify a percentage of unit owners that may re-
29 quest the calling of a special meeting, a special meeting shall be called if
30 30 percent or more of the unit owners make the request in writing. Notice
31 of the special meeting shall be given as specified in this section.

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

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

12 (b) The notice shall state the time and place of the meeting and the items
13 on the agenda, including the general nature of any proposed amendment to
14 the declaration or bylaws, any budget changes or any proposal to remove a
15 director or officer of the association.

16 (c) Mortgagees may designate a representative to attend a meeting called
17 under this section.

18 **SECTION 36.** ORS 87.015 is amended to read:

19 87.015. (1) The site together with the land that may be required for the
20 convenient use and occupation of the improvement constructed on the site,
21 to be determined by the court at the time of the foreclosure of the lien, shall
22 also be subject to the liens created under ORS 87.010 (1), (4) and (5) if, at the
23 time of the commencement of the improvement, the person who caused the
24 improvement to be constructed was the owner of that site and land. If the
25 person owned less than a fee-simple estate in the site and land, then only the
26 interest of the person therein shall be subject to the lien.

27 (2) If a lien created under ORS 87.010 (1), (4) and (5) is claimed against
28 a unit as defined in ORS 100.005 [*to 100.910, the Oregon Condominium Act*],
29 the common elements appertaining to that unit are also subject to the lien.

30 (3) When the interest of the person who caused the improvement to be
31 constructed is a leasehold interest, and that person has forfeited the rights

1 of the person thereto, the purchaser of the improvement and leasehold term
2 at any sale under the provisions of ORS 87.001 to 87.060 and 87.075 to 87.093,
3 is deemed to be the assignee of the leasehold term, and may pay the lessor
4 all arrears of rent or other money and costs due under the lease. If the lessor
5 regains possession of the property, or obtains judgment for the possession
6 thereof prior to the commencement of construction of the improvement, the
7 purchaser may remove the improvement within 30 days after the purchaser
8 purchases it, and the owner of the land shall receive the rent due the owner,
9 payable out of the proceeds of the sale, according to the terms of the lease,
10 down to the time of removal.

11 **SECTION 37.** ORS 100.020 is amended to read:

12 100.020. (1) Except as otherwise provided in subsections (2) and (3) of this
13 section, ORS 100.100 to 100.625 apply only to property located within this
14 state which a person elects to submit to the condominium form of ownership
15 as provided in ORS 100.005 to 100.627.

16 (2) Unless the declarant elects otherwise, ORS 100.175, 100.185, 100.200 (2),
17 100.205, 100.210, 100.300, 100.305, 100.310, 100.315 and 100.320 apply only to
18 condominiums that include units to be used for residential purposes.

19 (3) Property may not be submitted to the condominium form of ownership
20 under ORS 100.005 to 100.627 unless:

21 (a) Each unit has legal access to a public street or highway or, if the unit
22 has such access only by virtue of common ownership with other units, the
23 declaration executed under ORS 100.110 prohibits conveyance of the unit
24 unless after conveyance the unit will continue to have legal access to a
25 public street or highway;

26 (b) Subject to paragraph (c) of this subsection, each unit consists of:

27 (A) A building or part of a building;

28 (B) A space used for the parking or storage of automobiles, trucks, boats,
29 campers or other vehicles or equipment;

30 (C) A space for the moorage of a watercraft, floating home or other
31 structure; or

1 (D) A floating structure, including a structure formerly used as a ship or
2 other vessel that:

3 (i) Is permanently moored to structures in a river, lake or other waterway
4 pursuant to a long-term lease with a remaining term at the time the decla-
5 ration and plat are recorded of not less than 15 years;

6 (ii) Contains two or more residential units with a combined floor space
7 of not less than 2,000 square feet; and

8 (iii) Has upland common elements owned in fee or by leasehold having a
9 remaining term of not less than the remaining term of the leasehold on the
10 submerged or submersible land. The units in a condominium described in this
11 subparagraph [*shall be*] **are** considered real property for purposes of the
12 Oregon Condominium Act; and

13 (c) Each unit has an interest in the common elements in accordance with
14 ORS 100.515. However, a unit may not include any portion of the land. A
15 declaration may not provide that there are no common elements.

