

CHAPTER 69

AN ACT

HB 2485

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, 100.675, 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:

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

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

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

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

(e) A certification by the association that:

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

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

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

(a) The words “Restated Assignment of Use of Limited Common Elements” followed by the title of the declaration and the name of the condominium if the name is not part of the title of the declaration.

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

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

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

(e) An allocation, if any, of use of a limited common element assigned to more than one unit.

(f) If the condominium is a flexible condominium or a staged condominium, the location of each unit and limited common element assigned to the unit by stage, supplemental declaration, applicable plat or other method.

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

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

(i) Certification by the association that:

(A) The restated assignment of use of limited common elements includes all assignments of use of limited common elements of the type assigned in the declaration, a supplemental declaration or an amendment to the declaration.

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

(3) If the restated declaration or the restated assignment of use conflicts with a recorded and effective document that supplemented or amended the declaration or assignment, the document that supplemented or amended the declaration or assignment controls.

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

(a) Executed by the association and acknowledged;

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

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

(5) The association shall file a copy of the recorded restated declaration or assignment of use with the commissioner.

SECTION 3. ORS 100.105 is amended to read:

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

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

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

(c) Subject to [subsection (5)] subsections (5) and (6) of this section, the name by which the property [shall be] is known and a general description of each unit and the building or buildings,

including the number of stories and basements of each building, the total number of units and the principal materials of which they are constructed.

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

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

NOTICE

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

(f) A description of the general common elements.

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

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

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

(B) A statement of the unit to which the use of each limited common element is reserved, provided the statement is not a reference to an assignment of use specified on the plat; and

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

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

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

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

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

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

(n) A statement as to whether or not the association of unit owners pursuant to ORS 100.405 (5) and

(8) has authority to grant leases, easements, rights of way, licenses and other similar interests affecting the general and limited common elements of the condominium and consent to vacation of roadways within and adjacent to the condominium.

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

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

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

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

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

(b) The date after which any right to annex additional property will terminate.

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

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

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

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

(a) Not later than two years following the termination *[dates]* **date** specified in *[subsections (2)(b) and (7)(d)]* **subsection (2)(b)** of this section, *[such]* **the** termination *[dates]* **date** may be extended for a period not exceeding *[two]* **five** years; *and*.

(b) Before the termination date specified in the declaration or supplemental declaration under subsection (7)(d) of this section, the termi-

nation date may be extended for a period not exceeding five years.

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

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

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

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

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

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

(b) A statement:

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

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

(c) A statement of the total number of tracts of variable property within the condominium, including:

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

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

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

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

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

(A) **Twenty years, only if a condominium consists, or may consist if the condominium is**

a flexible condominium, exclusively of units to be used for nonresidential purposes; or

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

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

(f) A statement that the method used to establish the allocations of undivided interest in the common elements, the method used to determine liability for common expenses and right to common profits and the method used to allocate voting rights as additional units are created [shall be] **is** the same as stated in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

(g) A general description of all existing improvements and the nature and proposed use of any improvements that may be made on variable property if the improvements might substantially increase the proportionate amount of the common expenses payable by existing unit owners.

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

(i) A statement that the plat shows the location and dimensions of all withdrawable variable property that is labeled “WITHDRAWABLE VARIABLE PROPERTY.”

(j) A statement that if by the termination date all or a portion of the withdrawable variable property has not been withdrawn or reclassified, the withdrawable [property shall automatically be] **variable property is automatically** withdrawn from the condominium as of the termination date.

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

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

(A) A statement that the plat shows the location and dimensions of all nonwithdrawable **variable** property that is labeled “NONWITHDRAWABLE VARIABLE PROPERTY.”

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

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

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

(m) A statement by the local governing body or appropriate department thereof that the withdrawal of any variable property designated as “withdrawable variable property” in the declaration in accordance with paragraph (L) of this subsection,

will not violate any applicable planning or zoning regulation or ordinance. The statement may be attached as an exhibit to the declaration.

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

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

[(10) Approval by the unit owners shall not be required to redesignate variable property as "nonwithdrawable variable property" by supplemental declaration or amendment if such redesignation is required by the local governing body or appropriate department thereof to comply with any planning or zoning regulation or ordinance.]

(10)(a) Approval by the unit owners is not required for a declarant to redesignate withdrawable variable property as "nonwithdrawable variable property" under ORS 100.150 (1) by supplemental declaration and supplemental plat, for any reason, including if the redesignation is required by the local governing body to comply with any planning or zoning regulation or ordinance.

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

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

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

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

SECTION 4. ORS 100.110 is amended to read:

100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be recorded, it must be approved as provided in this sec-

tion by the county assessor of the county in which the property is located and the Real Estate Commissioner.

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

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

(d) If the requirements of subsections (2) to (7) of this section are met, the commissioner, county assessor and tax collector, if applicable:

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

(B) May not impose additional requirements not specified in subsections (2) to (7) of this section.

(2) The county assessor of the county in which the property is located shall approve a declaration, supplemental declaration or amendment thereto if:

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

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

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

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

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

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

(4) Subject to subsection (6) of this section, the commissioner shall approve the declaration or amendment thereto if:

(a) The declaration or the amendment thereto complies with the requirements of ORS 100.105 and 100.135 **and other provisions of this chapter;**

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

(c) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with ORS 100.116 **and other provisions of this chapter**;

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

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

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

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

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

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

(A) Executed by the declarant, the professional land surveyor who signed the surveyor's certificate on the plat, the attorney for the declarant, a representative of the title insurance company that issued the information required under ORS 100.640 (1)(e) or section 19 (2)(d) of this 2019 Act or another person authorized by the declarant in writing to execute the certification; and

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

(g) A copy of a reserve study has been submitted, if a disclosure statement was issued under ORS 100.655 and the reserve study was not included pursuant to ORS 100.640 (1)(g).

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

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

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

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

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

(6) Approval by the commissioner is not required for an amendment to a declaration transferring the right of use of a limited common element pursuant to ORS 100.515 (5).

(7) Before the commissioner approves the declaration, supplemental declaration or amendment thereto under this section:

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

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

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

SECTION 5. ORS 100.116 is amended to read:

100.116. (1) A plat, including any floor plans that are a part of a plat, recorded before October 15, 1983, may be amended as provided in this section.

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

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

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

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

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

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

(a) A graphic depiction of the change;

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

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

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

(A) The plat amendment accurately depicts the amendments to the plat described in the declaration

amendment recorded under subsection (5) of this section; and

(B) Any construction that changes the boundaries of a unit or limited common element or the construction of any additional unit or limited common element has been completed; and

(e) A declaration **executed** by the [*chairperson and secretary on behalf of the*] association [*of unit owners*] that the plat is being amended pursuant to this section. If the amendment to the declaration required under subsection (5) of this section is a correction amendment under ORS 100.117, the declaration [*shall*] **must be made** by the declarant if the declarant adopts the correction amendment under ORS 100.117.

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

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

(6) Before a plat amendment may be recorded, it must be approved by the city or county surveyor as provided in ORS 92.100. The surveyor shall approve the plat amendment if it complies with the requirements of this subsection. The person offering the plat amendment shall:

(a) Submit a copy of the proposed amendment to the declaration required under subsections (3) to (5) of this section when the plat amendment is submitted.

(b) Submit the original or a copy of the executed amendment to the declaration approved by the Real Estate Commissioner if required by law prior to approval of the plat amendment.

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

(7) A change to a restriction or other information not required to be graphically depicted on the plat, **or, in the discretion of the city or county surveyor, a change to graphically depicted information that changes the identity, nature or other descriptive information but does not change the graphic depiction**, may be made by amendment of the declaration without a plat amendment described in subsections (3) to (5) of this section. A declaration amendment under this subsection [*shall*] **must** include:

(a) References to recording index numbers and date of recording of the declaration or plat and any

applicable supplemental declarations, amendments, supplemental plats or plat amendments.

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

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

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

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

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

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

[*(b) A description of the change to the floor plans.*]

[*(c) A graphic depiction of any change to the boundaries of a unit or common element and a statement by a registered architect, registered professional land surveyor or registered professional engineer certifying that such graphic depiction fully and accurately depicts the boundaries of the unit or common element as it currently exists.*]

(10)(a) Subject to paragraph (c) of this subsection, floor plans of a condominium for which floor plans were not required to be shown on a plat at the time of creation of the condominium or at the time of the recording of a supplemental declaration annexing property to the condominium may be amended by:

(A) An amendment of the declaration under paragraph (b) of this subsection; or

(B) A plat amendment under subsections (3) to (5) of this section.

(b) An amendment of the declaration must include:

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

(B) A description of the change to the floor plans.

(C) A graphic depiction of any change to the boundaries of a unit or common element and a statement by a registered architect, registered professional land surveyor or registered professional engineer certifying that such graphic depiction fully and accurately depicts the boundaries of the unit or common element as it currently exists.