16 (4)(a) Except as otherwise provided in subsection (5) of this section, ORS
17 100.015 and 100.635 to 100.910 apply to condominiums having units to be used
18 for residential purposes which are not offered for sale as a security pursuant
19 to ORS 59.005 to 59.505.

20 (b) ORS 100.635 [(2)] **(1)(b)**, 100.640 [(8) to (12)] **(1)(h) to (o)**, 100.655,
21 100.705, 100.720, 100.725, 100.730, 100.735, 100.740 and 100.745 do not apply to
22 the sale of units to be used for nonresidential purposes as provided in sub-
23 section (5) of this section unless the units, including units used for parking
24 or storage, are ancillary to the sale of units to be used for residential pur-
25 poses.

26 (5)(a) ORS 100.650, 100.660, 100.670, 100.675, 100.750, 100.770, 100.775,
27 100.780, 100.900, 100.905 and 100.990 apply to a condominium located in this
28 state that consists exclusively of units to be used for nonresidential purposes
29 or that consists of units to be offered for sale as a security under ORS 59.005
30 to 59.505.

31 (b) As used in this subsection, “nonresidential purposes” includes apart-

1 ments within a condominium in which the apartments are not separate units
2 or units that are restricted in use by the unit owner to less than full-time
3 residential purposes.

4 (6) The units in a condominium described in subsection (3)(b)(C) and (D)
5 of this section [*shall be*] **are** considered real property for purposes of this
6 chapter.

7 (7) Unless the declaration or bylaws provide otherwise, a condominium
8 unit may be submitted to the condominium form of ownership under ORS
9 100.005 to 100.627.

10 (8) If an association creates not more than two additional units from
11 common elements by an amendment to the declaration under ORS 100.135,
12 then ORS 100.635 [(2)] **(1)(b)**, 100.640 [(8) to (12)] **(1)(h) to (o)**, 100.655,
13 100.705, 100.720, 100.725, 100.730, 100.735 and 100.745 do not apply to the sale
14 of the units by the association.

15 **SECTION 38.** ORS 100.102 is amended to read:

16 100.102. (1) The owner of fee title interest in the real property underlying
17 a leasehold condominium may submit the fee title to the provisions of this
18 chapter by the procedures set forth in this section. Submission has the effect
19 set forth in ORS 100.103.

20 (2) The fee title interest of a leasehold condominium may be submitted to
21 the provisions of this chapter by an amendment to the declaration. The
22 amendment must:

23 (a) Include a reference to the recording index numbers and date of re-
24 cording of the initial declaration, supplemental declarations recorded pursu-
25 ant to ORS 100.120 and the lease;

26 (b) State that the fee title interest in the real property subject to the
27 leasehold is submitted to the provisions of this chapter pursuant to this
28 section;

29 (c) State that the submission of the fee title interest in the real property
30 subject to the leasehold to the provisions of this chapter has the effect set
31 forth in ORS 100.103;

1 (d) State that there are no encumbrances against the fee title interest
2 securing payment of moneys except for the assessments of the owners asso-
3 ciation that are not yet due;

4 (e) Be approved by at least 75 percent of the unit owners, notwithstanding
5 that the declaration may require approval by a larger percentage of owners
6 or the consent of another person to amend the declaration;

7 (f) Be executed by the fee title holder and the [*chairperson and secretary*
8 *of the*] association and acknowledged [*in the manner provided for acknowl-*
9 *edgment of instruments*];

10 (g) Be certified by the [*chairperson and secretary*] **association** as being
11 adopted in accordance with this section;

12 (h) Be approved as required by ORS 100.110; and

13 (i) Be recorded in the office of the recording officer of each county in
14 which the condominium is located.

15 (3) At the time of submission, the fee title interest being submitted may
16 not be subject to an encumbrance securing payment of money except for the
17 assessments of an association that are not yet due.

18 (4) Nothing in this section precludes the declarant of a leasehold condo-
19 minium, the unit owners and the association from agreeing to other proce-
20 dures for submitting the fee title interest to the provisions of this chapter,
21 provided the procedures are set forth in:

22 (a) The declaration; or

23 (b) An amendment to the declaration approved by at least 75 percent of
24 the unit owners or, if a larger percentage is specified in the declaration to
25 effect amendments to the declaration, the larger percentage, and 75 percent
26 of the lenders holding a first-priority security position in any unit in the
27 condominium.