(c) **Notwithstanding that floor plans were not required to be shown on a plat at the time of creation of the condominium or at the time of the recording of a supplemental declaration annexing property to the condominium, if floor plans are shown on a plat, the plat may not be amended under paragraph (b) of this subsection.**

(11) The declaration amendment described in subsection [(10)] **(10)(b)** of this section [shall] **must** be approved and recorded in accordance with ORS 100.110 and 100.135 except that any change to the floor plans need only comply with the requirements of the unit ownership laws in effect at the time the floor plans were initially recorded.

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

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

SECTION 6. ORS 100.117 is amended to read:

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

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

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

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

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

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

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

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

(d) Correct an ambiguity, inconsistency or error with respect to an objectively verifiable fact.

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

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

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

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

(a) The words "Correction Amendment" in or after the title;

(b) A reference to the recording index numbers and date of recording of the declaration, bylaws, plat, the document being corrected and any other applicable supplemental declarations, supplemental plats or amendments to the documents;

(c) A statement of the purpose of the correction; and

(d) A reference to **any provisions of subsection (2) of this section that authorize the correction amendment.**

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

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

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

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

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

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

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

(c) Is recorded.

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

(8)(a) Except for a correction amendment adopted by a declarant under subsection (5) of this section, the notice of any meeting of the board of directors at which the board intends to consider adoption of a correction amendment under this section must:

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

(B) Specify the document to be corrected.

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

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

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

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

(a) Allocation of voting rights;

(b) Liability for common expenses that changes the amount of any assessment; or

(c) Allocation of interest in the common elements.

SECTION 7. ORS 100.120 is amended to read:

100.120. *[(1)]* (1)(a) To annex additional property to the condominium under **ORS 100.125** or to reclassify **or redesignate** variable property under ORS *[100.125 or]* 100.150 (1), a supplemental declaration and a supplemental plat *[shall]* **must** be executed, approved and recorded by **the declarant in each county in which the property is located** at the time of each annexation *[or]*, reclassification **or redesignation as provided in this section.**

(b) Withdrawable variable property may not be redesignated nonwithdrawable variable property under this chapter by an amendment to the declaration, plat, supplemental declaration, or supplemental plat.

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

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

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

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

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

(e) If *[the]* a stage being annexed contains any variable property, include the information required under ORS 100.105 (7) insofar as that information relates to the property being annexed. The termination date *[shall]* **must** be consistent with the information included in the declaration in accordance with ORS 100.105 (2)(b) but may not exceed seven

years from the recording of the conveyance of the first unit in the stage to a person other than the declarant. *[Recording shall be in the county in which the property is located.]*

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

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

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

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

(c) Include a metes and bounds legal description of the resulting boundaries of the condominium after the withdrawal.

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

(e) If any **withdrawable** variable property is being redesignated as "nonwithdrawable variable property*[,]*" under **ORS 100.150 (1)**, include the information required under ORS 100.105 (7)(L) **and any other information required by rule of the Real Estate Commissioner.**

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

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

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

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

SECTION 8. ORS 100.130 is amended to read:

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

(2)(a) The owners of the affected units shall submit to the board of directors of the association a proposed amendment [*which shall identify*] **that must:**

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

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

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

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

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

(b) **If the declaration provides that the method of determining any of the reallocations described in paragraph (a)(D) of this subsection is based on the area of the unit, the reallocation must be calculated according to the area of the affected units as originally stated in the declaration, notwithstanding any change in the total area of the affected units. The amendment may not change the allocations of any other units.**

(3) The board of directors shall approve the amendment unless it determines within 45 days that the reallocations are unreasonable or the relocation or elimination will impair the structural integrity or mechanical systems of the condominium or lessen the support of any portion of the condominium.

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

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

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

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

(7) An amendment described in this section is not effective unless:

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

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

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

(d) Recorded in the deed records of each county in which the condominium is located.

[(6)] (8) An amendment to the plat and any floor plans necessary to show the altered boundaries between the adjoining units shall be recorded in accordance with ORS 100.116.

SECTION 9. ORS 100.135 is amended to read:

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

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

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

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

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

(4) Unless the declaration requires a greater percentage:

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

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

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

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

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

(iii) **The amendment creates an additional unit from common elements or part of one or more units, or both.**

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

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

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

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

(B) Contain words of conveyance;

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

(D) Be accompanied by a plat amendment in accordance with ORS 100.116 **if the amendment includes changes that are inconsistent with the surveyor's certificate or other information on the plat, a supplemental plat or a plat amendment, and that require a plat amendment under ORS 100.116.**

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

(d) If the association owns the fee title to the real property underlying a leasehold condominium, the association may amend the declaration under paragraph (b) of this subsection to require the fee title interest to submit to the requirements of this chapter.

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

(7) The declaration may not be amended to limit or diminish any right of a declarant reserved under ORS 100.105 (2) or (7) or any other special declarant right without the consent of the declarant.

However,] **unless** the declarant *[may waive]* **waives** the declarant's right of consent.

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

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

(10) An amendment to a declaration or a supplemental declaration *[shall be]* **is** conclusively presumed to have been regularly adopted in compliance with all applicable procedures relating to such amendment unless an action is brought within one year after the date *[such]* **the** amendment was recorded or the face of the recorded amendment indicates that the amendment *[received the approval of fewer]* **did not receive the** votes *[than are]* required for *[such]* approval. *[However,]* Nothing in this subsection *[shall prevent]* **prevents** the further amendment of an amended declaration or plat in accordance with ORS 100.005 to 100.627.

[(11)(a) The board of directors, by resolution and without the further approval of the unit owners, may cause a restated declaration to be prepared and recorded to codify individual amendments that have been adopted in accordance with this section.]

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

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

[(B) Include a statement that the board of directors has adopted a resolution in accordance with paragraph (a) of this subsection and is causing the declaration to be restated and recorded under this subsection;]

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

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

[(E) Be executed and acknowledged by the chairperson and secretary of the association and recorded in the deed records of each county in which the condominium is located; and]

[(F) Be approved by the commissioner, and by the county assessor and the tax collector under ORS

100.110 if the restated declaration includes any amendments required to be approved by the county assessor and the tax collector under ORS 100.110 but not previously approved.]

[(c) The board of directors shall cause a copy of the recorded restated declaration, including the recording information, to be filed with the commissioner.]

(11) An amendment to a declaration or supplemental declaration, including an amendment under this section or ORS 100.515 (5), must conform to any format and include any additional information required by the commissioner.

SECTION 10. ORS 100.150 is amended to read:

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

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

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

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

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

(a) The property [shall be] is a distinct classification of property and may not be a common element or unit of the condominium.

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

(c) Unless otherwise specifically provided in the declaration or supplemental declaration:

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

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

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

(D) Variable property [shall not be] **is not** subject to assessments for expenses of the condominium.

BYLAWS

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

SECTION 12. (1) An association of unit owners may adopt a resolution, without specific approval of the unit owners, to prepare and record restated bylaws under this section. The resolution must include:

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

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

(c) A statement that the board of directors has adopted a resolution under this subsection to restate and record amended bylaws under this section;

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

(e) A certification by the association that:

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

(B) Other changes were not made to the bylaws except, if applicable, to correct scriveners’ errors or to conform format and style.

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

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

(4) A restatement of bylaws prepared and recorded under this section must be:

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

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

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

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

(b) Within five years after the recording of bylaws recorded on or after October 3, 1989, an

amendment to the bylaws must be approved by the Real Estate Commissioner.

(2) Except as provided by subsection (4) of this section, notwithstanding a requirement in the bylaws that any amendment to the bylaws be approved by the commissioner, amendments adopted more than five years after recording the initial bylaws do not require approval by the commissioner.

(3) Bylaws that are restated under this chapter on or after July 14, 2003, and within five years of the recording of the bylaws must be approved by the commissioner.

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

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

(6) Upon compliance with subsection (5) of this section, the commissioner shall approve:

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

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

(7) If the amended bylaw or restated bylaws approved by the commissioner under this section are not recorded as required in ORS 100.410 or section 12 of this 2019 Act within one year from the date of approval by the commissioner, the approval expires and the amended bylaw or restated bylaws must be resubmitted for approval. The commissioner's approval must set forth the date on which the approval expires.

(8) An association of unit owners may request that the commissioner approve a bylaw amendment or restated bylaws under section 12 of this 2019 Act for which approval is not required under this section, subject to subsections (5) and (7) of this section.

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

SECTION 14. ORS 100.123 is amended to read: 100.123. (1) As used in this section, "document" means a declaration, supplemental declaration or bylaws, or an amendment thereto.

[(1)] (2) A declarant may amend [the declaration or bylaws] a document in order to comply with requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, Rural Development or the Farm Service Agency of the United States Department of Agriculture, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon or any corporation

wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a condominium or units in a condominium.

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

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

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

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

(c) A reference to the recording index numbers and date of recording of the declaration, bylaws, plat, the document being amended and any other applicable supplemental declarations, supplemental plats or amendments to the documents.

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

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

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

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

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

SECTION 15. ORS 100.410 is amended to read: 100.410. (1) The declarant shall adopt and execute on behalf of the association of unit owners the initial bylaws that govern the administration of the condominium. The bylaws [shall] **must be approved by the Real Estate Commissioner and** recorded simultaneously with the declaration as an exhibit or as a separate instrument.

(2) Provisions of the bylaws that regulate amendments to the bylaws:

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

(b) Control the amendment process; and

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

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

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

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

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

[(b)] (c) Certified by the [chairperson and secretary of the] association [of unit owners] as [being] adopted in accordance with the bylaws and the provisions of this section[,] and acknowledged [in the manner provided for acknowledgment of instruments and recorded.];

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

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

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

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

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

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

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

[(6)(a) For five years after the recording of the initial bylaws, before any amended bylaw may be recorded, the amended bylaw must be approved by the Real Estate Commissioner. The commissioner shall approve such amendment if the requirements of ORS 100.415 and this section have been satisfied.]

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

[(c) If the amended bylaw approved by the commissioner under this subsection is not recorded as required in subsection (3) of this section within one year from the date of approval by the commissioner,

the approval automatically expires and the amended bylaw must be resubmitted for approval as provided in this section. The commissioner's approval shall set forth the date on which the approval expires.]

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

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

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

[(10)(a) The board of directors, by resolution and without the further approval of unit owners, may cause restated bylaws to be prepared and recorded to codify individual amendments that have been adopted in accordance with this section.]

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

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

[(B) Include a statement that the board of directors has adopted a resolution in accordance with paragraph (a) of this subsection and is causing the bylaws to be restated and recorded under this subsection;]

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

[(D) Include a certification by the chairperson and secretary of the association that the restated bylaws include all previously adopted amendments that are in effect, that amendments were approved by the commissioner if required under this section and that no other changes were made except, if applicable, to correct scrivener's errors or to conform format and style;]

[(E) Be executed and acknowledged by the chairperson and secretary of the association and recorded in the deed records of each county in which the condominium is located; and]

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

[(c) The board of directors shall cause a copy of the recorded restated bylaws, including the recording information, to be filed with the commissioner.]

SECTION 16. ORS 100.415 is amended to read:

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

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

(b) If required under ORS 100.205, the formation of a transitional committee in accordance with such section.

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

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

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

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

(B) The terms of office of directors;

(C) The powers and duties of the board;

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

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

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

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

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

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

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

(B) Payment for the expense of maintenance, repair and replacement of common elements and association property and other expenses of the condominium in accordance with ORS 100.530; and

(C) The method of approving payment vouchers.

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

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

(L) Insurance coverage in accordance with ORS 100.435 and the responsibility for payment of the amount of the deductible in an association insurance policy.

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

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

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

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

(q) Restrictions on and requirements respecting the enjoyment and maintenance of the units and the common elements as are designed to prevent unreasonable interference with the use of their respective units and of the common elements by the several unit owners.

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

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

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

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

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

SECTION 17. ORS 100.530 is amended to read:

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

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

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

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

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

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

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

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

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

(B) If a turnover meeting is not held, the date the owners assume administrative control of the association.

(d) Failure of the declarant to deposit the balance due within 30 days after the due date constitutes a violation under ORS 100.545.

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

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

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

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

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

(5)(a) Except with respect to assessments for reserves required by ORS 100.175, a declaration or bylaws may provide that, until the turnover meeting, the declarant may elect to defer commencement of all or part of common expense assessments as to all units in a condominium or as to all units in a stage of a condominium or as to all units created by a supplemental declaration and plat pursuant to ORS 100.150.

(b) If a declarant so elects to defer commencement of all or part of common expense assessments, declarant shall pay as they accrue and be responsible for all or part of the common expenses attributable to the condominium or attributable to the stage of the condominium or the units and common elements created by such supplemental declaration and plat for which assessments have been deferred, until assessments commence for all common expenses.

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

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

DOCUMENT FILINGS AND DISCLOSURES

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

SECTION 19. (1) Submission of any document to the Real Estate Commissioner for approval under ORS 100.110, 100.135, 100.410 or 100.660 or section 2, 12, 13 or 20 of this 2019 Act or any other provision of this chapter must include:

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

(b) The deposit fee required under ORS 100.670; and

(c) Any documents or information required for submission under subsections (2) to (6) of this section.

(2) For approval of a declaration and bylaws, the following must be submitted:

(a) The original executed declaration and the executed adopted bylaws of the condominium and a copy of the executed documents;

(b) A statement from the county assessor or county surveyor that the name of the condominium is acceptable under ORS 100.105;

(c) A copy of the full size plat executed by the declarant and prepared in conformance with ORS 100.115 and a certification of plat execution required under ORS 100.110 (4) on a form prescribed and furnished by the commissioner;

(d) A copy of a preliminary title report, title insurance policy or condominium guarantee that has been issued within the preceding 30 days, including a map showing the location of property described in the report, policy or guarantee, or other evidence of title satisfactory to the commissioner; and

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

(3) For approval of a supplemental declaration, the following must be submitted:

(a) The original executed supplemental declaration and a copy of the executed document;

(b) The documents specified in subsection (2)(c) and (d) of this section relating to a supplemental declaration; and

(c) Any documents described in subsection (2) of this section that were amended by the supplemental declaration or have otherwise changed since the documents were previously filed under this section.

(4) For approval of an amendment to a declaration, supplemental declaration or plat, a restated declaration or a restated assignment of limited common elements, the following must be submitted:

(a) The original executed amendment, the executed restated declaration or the restated assignment of limited common elements and a copy of the executed document;

(b) For a plat amendment, a copy of the full size plat amendment prepared in conformance with ORS 100.116 and a certification of plat execution required under ORS 100.110 (4) on a form prescribed and furnished by the commissioner;

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

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

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

(d) Any documents described in subsection (2) of this section that were amended by the amendment to the declaration, supplemental declaration or plat, the restated declaration or the restated assignment of limited common elements or have otherwise changed since the documents were previously filed under this section.

(5) For approval of an amendment to the bylaws or restated bylaws, the following must be submitted:

(a) The original executed bylaw amendment or restated bylaws and a copy of the executed document; and

(b) If the amendment requires the consent or approval of a specific unit owner or mortgagee:

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

(B) Evidence of unit ownership or interest of the mortgagee.

(6) After review of the filing and documents submitted under this section, the commissioner may require the person submitting the filing to submit any other documents or information related to the filing that the commissioner considers necessary to approve the document under this chapter.

SECTION 20. (1) A declarant that proposes to submit real property to the condominium form of ownership under this chapter and does not intend to sell units in the condominium for which the developer must file a disclosure statement under ORS 100.635 may request approval of the declaration and bylaws or a supplemental declaration by:

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

(b) Filing a limited residential condominium filing described in subsection (2) of this section with the Real Estate Commissioner.

(2) A limited residential condominium filing must include:

(a) General information, provided on a form prescribed and furnished by the commissioner, including:

(A) The name and address of the condominium and the county in which the condominium is located.

(B) The name, address and telephone number of the declarant and any agent of the declarant.

(b) For approval of the declaration and bylaws or a supplemental declaration, in addition to the documents and information required under section 19 (2) or (3) of this 2019 Act, an executed and acknowledged affidavit of compliance, in a form prescribed and furnished by the commissioner, that requires the declarant to:

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

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

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

(3) After review of the limited residential condominium filing filed under this section, the commissioner may require the declarant to file additional documents and information related to the limited residential condominium filing that the commissioner deems necessary to review and approve the declaration and bylaws or a supplemental declaration under this chapter.

SECTION 21. ORS 100.635 is amended to read:

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

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

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

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

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

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

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

SECTION 22. ORS 100.640 is amended to read: 100.640. (1) The following documents and information [shall] **must** be submitted to the Real Estate Commissioner as part of the filing required under ORS 100.635:

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

[(2)] (b) A copy of the proposed or recorded by-laws drawn in conformance with ORS 100.415 or the law applicable in the state where the condominium was created;

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

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

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

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

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

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

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

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

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

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

(k) If individual escrow agreements or instructions [are to] **will** be executed by the purchaser **and are required by ORS 100.680**, other than the standard escrow instruction required by the escrow agent, [submit] **a sample form and a letter from the**

escrow agent, agreeing to the establishment of the escrows and the procedure set forth in the sample form; [and]

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

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

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

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

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

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

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

(2) If a disclosure statement required under ORS 100.655 must be adopted and issued before real property may be submitted to the condominium, a reserve study under ORS 100.175 is not required if the disclosure statement includes the information specified in ORS 100.655 (1)(h)(C).