28 **SECTION 39.** ORS 100.125 is amended to read:

29 100.125. Subject to ORS 100.120 [(4)] (5), if the declaration complies with
30 ORS 100.105 (2), until the termination date, additional property may be an-
31 nexed to the condominium by the recording of a supplemental declaration

1 and supplemental plat in accordance with ORS 100.115.

2 **SECTION 40.** ORS 100.155 is amended to read:

3 100.155. (1) If by the termination date specified in the declaration there
4 is any remaining variable property:

5 (a) Any property designated nonwithdrawable variable property becomes
6 part of the common elements and any interest in the property held for se-
7 curity purposes is automatically extinguished by reclassification.

8 (b) Any property designated withdrawable variable property [*shall be*] **is**
9 automatically withdrawn from the condominium as of the termination date.

10 (c) Subject to paragraph (d) of this subsection, the association may record
11 in the office of the recording officer in the county in which the condominium
12 is located:

13 (A) For property reclassified under paragraph (a) of this subsection, a
14 “Statement of Reclassification of Variable Property” stating that the re-
15 maining nonwithdrawable variable property has been reclassified to common
16 elements pursuant to paragraph (a) of this subsection.

17 (B) For property withdrawn under paragraph (b) of this subsection, a
18 “Statement of Withdrawal of Variable Property from Condominium” stating
19 that remaining withdrawable variable property has been withdrawn from the
20 condominium pursuant to paragraph (b) of this subsection.

21 (d) A statement described in paragraph (c) of this subsection [*shall*]
22 **must:**

23 (A) Include the name of the condominium, a reference to the recording
24 index numbers and date of recording of the declaration, the plat creating the
25 affected variable property and any applicable supplemental declaration.

26 (B) Include a description of the reclassified or withdrawn variable prop-
27 erty complying with ORS 93.600.

28 (C) Be executed by the [*chairperson and secretary of the*] association and
29 acknowledged [*in the manner provided for acknowledgment of deeds*].

30 (e) After recording a statement under paragraph (c) of this subsection, the
31 association shall provide a copy of the recorded statement to the county

1 surveyor. The original plat may not be changed or corrected after it is re-
2 corded with the county clerk.

3 (2)(a) Unless expressly prohibited by the declaration, any variable prop-
4 erty automatically withdrawn from the condominium under subsection (1)(b)
5 of this section or voluntarily withdrawn under ORS 100.150 (1)(b) may be
6 later annexed to the condominium by the recording of a supplemental dec-
7 laration and plat in accordance with ORS 100.120 [(2)] **(3)** if such action is
8 first approved by at least 75 percent of all voting rights in the manner re-
9 quired for an amendment to the declaration.

10 (b) The supplemental declaration and plat shall be executed by the
11 [*chairperson and secretary on behalf of the*] association and acknowledged [*in*
12 *the manner provided for acknowledgment of deeds by such officers*]. Except for
13 the termination date, the supplemental declaration [*shall*] **must** comply with
14 ORS 100.120 (1) **and (2)** and [*shall*] **must** state that the annexation was ap-
15 proved by at least 75 percent of all voting rights.

16 (3)(a) Unless expressly prohibited by the declaration and notwithstanding
17 the termination date, the association may, with respect to any variable
18 property automatically reclassified, exercise any rights previously held by
19 the declarant. The exercise of any right [*shall*] **must** first be approved by
20 at least a majority of all voting rights. All other actions relating to such
21 reclassified general common elements [*shall be*] **are** regulated and governed
22 in like manner as other general common elements of the condominium.

23 (b) If a supplemental declaration and plat is required for any action, the
24 plat [*shall*] **must** be executed by the [*chairperson and secretary of the*] asso-
25 ciation and [*shall*] **must** comply with the requirements of this chapter as to
26 a supplemental declaration and the recording of plats.

27 (4) Title to any additional units created under subsection (3) of this sec-
28 tion automatically vests in the association upon the recording of a supple-
29 mental declaration and plat. The board of directors acting on behalf of the
30 association has the power to hold, convey, lease, encumber or otherwise deal
31 with a unit or any interest therein in like manner as other property owned

1 by the association.

2 (5) The county clerk may charge a fee for recording a statement under
3 this section according to provisions of ORS 205.320 (1)(d).

4 (6) The county assessor shall cause the assessment and tax rolls to reflect
5 the status of any variable property affected by automatic property reclassi-
6 fication under subsection (1)(a) of this section or automatically withdrawn
7 under subsection (1)(b) of this section.