SECTION 23. ORS 100.645 is amended to read:

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

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

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

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

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

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

(a) **Require the developer to submit any other documents and information relating to the report the commissioner considers necessary in order to determine the material changes reported comply with this chapter.**

(b) **Require the developer to make necessary changes to the disclosure statement.**

SECTION 24. ORS 100.655 is amended to read:

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

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

(b) A general narrative description of the condominium stating the total number of units, a description of the types of units, the total number of units that may be included in the condominium pursuant to ORS 100.105 (2), and a precise statement of the nature of the interest which is being offered[;].

(c) **A reference to the recording index numbers and date of recording of the declaration, bylaws and plat with the county recording officer or a statement that the proposed condominium is not yet submitted to the condominium form of ownership.**

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

(A) The construction of the project is not completed, general disclosure of the status of construction and the actual or scheduled dates of completion of buildings, recreational facilities and other common elements, including a statement describing any recreational facilities or improvements to the common elements that the developer reserves the right to develop or promises to develop, or a statement that there are no such facilities or improvements; or

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

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

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

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

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

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

NOTICE TO PROSPECTIVE PURCHASERS

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

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

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

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

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

NOTICE TO PROSPECTIVE PURCHASERS

THE RESERVE STUDY IS NOT CURRENTLY AVAILABLE FOR REVIEW. THE REAL ESTATE COMMISSIONER MAY NOT APPROVE THE DECLARATION FOR RECORDING UNLESS THE RESERVE STUDY HAS BEEN SUBMITTED. WHEN COMPLETED, THE RESERVE STUDY WILL BE AVAILABLE FOR REVIEW AT THE OFFICE OF THE REAL ESTATE COMMISSIONER OR UPON WRITTEN REQUEST TO THE DECLARANT OR DESIGNATED PERSON. PROSPECTIVE PURCHASERS SHOULD CONTACT THE DECLARANT REGARDING THE ANTICIPATED AVAILABILITY OF THE RESERVE STUDY OR ANY OTHER INFORMATION ABOUT THE PROPOSED CONDOMINIUM.

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

(A) The present condition of all structural components and major mechanical and utility installations in the condominium, including the approximate date of construction and a reasonable estimate of the remaining useful life of, at a minimum, the roof, siding, plumbing, electrical, HVAC system, asphalt, sidewalks and decks;

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

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

[(i)] (j) A cross-reference to the portions of the declaration, any supplemental declaration and bylaws containing the general power and authority of the board of directors, the method of apportionment of voting rights among the *[members of the association of]* unit owners and a statement of the nature and extent of control of the board of directors re-

tained by the developer by voting rights or otherwise[;].

[(j)] **(k)** A list of the documents by which purchasers may be bound, including the declaration, bylaws, ground leases, management agreement, easements, covenants, restrictions and conditions[;].

[(k)] **(L)** A statement of whether there are any restrictions on alienation of units or any use or occupancy restrictions, such as limitations on residential or commercial use, pets, age of occupants or number of occupants, and a cross-reference to those portions of the declaration, any supplemental declaration, bylaws or any other document containing the principal provisions relating to those restrictions[; and].

[(L)] **(m)** If the condominium is a staged condominium[;],

[(A)] whether the declarant reserves the right to annex additional property to the condominium pursuant to ORS 100.125 and, if so:

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

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

[(iii)] **(C)** The description of additional common elements declarant reserves right to annex to the property and whether such common elements might substantially increase the proportionate amount of common expenses by current unit owners; and

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

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

(o) Any additional information required by the commissioner.

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

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

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

(a) The declarant did not have actual knowledge of any inaccuracies in the statement at the time of delivery of the disclosure statement to the purchaser; and

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

SECTION 25. ORS 100.660 is amended to read:
100.660. [A developer of a condominium located in this state, that consists exclusively of units to be used

for nonresidential purposes or that consists of units to be offered for sale as a security under ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, shall submit to the Real Estate Commissioner a filing that consists of:]

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

(2) A declarant that proposes to submit real property to the condominium form of ownership under this chapter as a nonresidential condominium shall file with the Real Estate Commissioner nonresidential condominium documentation described in subsection (3) of this section and pay the fee required by ORS 100.670.

(3) The nonresidential condominium documentation must include:

[(1)] **(a)** General information on the condominium, **provided on a form prescribed and furnished by the commissioner**, including:

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

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

(b) For approval of the declaration and bylaws, the documents and information required under section 19 (2) of this 2019 Act.

(c) For approval of a supplemental declaration, the documents and information required under section 19 (3) of this 2019 Act.

[(2)] *The following documentation:*

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

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

[(c)] *A copy of the full size plat prepared in conformance with ORS 100.115;*

[(d)] *A copy of a current preliminary title report or title insurance policy or condominium guarantee that has been issued within the preceding 30 days, including a map showing the location of property described therein, or other evidence of title satisfactory to the commissioner;*

[(e)] *A copy of all restrictive covenants, reservations or other documents containing provisions that may create an encumbrance on or limit the use of the property other than those restrictions contained in the declaration, supplemental declaration or bylaws; and*

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

(4) After review of the nonresidential condominium documentation filed under this section, the commissioner may require the declarant to file additional documents and information related to the nonresidential condominium doc-

umentation that the commissioner deems necessary to review and approve the declaration and bylaws or a supplemental declaration under this chapter.

SECTION 26. ORS 100.675 is amended to read:

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

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

[(c) Within 45 days from the date that the filing has been inventoried and acknowledged as containing all the required documents and information, the commissioner shall review the filing to determine whether the documents and information submitted conform to the statutory requirements of ORS 100.005 to 100.910 and, upon determination of their conformity shall adopt and issue the disclosure statement filed under ORS 100.655.]

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

[(a) The commissioner notifies the person making the filing in writing of the portions of the document that do not comply with the applicable requirements of ORS 100.005 to 100.910; or]

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

(1) Within five working days after receipt of the prescribed filing fee under ORS 100.670 and information filed under ORS 100.635 or 100.660 or section 19 of this 2019 Act, the Real Estate Commissioner shall inventory the filing and determine whether the filing includes all required information and documentation and designate the filing as:

(a) Complete, if the commissioner determines that all required information and documentation is included; or

(b) Partially complete, if the commissioner determines that all required information and documentation is not included.

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

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

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

(b) States that the filing will not be designated as complete until the commissioner receives the itemized information and documentation required.

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

(a) Notify the declarant or developer in writing and specify what information or documentation in the filing does not meet the applicable requirements under this chapter or what additional information is necessary to review and approve the filing or, if the filing is made under ORS 100.635, adopt and issue the disclosure statement;

(b) Approve the document filed for approval; or

(c) If the filing is made under ORS 100.635, adopt and issue the disclosure statement under ORS 100.655.

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

(6) Upon approving the filing under this section, the commissioner shall provide written notice of the approval to the person making the filing.

SECTION 27. ORS 100.680 is amended to read:

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

(2) Any purchaser's funds, the unit sales agreement, any notes or security documents and any loan commitments [shall] **must** be placed in an escrow located within this state with a person or firm authorized under ORS 696.505 to 696.582. The escrow instructions may not allow distribution of the purchaser's funds until the declaration or any applicable supplemental declaration is recorded and the legal title or other interest bargained for has been

transferred to the purchaser as provided in the unit sales agreement. If any funds of the purchaser are invested, the funds *[shall]* **must** be invested in federally insured accounts or other investments approved by the Real Estate Commissioner. If the developer defaults under the unit sales agreement, the purchaser's funds held in escrow and all income earned from investment of the funds held in escrow *[shall]* **must** be returned.

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

[(a) The unit designation;]

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

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

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

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

[(f) The closing procedure;]

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

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

[(i) Provision that the purchaser will recover any funds paid to the developer and any interest earnings upon default by the developer;]

[(j) Any rights reserved by the developer to modify the declaration, any supplemental declaration, bylaws, plat or other documents by which the purchaser is or will be bound;]

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

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

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

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

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

SECTION 29. A unit sales agreement must contain:

(1) The unit designation;

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

(3) If required under ORS 100.680, the name and address of the escrow agent to hold the

purchaser's funds and a reference to the escrow instructions controlling the escrow;

(4) If the purchaser's funds are to be invested, the name of the financial institution where the funds will be deposited and to whom any interest earnings will accrue under all possible circumstances;

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

(6) The closing procedure;

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

(8) If the developer specifies any contingency, the date other than closing when all purchaser's funds and interest earnings will be returned to the purchaser if the contingency is not met;

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

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

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

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

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

SECTION 30. ORS 100.705 is amended to read:

100.705. (1) Except as provided in ORS 100.665[, no developer or agent of a], **a developer, or an agent of the developer** *[shall]* **may not** enter into a unit sales agreement prior to the issuance of the disclosure statement for the condominium.

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

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

(4) The commissioner may furnish at cost copies of the disclosure statement for the use of developers.

(5) Violations of this section *[shall be]* **are** subject to the provisions of ORS 336.184 and 646.605 to

646.656, in addition to other sanctions provided by law.

MISCELLANEOUS PROVISIONS

SECTION 31. ORS 100.405 is amended to read:

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

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

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

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

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

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

(B) **The articles of incorporation must be consistent with the declaration and bylaws.**

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

[(d)] (e) Notwithstanding a provision in the declaration or bylaws of a condominium created before September 27, 2007, that states that the association *[shall]* **must** be unincorporated or that requires approval of owners to incorporate as a nonprofit corporation under ORS chapter 65, an unincorporated association may be incorporated as a nonprofit corporation under ORS chapter 65 if the board of directors adopts a resolution that states the association will be incorporated.

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

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

(B) The bylaws in effect immediately prior to incorporation or reinstatement constitute the bylaws of the incorporated association.

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

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

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

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

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

(D) The board of directors and the officers serving immediately prior to the dissolution continue to serve as the directors and officers of the unincorporated association.

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

(3) The affairs of the association *[shall be]* **are** governed by a board of directors as provided for in the bylaws adopted under ORS 100.410.

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

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

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

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

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

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

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

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

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

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

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

(i) Resulting from a nuisance or a defect in or damage to a common element; or

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

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

(f) Make contracts and incur liabilities;

(g) Regulate the use, maintenance, repair, replacement and modification of common elements;

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

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

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

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

(A) On a schedule contained in the declaration or bylaws, or an amendment to either that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing addresses designated in writing by the owners; or

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

(L) Adopt rules regarding the termination of utility services paid for out of assessments of the association and access to and use of recreational and service facilities available to unit owners that must provide for written notice and an opportunity to be heard before the association may terminate the rights of any owners to receive such benefits or services until the correction of any violation covered by the rule has occurred;

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

(n) Assign its right to future income, including the right to receive common expense assessments;

(o) Provide for the indemnification of its officers and executive board, as may be limited by ORS 61.218 (3)(d) (1987 Replacement Part), and maintain directors' and officers' liability insurance;

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

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

(r) Exercise any other powers determined by the association to be necessary and proper for the governance and operation of the association.

(5) Subject to subsection (6) of this section, unless expressly limited or prohibited by the declaration, the association has the authority to grant, execute, acknowledge and deliver on behalf of the unit owners leases, easements, rights of way, licenses and other similar interests affecting the general common elements and consent to vacation of roadways within and adjacent to the condominium.

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

(B) Unless the declaration otherwise provides:

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

(ii) The granting of a lease, easement, right of way, license or other similar interest affecting the general common elements for a term of more than two years to a public body, as defined in ORS 174.109, *[or]* to a utility *[or]*, **to** a communications company **or to any other person** for installation and maintenance of power, gas, electric, water or other utility and communication lines and services requires the approval of a majority of the board of directors.

(iii) The granting of a lease, easement, license or other similar interest to an owner for the exclusive use of a part of the general common elements to which the owner's unit provides primary access requires the approval of a majority of the board of directors. If the approval by the board of directors includes the right of the owner to make improvements to the general common elements to which the owner is being granted exclusive use, ORS 100.535 applies to the general common elements to the same extent that ORS 100.535 applies to a unit, including the right of the board under ORS 100.535 to require an owner, at owner's expense, to submit an opinion of a registered architect or registered professional engineer that the proposed improvement will not impair the structural integrity or mechanical systems of the condominium.

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

(7) The instrument granting an interest or consent pursuant to subsection (5) of this section *[shall]* **must** be executed by *[the chairperson and secretary of]* the association and acknowledged *[in the manner provided for acknowledgment of such instruments by such officers]* and shall state that such grant or consent was approved, if appropriate, by at

least the percent of owners required under subsection (6) of this section.

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

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

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

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

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

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

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

(C) Include a certification **executed** by the [*chairperson and secretary*] **association stating** that the action was approved by the owners in accordance with this subsection.

(9) Except as otherwise provided in the association's declaration or bylaws, the board of directors of the association may modify, close, remove, eliminate or discontinue the use of a general common element facility or improvement or portion of the common element landscaping, regardless of whether such facility, improvement or landscaping is mentioned in the declaration or shown on the plat provided that:

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

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

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

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

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

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

(D) Be executed by the [*chairperson and secretary of the*] association and acknowledged [*in the manner provided for acknowledgment of such instruments by the officers*].

(b) The board of directors may record an amendment, modification, termination or other instrument relating to the permit or authorization described in this subsection. Any such instrument shall include a reference to the location of the recorded instrument and be executed by the [*chairperson and secretary of the*] association and acknowledged [*in the manner provided for acknowledgment of such instruments*].

(11)(a) Subject to paragraph (f) of this subsection, before initiating litigation or an administrative proceeding in which the association and an owner have an adversarial relationship, the party that intends to initiate litigation or an administrative proceeding shall offer to use any dispute resolution program available within the county in which the condominium is located that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the association, for the other party.

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

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

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

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

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

SECTION 32. ORS 100.600 is amended to read:

100.600. (1)(a) Subject to ORS 100.605, the condominium may be terminated if all of the unit owners remove the property from the provisions of this chapter by executing and recording an instrument to that effect and the holders of all liens affecting the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the undivided interest of the unit owner in the property after the termination. The instrument shall state the interest of each unit owner and lienholder as determined under ORS 100.610.

(b) The recording of an instrument of termination shall vacate the plat but shall not vacate or terminate any recorded covenants, restrictions, easements or other interests not imposed under the declaration or bylaws or any easement granted by the plat unless the instrument of termination otherwise provides.

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

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

(e) Failure to file the copies as required under paragraph (d) of this subsection does not invalidate the termination.

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

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

(b) Include a metes and bounds legal description of the resulting boundaries of the condominium after the removal;

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

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

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

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

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

(h) Be approved by any other mortgagees whose approval is required under the declaration or bylaws;

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

(j) Include a statement by the local governing body or appropriate department thereof that the removal will not violate any applicable planning or zoning regulation or ordinance. The statement may be attached as an exhibit to the amendment.

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

(a) Comply with ORS 100.116;

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

(c) Include such signatures of approval as may be required by local ordinance or regulation.

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

NOTE: Section 33 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 34. ORS 100.005 is amended to read:

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

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

[(1)] (2) **"Assessment" means any charge imposed or levied by the association of unit owners on or against a unit owner or unit pursuant to provisions of the declaration or the bylaws of the condominium or provisions of [ORS 100.005 to 100.910] this chapter.**

[(2)] (3) **"Association of unit owners" or "association" means the association provided for under ORS 100.405.**

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

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

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

(7) “**Certified by the association**” or “**executed by the association**” means **signed by the secretary and the president or chairperson of the association.**

[(6)] (8) “Commissioner” means the Real Estate Commissioner.

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

[(8)] (10) “Common expenses” means:

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

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

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

[(9)] (11) “Condominium” means:

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

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

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

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

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

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

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

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

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

[(12)] (14) “Declaration” means the instrument described in ORS 100.105 by which the condominium

is created and as modified by any amendment recorded in accordance with ORS 100.135 or supplemental declaration recorded in accordance with ORS 100.120.

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

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

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

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

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

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

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

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

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

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

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

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

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

[(19)] (21) “Limited common elements” means those common elements designated in the declaration, as reserved for the use of a certain unit or number of units, to the exclusion of the other units.

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

[21] (23) "Mortgagee" means any person who is:
 (a) A mortgagee under a mortgage;
 (b) A beneficiary under a trust deed; or
 (c) The vendor under a land sale contract.

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

[23] (25) "Nonwithdrawable **variable** property" means property which pursuant to ORS 100.150 (1)(b):
 (a) Is designated nonwithdrawable in the declaration and on the plat; and
 (b) Which may not be withdrawn from the condominium without the consent of all of the unit owners.

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

[25] (27) "Purchaser" means an actual or prospective purchaser of a condominium unit pursuant to a sale.

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

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

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

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

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

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

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

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

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

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

[35] (38) "Unit" or "condominium unit" means a part of the property which:
 (a) Is described in ORS 100.020 (3);
 (b) Is intended for any type of independent ownership; and
 (c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

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

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

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

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

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

CONFORMING AMENDMENTS

SECTION 35. ORS 100.407 is amended to read:
 100.407. (1) The association of unit owners shall hold at least one meeting of the owners each calendar year.
 (2)(a) Special meetings of the association may be called by the chairperson **or president** of the board of directors, by a majority of the board of directors or by the chairperson, **president** or secretary upon receipt of a written request of a percentage of unit owners specified in the bylaws. However, the bylaws may not require a percentage greater than 50 percent or less than 10 percent of the unit owners for the purpose of calling a meeting.
 (b) If the bylaws do not specify a percentage of unit owners that may request the calling of a special meeting, a special meeting shall be called if 30 percent or more of the unit owners make the request in writing. Notice of the special meeting shall be given as specified in this section.