8 **SECTION 41.** ORS 100.175 is amended to read:

9 100.175. (1) The declarant, on behalf of the association of unit owners,
10 shall:

11 (a) Conduct an initial reserve study as described in subsection (3) of this
12 section;

13 (b) Prepare an initial maintenance plan as described in subsection (4) of
14 this section; and

15 (c) Establish a reserve account as provided in subsection (2) of this sec-
16 tion.

17 (2)(a) An association of unit owners shall establish a reserve account to
18 fund major maintenance, repair or replacement of those common elements
19 all or part of which will normally require major maintenance, repair or re-
20 placement in more than one and less than 30 years, for exterior painting if
21 the common elements include exterior painted surfaces, and for such other
22 items as may be required by the declaration or bylaws. The reserve account
23 need not include:

24 (A) Items that can reasonably be funded from the general budget or other
25 funds or accounts of the association; or

26 (B) A reserve for limited common elements for which maintenance and
27 replacement are the responsibility of one or more, but less than all, unit
28 owners under the provisions of the declaration or bylaws.

29 (b) The reserve account [*shall*] **must** be established in the name of the
30 association of unit owners. The association is responsible for administering
31 the account and for making periodic payments into the account.

1 (c) The reserve portion of the initial assessment determined by the
2 declarant *[shall]* **must** be based on:

3 (A) The reserve study described in subsection (3) of this section;

4 (B) In the case of a conversion condominium, the statement described in
5 ORS 100.655 [(1)(g)] (1)(h); or

6 (C) Other reliable information.

7 (d) The reserve account must be funded by assessments against the indi-
8 vidual units for the purposes for which the reserve account is established.

9 (e) The assessment under this subsection accrues from the time of the
10 conveyance of the first individual unit assessed as provided in ORS 100.530.

11 (3)(a) The board of directors of the association shall annually determine
12 the reserve account requirements by conducting a reserve study or reviewing
13 and updating an existing study using the following information:

14 (A) The starting balance of the reserve account for the current fiscal
15 year;

16 (B) The estimated remaining useful life of each item for which reserves
17 are or will be established, as of the date of the study or review;

18 (C) The estimated cost of maintenance and repair and replacement at the
19 end of the useful life of each item for which reserves are or will be estab-
20 lished;

21 (D) The rate of inflation during the current fiscal year; and

22 (E) Returns on any invested reserves or investments.

23 (b) Subject to subsection (10) of this section, after a review of the reserve
24 study or the reserve study update, the board may, without any action by the
25 unit owners:

26 (A) Adjust the amount of payments in accordance with the study or re-
27 view; and

28 (B) Provide for other reserve items that the board of directors, in its
29 discretion, may deem appropriate.

30 (c) The reserve study *[shall]* **must**:

31 (A) Identify all items for which reserves are or will be established;

1 (B) Include the estimated remaining useful life of each item, as of the date
2 of the reserve study; and

3 (C) Include for each item, as applicable, an estimated cost of maintenance
4 and repair and replacement at the end of the item's useful life.

5 (4)(a) The board of directors shall prepare a maintenance plan for the
6 maintenance, repair and replacement of all property for which the associ-
7 ation has maintenance, repair or replacement responsibility under the dec-
8 laration or bylaws or this chapter. The maintenance plan [*shall*] **must**:

9 (A) Describe the maintenance, repair and replacement to be conducted;

10 (B) Include a schedule for the maintenance, repair and replacement;

11 (C) Be appropriate for the size and complexity of the maintenance, repair
12 and replacement responsibility of the association; and

13 (D) Address issues that include but are not limited to warranties and the
14 useful life of the items for which the association has maintenance, repair or
15 replacement responsibility.

16 (b) The board of directors shall review and update the maintenance plan
17 described under this subsection as necessary.

18 (5)(a) Except as provided in paragraph (b) of this subsection, the reserve
19 study requirements under subsection (3) of this section and the maintenance
20 plan requirements under subsection (4) of this section do not apply to a
21 condominium consisting of one or two units, excluding units used for park-
22 ing, storage or other uses ancillary to a unit:

23 (A) After the sale of the first unit to a person other than a successor
24 declarant, if the condominium is created on or after September 27, 2007; or

25 (B) If the condominium was created before September 27, 2007, notwith-
26 standing any requirement in the declaration or bylaws.