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

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

(b) The notice shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes or any proposal to remove a director or officer of the association.

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

SECTION 36. ORS 87.015 is amended to read:

87.015. (1) The site together with the land that may be required for the convenient use and occupation of the improvement constructed on the site, to be determined by the court at the time of the foreclosure of the lien, shall also be subject to the liens created under ORS 87.010 (1), (4) and (5) if, at the time of the commencement of the improvement, the person who caused the improvement to be constructed was the owner of that site and land. If the person owned less than a fee-simple estate in the site and land, then only the interest of the person therein shall be subject to the lien.

(2) If a lien created under ORS 87.010 (1), (4) and (5) is claimed against a unit as defined in ORS 100.005 [to 100.910, the Oregon Condominium Act], the common elements appertaining to that unit are also subject to the lien.

(3) When the interest of the person who caused the improvement to be constructed is a leasehold interest, and that person has forfeited the rights of the person thereto, the purchaser of the improvement and leasehold term at any sale under the provisions of ORS 87.001 to 87.060 and 87.075 to 87.093, is deemed to be the assignee of the leasehold term, and may pay the lessor all arrears of rent or other money and costs due under the lease. If the lessor regains possession of the property, or obtains judgment for the possession thereof prior to the commencement of construction of the improvement, the purchaser may remove the improvement within 30 days after the purchaser purchases it, and the owner of the land shall receive the rent due the owner, payable out of the proceeds of the sale, according to the terms of the lease, down to the time of removal.

SECTION 37. ORS 100.020 is amended to read:

100.020. (1) Except as otherwise provided in subsections (2) and (3) of this section, ORS 100.100 to 100.625 apply only to property located within this state which a person elects to submit to the condominium form of ownership as provided in ORS 100.005 to 100.627.

(2) Unless the declarant elects otherwise, ORS 100.175, 100.185, 100.200 (2), 100.205, 100.210, 100.300, 100.305, 100.310, 100.315 and 100.320 apply only to condominiums that include units to be used for residential purposes.

(3) Property may not be submitted to the condominium form of ownership under ORS 100.005 to 100.627 unless:

(a) Each unit has legal access to a public street or highway or, if the unit has such access only by virtue of common ownership with other units, the declaration executed under ORS 100.110 prohibits conveyance of the unit unless after conveyance the unit will continue to have legal access to a public street or highway;

(b) Subject to paragraph (c) of this subsection, each unit consists of:

(A) A building or part of a building;

(B) A space used for the parking or storage of automobiles, trucks, boats, campers or other vehicles or equipment;

(C) A space for the moorage of a watercraft, floating home or other structure; or

(D) A floating structure, including a structure formerly used as a ship or other vessel that:

(i) Is permanently moored to structures in a river, lake or other waterway pursuant to a long-term lease with a remaining term at the time the declaration and plat are recorded of not less than 15 years;

(ii) Contains two or more residential units with a combined floor space of not less than 2,000 square feet; and

(iii) Has upland common elements owned in fee or by leasehold having a remaining term of not less than the remaining term of the leasehold on the submerged or submersible land. The units in a condominium described in this subparagraph [shall be] **are** considered real property for purposes of the Oregon Condominium Act; and

(c) Each unit has an interest in the common elements in accordance with ORS 100.515. However, a unit may not include any portion of the land. A declaration may not provide that there are no common elements.

(4)(a) Except as otherwise provided in subsection (5) of this section, ORS 100.015 and 100.635 to 100.910 apply to condominiums having units to be used for residential purposes which are not offered for sale as a security pursuant to ORS 59.005 to 59.505.

(b) ORS 100.635 [(2)] **(1)(b)**, 100.640 [(8) to (12)] **(1)(h) to (o)**, 100.655, 100.705, 100.720, 100.725, 100.730, 100.735, 100.740 and 100.745 do not apply to the sale of units to be used for nonresidential purposes as provided in subsection (5) of this section unless the units, including units used for parking or

storage, are ancillary to the sale of units to be used for residential purposes.

(5)(a) ORS 100.650, 100.660, 100.670, 100.675, 100.750, 100.770, 100.775, 100.780, 100.900, 100.905 and 100.990 apply to a condominium located in this state that consists exclusively of units to be used for nonresidential purposes or that consists of units to be offered for sale as a security under ORS 59.005 to 59.505.

(b) As used in this subsection, “nonresidential purposes” includes apartments within a condominium in which the apartments are not separate units or units that are restricted in use by the unit owner to less than full-time residential purposes.

(6) The units in a condominium described in subsection (3)(b)(C) and (D) of this section *[shall be]* **are** considered real property for purposes of this chapter.

(7) Unless the declaration or bylaws provide otherwise, a condominium unit may be submitted to the condominium form of ownership under ORS 100.005 to 100.627.

(8) If an association creates not more than two additional units from common elements by an amendment to the declaration under ORS 100.135, then ORS 100.635 [(2)] **(1)(b)**, 100.640 [(8) to (12)] **(1)(h) to (o)**, 100.655, 100.705, 100.720, 100.725, 100.730, 100.735 and 100.745 do not apply to the sale of the units by the association.

SECTION 38. ORS 100.102 is amended to read:

100.102. (1) The owner of fee title interest in the real property underlying a leasehold condominium may submit the fee title to the provisions of this chapter by the procedures set forth in this section. Submission has the effect set forth in ORS 100.103.

(2) The fee title interest of a leasehold condominium may be submitted to the provisions of this chapter by an amendment to the declaration. The amendment must:

(a) Include a reference to the recording index numbers and date of recording of the initial declaration, supplemental declarations recorded pursuant to ORS 100.120 and the lease;

(b) State that the fee title interest in the real property subject to the leasehold is submitted to the provisions of this chapter pursuant to this section;

(c) State that the submission of the fee title interest in the real property subject to the leasehold to the provisions of this chapter has the effect set forth in ORS 100.103;

(d) State that there are no encumbrances against the fee title interest securing payment of moneys except for the assessments of the owners association that are not yet due;

(e) Be approved by at least 75 percent of the unit owners, notwithstanding that the declaration may require approval by a larger percentage of owners or the consent of another person to amend the declaration;

(f) Be executed by the fee title holder and the *[chairperson and secretary of the]* association and

acknowledged *[in the manner provided for acknowledgment of instruments]*;

(g) Be certified by the *[chairperson and secretary]* **association** as being adopted in accordance with this section;

(h) Be approved as required by ORS 100.110; and

(i) Be recorded in the office of the recording officer of each county in which the condominium is located.

(3) At the time of submission, the fee title interest being submitted may not be subject to an encumbrance securing payment of money except for the assessments of an association that are not yet due.

(4) Nothing in this section precludes the declarant of a leasehold condominium, the unit owners and the association from agreeing to other procedures for submitting the fee title interest to the provisions of this chapter, provided the procedures are set forth in:

(a) The declaration; or

(b) An amendment to the declaration approved by at least 75 percent of the unit owners or, if a larger percentage is specified in the declaration to effect amendments to the declaration, the larger percentage, and 75 percent of the lenders holding a first-priority security position in any unit in the condominium.

SECTION 39. ORS 100.125 is amended to read:

100.125. Subject to ORS 100.120 [(4)] **(5)**, if the declaration complies with ORS 100.105 (2), until the termination date, additional property may be annexed to the condominium by the recording of a supplemental declaration and supplemental plat in accordance with ORS 100.115.

SECTION 40. ORS 100.155 is amended to read:

100.155. (1) If by the termination date specified in the declaration there is any remaining variable property:

(a) Any property designated nonwithdrawable variable property becomes part of the common elements and any interest in the property held for security purposes is automatically extinguished by reclassification.

(b) Any property designated withdrawable variable property *[shall be]* **is** automatically withdrawn from the condominium as of the termination date.

(c) Subject to paragraph (d) of this subsection, the association may record in the office of the recording officer in the county in which the condominium is located:

(A) For property reclassified under paragraph (a) of this subsection, a “Statement of Reclassification of Variable Property” stating that the remaining nonwithdrawable variable property has been reclassified to common elements pursuant to paragraph (a) of this subsection.

(B) For property withdrawn under paragraph (b) of this subsection, a “Statement of Withdrawal of Variable Property from Condominium” stating that remaining withdrawable variable property has been

withdrawn from the condominium pursuant to paragraph (b) of this subsection.

(d) A statement described in paragraph (c) of this subsection *[shall] must*:

(A) Include the name of the condominium, a reference to the recording index numbers and date of recording of the declaration, the plat creating the affected variable property and any applicable supplemental declaration.

(B) Include a description of the reclassified or withdrawn variable property complying with ORS 93.600.

(C) Be executed by the *[chairperson and secretary of the]* association and acknowledged *[in the manner provided for acknowledgment of deeds]*.

(e) After recording a statement under paragraph (c) of this subsection, the association shall provide a copy of the recorded statement to the county surveyor. The original plat may not be changed or corrected after it is recorded with the county clerk.

(2)(a) Unless expressly prohibited by the declaration, any variable property automatically withdrawn from the condominium under subsection (1)(b) of this section or voluntarily withdrawn under ORS 100.150 (1)(b) may be later annexed to the condominium by the recording of a supplemental declaration and plat in accordance with ORS 100.120 (2) **(3)** if such action is first approved by at least 75 percent of all voting rights in the manner required for an amendment to the declaration.

(b) The supplemental declaration and plat shall be executed by the *[chairperson and secretary on behalf of the]* association and acknowledged *[in the manner provided for acknowledgment of deeds by such officers]*. Except for the termination date, the supplemental declaration *[shall] must* comply with ORS 100.120 (1) **and (2)** and *[shall] must* state that the annexation was approved by at least 75 percent of all voting rights.

(3)(a) Unless expressly prohibited by the declaration and notwithstanding the termination date, the association may, with respect to any variable property automatically reclassified, exercise any rights previously held by the declarant. The exercise of any right *[shall] must* first be approved by at least a majority of all voting rights. All other actions relating to such reclassified general common elements *[shall be] are* regulated and governed in like manner as other general common elements of the condominium.

(b) If a supplemental declaration and plat is required for any action, the plat *[shall] must* be executed by the *[chairperson and secretary of the]* association and *[shall] must* comply with the requirements of this chapter as to a supplemental declaration and the recording of plats.

(4) Title to any additional units created under subsection (3) of this section automatically vests in the association upon the recording of a supplemental declaration and plat. The board of directors acting on behalf of the association has the power to hold, convey, lease, encumber or otherwise deal with a

unit or any interest therein in like manner as other property owned by the association.

(5) The county clerk may charge a fee for recording a statement under this section according to provisions of ORS 205.320 (1)(d).

(6) The county assessor shall cause the assessment and tax rolls to reflect the status of any variable property affected by automatic property reclassification under subsection (1)(a) of this section or automatically withdrawn under subsection (1)(b) of this section.

SECTION 41. ORS 100.175 is amended to read:

100.175. (1) The declarant, on behalf of the association of unit owners, shall:

(a) Conduct an initial reserve study as described in subsection (3) of this section;

(b) Prepare an initial maintenance plan as described in subsection (4) of this section; and

(c) Establish a reserve account *[as provided in] if required under* subsection (2) of this section.

(2)(a) An association of unit owners shall establish a reserve account to fund: *[major maintenance, repair or replacement of those common elements all or part of which will normally require major maintenance, repair or replacement in more than one and less than 30 years, for exterior painting if the common elements include exterior painted surfaces, and for such other items as may be required by the declaration or bylaws. The reserve account need not include:]*

[(A) Items that can reasonably be funded from the general budget or other funds or accounts of the association; or]

[(B) A reserve for limited common elements for which maintenance and replacement are the responsibility of one or more, but less than all, unit owners under the provisions of the declaration or bylaws.]

[(b) The reserve account shall be established in the name of the association of unit owners. The association is responsible for administering the account and for making periodic payments into the account.]

[(c) The reserve portion of the initial assessment determined by the declarant shall be based on:]

[(A) The reserve study described in subsection (3) of this section;]

[(B) In the case of a conversion condominium, the statement described in ORS 100.655 (1)(g); or]

[(C) Other reliable information.]

[(d) The reserve account must be funded by assessments against the individual units for the purposes for which the reserve account is established.]

[(e) The assessment under this subsection accrues from the time of the conveyance of the first individual unit assessed as provided in ORS 100.530.]

(A) Major maintenance, repair or replacement of those common elements or other property to be maintained by the association under the declaration or bylaws, all or part of which will normally require major maintenance, repair or replacement in more than one and less than 30 years;

(B) Exterior painting if the common elements or other property required to be maintained by the association under the declaration or bylaws include exterior painted surfaces; and

(C) Any other items for which a reserve is required under the declaration or bylaws.

(b) The reserve account required under paragraph (a) of this subsection need not include:

(A) Items that can reasonably be funded from the general budget or other funds or accounts of the association; or

(B) A reserve for limited common elements for which maintenance and replacement are the responsibility of one or more, but less than all, unit owners under the provisions of the declaration or bylaws.

(c) The reserve account must be established in the name of the association of unit owners. The association is responsible for administering the account and for making periodic payments into the account.

(d) The reserve portion of the initial assessment determined by the declarant must be based on:

(A) The reserve study described in subsection (3) of this section;

(B) In the case of a conversion condominium, the statement described in ORS 100.655 (1)(h); or

(C) Other reliable information.

(e) The reserve account must be funded by assessments against the individual units for the purposes for which the reserve account is established.

(f) The assessment under this subsection accrues from the time of the conveyance of the first individual unit assessed as provided in ORS 100.530.

(3)(a) The board of directors of the association shall annually determine the reserve account requirements by conducting a reserve study or reviewing and updating an existing study using the following information:

(A) The starting balance of the reserve account for the current fiscal year;

(B) The estimated remaining useful life of each item for which reserves are or will be established, as of the date of the study or review;

(C) The estimated cost of maintenance and repair and replacement at the end of the useful life of each item for which reserves are or will be established;

(D) The rate of inflation during the current fiscal year; and

(E) Returns on any invested reserves or investments.

(b) Subject to subsection (10) of this section, after a review of the reserve study or the reserve study update, the board may, without any action by the unit owners:

(A) Adjust the amount of payments in accordance with the study or review; and

(B) Provide for other reserve items that the board of directors, in its discretion, may deem appropriate.

(c) The reserve study *[shall]* **must:**

(A) Identify all items for which reserves are or will be established;

(B) Include the estimated remaining useful life of each item, as of the date of the reserve study; and

(C) Include for each item, as applicable, an estimated cost of maintenance and repair and replacement at the end of the item's useful life.

(4)(a) The board of directors shall prepare a maintenance plan for the maintenance, repair and replacement of all property for which the association has maintenance, repair or replacement responsibility under the declaration or bylaws or this chapter. The maintenance plan *[shall]* **must:**

(A) Describe the maintenance, repair and replacement to be conducted;

(B) Include a schedule for the maintenance, repair and replacement;

(C) Be appropriate for the size and complexity of the maintenance, repair and replacement responsibility of the association; and

(D) Address issues that include but are not limited to warranties and the useful life of the items for which the association has maintenance, repair or replacement responsibility.

(b) The board of directors shall review and update the maintenance plan described under this subsection as necessary.

(5)(a) Except as provided in paragraph (b) of this subsection, the reserve study requirements under subsection (3) of this section and the maintenance plan requirements under subsection (4) of this section do not apply to a condominium consisting of one or two units, excluding units used for parking, storage or other uses ancillary to a unit:

(A) After the sale of the first unit to a person other than a successor declarant, if the condominium is created on or after September 27, 2007; or

(B) If the condominium was created before September 27, 2007, notwithstanding any requirement in the declaration or bylaws.

(b) The reserve study requirements under subsection (3) of this section and the maintenance plan requirements under subsection (4) of this section apply to a flexible condominium or a staged condominium created on or after September 27, 2007, if the condominium might in the future consist of more than two units.

(6)(a) If the declaration or bylaws require a reserve account, the reserve study requirements of subsection (3) of this section and the maintenance plan requirements of subsection (4) of this section first apply to the association of a condominium recorded prior to October 23, 1999:

(A) Upon adoption of a resolution by the board of directors in accordance with the bylaws providing that the requirements of subsections (3) and (4) of this section apply to the association; or

(B) Upon submission to the board of directors of a petition signed by a majority of unit owners man-

dating that the requirements of subsections (3) and (4) of this section apply to the association.

(b) The reserve study and the maintenance plan *[shall]* **must** be completed within one year of the date of adoption of the resolution or submission of the petition to the board of directors.

(7)(a) Except as provided in paragraph (b) of this subsection, the reserve account is to be used only for the purposes for which reserves have been established and is to be kept separate from other funds.

(b) After the individual unit owners have assumed administrative responsibility for the association under ORS 100.210, if the board of directors has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds:

(A) The board of directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses.

(B) Not later than the adoption of the budget for the following year, the board of directors shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

(8) The reserve account is subject to the requirements and restrictions of ORS 100.480 and any additional requirements or restrictions imposed by the declaration, bylaws or rules of the association of unit owners.

(9) Assessments paid into the reserve account are the property of the association of unit owners and are not refundable to sellers of units.