27 (b) The reserve study requirements under subsection (3) of this section
28 and the maintenance plan requirements under subsection (4) of this section
29 apply to a flexible condominium or a staged condominium created on or after
30 September 27, 2007, if the condominium might in the future consist of more
31 than two units.

1 (6)(a) If the declaration or bylaws require a reserve account, the reserve
2 study requirements of subsection (3) of this section and the maintenance plan
3 requirements of subsection (4) of this section first apply to the association
4 of a condominium recorded prior to October 23, 1999:

5 (A) Upon adoption of a resolution by the board of directors in accordance
6 with the bylaws providing that the requirements of subsections (3) and (4)
7 of this section apply to the association; or

8 (B) Upon submission to the board of directors of a petition signed by a
9 majority of unit owners mandating that the requirements of subsections (3)
10 and (4) of this section apply to the association.

11 (b) The reserve study and the maintenance plan [*shall*] **must** be completed
12 within one year of the date of adoption of the resolution or submission of
13 the petition to the board of directors.

14 (7)(a) Except as provided in paragraph (b) of this subsection, the reserve
15 account is to be used only for the purposes for which reserves have been
16 established and is to be kept separate from other funds.

17 (b) After the individual unit owners have assumed administrative respon-
18 sibility for the association under ORS 100.210, if the board of directors has
19 adopted a resolution, which may be an annual continuing resolution, au-
20 thorizing the borrowing of funds:

21 (A) The board of directors may borrow funds from the reserve account to
22 meet high seasonal demands on the regular operating funds or to meet un-
23 expected increases in expenses.

24 (B) Not later than the adoption of the budget for the following year, the
25 board of directors shall adopt by resolution a written payment plan providing
26 for repayment of the borrowed funds within a reasonable period.

27 (8) The reserve account is subject to the requirements and restrictions of
28 ORS 100.480 and any additional requirements or restrictions imposed by the
29 declaration, bylaws or rules of the association of unit owners.

30 (9) Assessments paid into the reserve account are the property of the as-
31 sociation of unit owners and are not refundable to sellers of units.

1 (10)(a) Except as provided under paragraph (b) of this subsection, unless
2 the board of directors under subsection (3) of this section determines that the
3 reserve account will be adequately funded for the following year, the board
4 of directors or the owners may not vote to eliminate funding a reserve ac-
5 count required under this section or under the declaration or bylaws.

6 (b) Following the turnover meeting described in ORS 100.210, on an an-
7 nual basis, the board of directors, with the approval of all owners, may elect
8 not to fund the reserve account for the following year.

9 **SECTION 42.** ORS 100.260 is amended to read:

10 100.260. (1) The Condominium Information Report required under ORS
11 100.250 (1)(a) [*shall*] **must** set forth:

12 (a) The name of the association;

13 (b) The name of the condominium and the county in which the condo-
14 minium is located;

15 (c) The mailing address, including the street and number, if any, and
16 county of the association;

17 (d) The date the condominium declaration was recorded and the recording
18 index numbers;

19 (e) The name and residence or business address, including the street and
20 number, of the person designated as agent to receive service of process in
21 cases provided in ORS 100.550 (1) and any other legal proceeding relating to
22 the condominium or association; and

23 (f) The number and type of units as follows:

24 No. _____ Living Units

25 No. _____ Commercial/Office Units

26 No. _____ Other (describe) _____

27 _____

28 (2) The Annual Report required under ORS 100.250 (1)(b) [*shall*] **must** set
29 forth:

30 (a) The information required under subsection (1)(a), (b), (c) and (e) of this
31 section;

1 (b) The names and addresses of the [*chairperson and*] secretary **and the**
2 **chairperson or president** of the association; and

3 (c) If the designated agent is changed, a statement that the new agent has
4 consented to the appointment.

5 (3) The amendment required under ORS 100.250 (1)(c) [*shall*] **must** set
6 forth:

7 (a) The name of the association as shown on the current records of the
8 Real Estate Agency;

9 (b) The name of the condominium and county in which the condominium
10 is located;

11 (c) A statement of the information as changed; and

12 (d) If the current designated agent is to be changed, the name of the new
13 designated agent and residence or business address, including the street and
14 number, and a statement that the new agent has consented to the appoint-
15 ment.

16 (4) The filing by the Real Estate Agency of an amendment [*which*] **that**
17 changes the designated agent [*shall*] **must** terminate the existing designated
18 agent on the effective date of the filing and establish the newly appointed
19 designated agent as that of the association.

20 (5) The reports and amendment described in this section and an applica-
21 tion for termination described in ORS 100.280 [*shall*] **must** be made on forms
22 prescribed and furnished by the Real Estate Agency and must be accompa-
23 nied by the correct filing fee and shall:

24 (a) Contain information current as of 30 days before delivery for filing;

25 (b) Be executed by the designated agent and until the turnover meeting
26 by the declarant and thereafter by the [*chairperson or secretary of the*] asso-
27 ciation;

28 (c) State beneath or opposite the signature the name of the person and
29 the capacity in which the person signs; and

30 (d) Contain any additional identifying information that the Real Estate
31 Agency may require by rule.

1 **SECTION 43.** ORS 100.275 is amended to read:

2 100.275. (1) Subject to ORS 100.550 (3), ORS 100.250 to 100.280, including
3 the filing of a Condominium Information Report described in ORS 100.260 (1),
4 apply to property submitted to the provisions of this chapter before October
5 3, 1989, if:

6 (a) The board of directors of the association receives a written request
7 to comply with such sections from at least one unit owner or holder of a first
8 mortgage or deed of trust on a unit;

9 (b) The board of directors of the association adopts a resolution to comply
10 with such sections in accordance with the bylaws;

11 (c) The association is a party to a suit or action, the person designated
12 in the declaration under ORS 100.105 (1)(L), the chairperson, **president** or
13 secretary receives written notice to comply with such sections from any
14 other party to such suit or action. A copy of the notice [*shall*] **must** be de-
15 livered to the Real Estate Agency. The Real Estate Agency shall provide a
16 copy of the filed report to the requesting party and may charge the associ-
17 ation a fee for cost of such action. If the association fails to deliver for filing
18 such report, the provisions of ORS 100.265 (3) [*shall*] apply; or

19 (d) A filing is required to comply with the requirements of ORS 100.120,
20 100.135 or 100.450.

21 (2) The Condominium Information Report required under subsection (1)
22 of this section [*shall*] **must** be executed by [*the chairperson or secretary of*]
23 the association and the designated agent.

24 **SECTION 44.** ORS 100.550 is amended to read:

25 100.550. (1) Service of process in any action relating to the condominium
26 may be made on:

27 (a) If the condominium was submitted to the provisions of this chapter
28 before October 3, 1989, the person designated in the declaration to receive
29 service of process;

30 (b) The person named as designated agent in the Condominium Informa-
31 tion Report filed with the Real Estate Agency under ORS 100.250;

1 (c) If the association is organized as a corporation under Oregon law, the
 2 registered agent in accordance with ORS 60.111 or 61.086 (1987 Replacement
 3 Part); or

4 (d) The chairperson, **president** or secretary of the association.

5 (2) Except as provided in subsection (4) of this section, if the association
 6 of unit owners of property submitted to the provisions of this chapter before
 7 October 15, 1983, wishes to designate a person other than the one named in
 8 the declaration to receive service of process in the cases provided in sub-
 9 section (1) of this section, it shall record an amendment to the declaration.
 10 The amendment [*shall*] **must** be certified by the [*chairperson and the secre-*
 11 *tary of the*] association [*of unit owners*], and [*shall*] **must** state the name of
 12 the successor with the successor's residence or place of business as required
 13 by ORS 100.105 (1)(L), and that the person named in the amendment was
 14 designated by resolution duly adopted by the association of unit owners.

15 (3) Unless prohibited by the declaration or bylaws, the board of directors
 16 of the association of unit owners of property submitted to the provisions of
 17 this chapter after October 15, 1983, may elect to designate a person other
 18 than the one named in the declaration to receive service of the process in
 19 the cases provided in subsection (1) of this section. After the adoption of a
 20 resolution by the board of directors in accordance with the bylaws, the board
 21 of directors, without the need for further action by the association or ap-
 22 proval under ORS 100.110 and 100.135, shall record an amendment to the
 23 declaration. The amendment [*shall*] **must** be certified by the [*chairperson and*
 24 *the secretary of the*] association [*of unit owners,*] and [*shall*] **must** state the
 25 name of the successor with the successor's residence or place of business as
 26 required by ORS 100.105 (1)(L), that the person named in the amendment has
 27 consented to the designation and that the resolution was duly adopted by the
 28 association of unit owners.