(10)(a) Except as provided under paragraph (b) of this subsection, unless the board of directors under subsection (3) of this section determines that the reserve account will be adequately funded for the following year, the board of directors or the owners may not vote to eliminate funding a reserve account required under this section or under the declaration or bylaws.

(b) Following the turnover meeting described in ORS 100.210, on an annual basis, the board of directors, with the approval of all owners, may elect not to fund the reserve account for the following year.

SECTION 42. ORS 100.260 is amended to read:

100.260. (1) The Condominium Information Report required under ORS 100.250 (1)(a) *[shall]* **must** set forth:

(a) The name of the association;

(b) The name of the condominium and the county in which the condominium is located;

(c) The mailing address, including the street and number, if any, and county of the association;

(d) The date the condominium declaration was recorded and the recording index numbers;

(e) The name and residence or business address, including the street and number, of the person designated as agent to receive service of process in cases provided in ORS 100.550 (1) and any other le-

gal proceeding relating to the condominium or association; and

(f) The number and type of units as follows:

No. _____ Living Units

No. _____ Commercial/Office Units

No. _____ Other (describe) _____

(2) The Annual Report required under ORS 100.250 (1)(b) *[shall]* **must** set forth:

(a) The information required under subsection (1)(a), (b), (c) and (e) of this section;

(b) The names and addresses of the *[chairperson and]* secretary **and the chairperson or president** of the association; and

(c) If the designated agent is changed, a statement that the new agent has consented to the appointment.

(3) The amendment required under ORS 100.250 (1)(c) *[shall]* **must** set forth:

(a) The name of the association as shown on the current records of the Real Estate Agency;

(b) The name of the condominium and county in which the condominium is located;

(c) A statement of the information as changed; and

(d) If the current designated agent is to be changed, the name of the new designated agent and residence or business address, including the street and number, and a statement that the new agent has consented to the appointment.

(4) The filing by the Real Estate Agency of an amendment *[which]* **that** changes the designated agent *[shall]* **must** terminate the existing designated agent on the effective date of the filing and establish the newly appointed designated agent as that of the association.

(5) The reports and amendment described in this section and an application for termination described in ORS 100.280 *[shall]* **must** be made on forms prescribed and furnished by the Real Estate Agency and must be accompanied by the correct filing fee and shall:

(a) Contain information current as of 30 days before delivery for filing;

(b) Be executed by the designated agent and until the turnover meeting by the declarant and thereafter by the *[chairperson or secretary of the]* association;

(c) State beneath or opposite the signature the name of the person and the capacity in which the person signs; and

(d) Contain any additional identifying information that the Real Estate Agency may require by rule.

SECTION 43. ORS 100.275 is amended to read:

100.275. (1) Subject to ORS 100.550 (3), ORS 100.250 to 100.280, including the filing of a Condominium Information Report described in ORS 100.260 (1), apply to property submitted to the provisions of this chapter before October 3, 1989, if:

(a) The board of directors of the association receives a written request to comply with such

sections from at least one unit owner or holder of a first mortgage or deed of trust on a unit;

(b) The board of directors of the association adopts a resolution to comply with such sections in accordance with the bylaws;

(c) The association is a party to a suit or action, the person designated in the declaration under ORS 100.105 (1)(L), the chairperson, **president** or secretary receives written notice to comply with such sections from any other party to such suit or action. A copy of the notice *[shall]* **must** be delivered to the Real Estate Agency. The Real Estate Agency shall provide a copy of the filed report to the requesting party and may charge the association a fee for cost of such action. If the association fails to deliver for filing such report, the provisions of ORS 100.265 (3) *[shall]* apply; or

(d) A filing is required to comply with the requirements of ORS 100.120, 100.135 or 100.450.

(2) The Condominium Information Report required under subsection (1) of this section *[shall]* **must** be executed by *[the chairperson or secretary of]* the association and the designated agent.

SECTION 44. ORS 100.550 is amended to read:

100.550. (1) Service of process in any action relating to the condominium may be made on:

(a) If the condominium was submitted to the provisions of this chapter before October 3, 1989, the person designated in the declaration to receive service of process;

(b) The person named as designated agent in the Condominium Information Report filed with the Real Estate Agency under ORS 100.250;

(c) If the association is organized as a corporation under Oregon law, the registered agent in accordance with ORS 60.111 or 61.086 (1987 Replacement Part); or

(d) The chairperson, **president** or secretary of the association.

(2) Except as provided in subsection (4) of this section, if the association of unit owners of property submitted to the provisions of this chapter before October 15, 1983, wishes to designate a person other than the one named in the declaration to receive service of process in the cases provided in subsection (1) of this section, it shall record an amendment to the declaration. The amendment *[shall]* **must** be certified by the *[chairperson and the secretary of the]* association *[of unit owners]*, and *[shall]* **must** state the name of the successor with the successor's residence or place of business as required by ORS 100.105 (1)(L), and that the person named in the amendment was designated by resolution duly adopted by the association of unit owners.

(3) Unless prohibited by the declaration or bylaws, the board of directors of the association of unit owners of property submitted to the provisions of this chapter after October 15, 1983, may elect to designate a person other than the one named in the declaration to receive service of the process in the cases provided in subsection (1) of this section. After the adoption of a resolution by the board of directors

in accordance with the bylaws, the board of directors, without the need for further action by the association or approval under ORS 100.110 and 100.135, shall record an amendment to the declaration. The amendment *[shall]* **must** be certified by the *[chairperson and the secretary of the]* association *[of unit owners,]* and *[shall]* **must** state the name of the successor with the successor's residence or place of business as required by ORS 100.105 (1)(L), that the person named in the amendment has consented to the designation and that the resolution was duly adopted by the association of unit owners.

(4) Subsection (3) of this section applies to property submitted to the provisions of this chapter before October 15, 1983, if:

(a) The board of directors of the association of unit owners receives a written request from at least one unit owner that subsection (3) of this section applies; or

(b) The board of directors of the association of unit owners adopts a resolution in accordance with the bylaws of the association that subsection (3) of this section applies.

SECTION 45. ORS 100.625 is amended to read:

100.625. (1) Subject to the provisions of the declaration and any applicable law, and upon compliance with this section:

(a) A unit designated in the declaration to be used for commercial, industrial or other nonresidential purpose may be divided by an owner, including the declarant, into two or more units.

(b) A unit owned by the declarant and located in a condominium that consists exclusively of units designated in the declaration to be used for nonresidential purposes, may be divided or converted into two or more units, common elements or a combination of units and common elements.

(2) The owner of a unit to be divided or converted shall submit to the board of directors of the association of unit owners a proposed amendment *[which shall]* **that must**:

(a) State the purposes of the amendment;

(b) Assign an identifying number to each unit created;

(c) Reallocate the interest in the common elements and the use of any limited common elements, voting rights, common expense liability and the right to common profits in the manner prescribed in the declaration;

(d) Indicate the means of access for each unit to common elements; and

(e) Include any additional provisions necessary to conform any other provisions of the declaration or bylaws.

(3) The board of directors shall approve the proposed amendment unless the board determines within 45 days that the amendment is inconsistent with the declaration or bylaws, or the division or conversion will impair the structural integrity or mechanical systems of the condominium or lessen the support of any portion of the condominium.

(4) The board of directors may require the owner of the unit to be divided or converted to submit an opinion of a registered professional engineer as to whether or not the proposed division or conversion will impair the structural integrity or mechanical systems of the condominium or weaken the support of any portion of the condominium. The board of directors or any agent appointed by the board of directors may supervise the work necessary to effect the division or conversion. Any expenses incurred under this section *[shall]* **must** be charged to the owner of the unit requesting the division or conversion.

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

(6) A plat showing each unit created or the conversion of a unit to common elements or combination thereof *[shall]* **must** be recorded in accordance with ORS 100.115.

(7) This section applies only if the declaration expressly permits and contains:

(a) A statement of the maximum number of units into which a unit may be divided under subsection (1) of this section;

(b) A general description of the nature and proposed use of any unit or portion of any unit which the declarant may convert to common elements; and

(c) A statement of the method to be used to re-allocate interest in the common elements, the use

of any limited common elements, voting rights, common expense liability and right to common profits.

APPLICABILITY DATES

SECTION 46. (1) Except as provided in subsection (2) of this section, sections 2, 12, 13, 19, 20 and 29 of this 2019 Act and the amendments to statutes by sections 3 to 10, 14 to 17, 21 to 27 and 30 to 45 of this 2019 Act apply only to instruments executed on or after the effective date of this 2019 Act.

(2) The amendments to the references to the termination date specified in ORS 100.105 (2)(b) in ORS 100.105 (3)(a) by section 3 of this 2019 Act refer to termination dates established by documents executed on, before or after the effective date of this 2019 Act.

UNIT CAPTIONS

SECTION 47. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

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