29 (4) Subsection (3) of this section applies to property submitted to the
 30 provisions of this chapter before October 15, 1983, if:

31 (a) The board of directors of the association of unit owners receives a

1 written request from at least one unit owner that subsection (3) of this sec-
2 tion applies; or

3 (b) The board of directors of the association of unit owners adopts a re-
4 solution in accordance with the bylaws of the association that subsection (3)
5 of this section applies.

6 **SECTION 45.** ORS 100.625 is amended to read:

7 100.625. (1) Subject to the provisions of the declaration and any applicable
8 law, and upon compliance with this section:

9 (a) A unit designated in the declaration to be used for commercial, in-
10 dustrial or other nonresidential purpose may be divided by an owner, in-
11 cluding the declarant, into two or more units.

12 (b) A unit owned by the declarant and located in a condominium that
13 consists exclusively of units designated in the declaration to be used for
14 nonresidential purposes, may be divided or converted into two or more units,
15 common elements or a combination of units and common elements.

16 (2) The owner of a unit to be divided or converted shall submit to the
17 board of directors of the association of unit owners a proposed amendment
18 [*which shall*] **that must:**

19 (a) State the purposes of the amendment;

20 (b) Assign an identifying number to each unit created;

21 (c) Reallocate the interest in the common elements and the use of any
22 limited common elements, voting rights, common expense liability and the
23 right to common profits in the manner prescribed in the declaration;

24 (d) Indicate the means of access for each unit to common elements; and

25 (e) Include any additional provisions necessary to conform any other
26 provisions of the declaration or bylaws.

27 (3) The board of directors shall approve the proposed amendment unless
28 the board determines within 45 days that the amendment is inconsistent with
29 the declaration or bylaws, or the division or conversion will impair the
30 structural integrity or mechanical systems of the condominium or lessen the
31 support of any portion of the condominium.

1 (4) The board of directors may require the owner of the unit to be divided
2 or converted to submit an opinion of a registered professional engineer as
3 to whether or not the proposed division or conversion will impair the struc-
4 tural integrity or mechanical systems of the condominium or weaken the
5 support of any portion of the condominium. The board of directors or any
6 agent appointed by the board of directors may supervise the work necessary
7 to effect the division or conversion. Any expenses incurred under this section
8 [*shall*] **must** be charged to the owner of the unit requesting the division or
9 conversion.

10 (5) The amendment [*shall*] **must** be executed by the owner and mortgagees
11 or trust deed beneficiaries of the affected unit, certified by the [*chairperson*
12 *and secretary of the*] association and approved and recorded in accordance
13 with ORS 100.135 (2)(b).

14 (6) A plat showing each unit created or the conversion of a unit to com-
15 mon elements or combination thereof [*shall*] **must** be recorded in accordance
16 with ORS 100.115.

17 (7) This section applies only if the declaration expressly permits and
18 contains:

19 (a) A statement of the maximum number of units into which a unit may
20 be divided under subsection (1) of this section;

21 (b) A general description of the nature and proposed use of any unit or
22 portion of any unit which the declarant may convert to common elements;
23 and

24 (c) A statement of the method to be used to reallocate interest in the
25 common elements, the use of any limited common elements, voting rights,
26 common expense liability and right to common profits.

27

28

APPLICABILITY DATES

29

30 **SECTION 46. (1) Except as provided in subsection (2) of this section,**
31 **sections 2, 12, 13, 19, 20 and 29 of this 2019 Act and the amendments**

1 to statutes by sections 3 to 10, 14 to 17, 21 to 27 and 30 to 45 of this 2019
2 Act apply only to instruments executed on or after the effective date
3 of this 2019 Act.

4 (2) The amendments to the references to the termination date
5 specified in ORS 100.105 (2)(b) in ORS 100.105 (3)(a) by section 3 of this
6 2019 Act refer to termination dates established by documents executed
7 on, before or after the effective date of this 2019 Act.

8

9

UNIT CAPTIONS

10

11 SECTION 47. The unit captions used in this 2019 Act are provided
12 only for the convenience of the reader and do not become part of the
13 statutory law of this state or express any legislative intent in the
14 enactment of this 2019 Act.

15
