

Oregon House looks to help fill empty HOA boards

Have you ever given a party to which no one showed, even though you sent invitations to the right addresses and with plenty of time? You probably felt hurt because nobody thought the party was worth attending.

Residential home builders in Oregon have felt this same disappointment because of home buyers too often failing to join homeowner associations, hampering developers that want to turn over control of their buildings.

To address this, a legislative action committee made up of the Community Associations Institute, the Condominium-HOA Working Group and Oregon Washington Community Association Managers has written house bills 2665 and 2666.

The bills would amend the Oregon revised statutes governing condominiums and planned communities, ORS 100 and 94, respectively. Both are expected to be enacted into law with an effective date 90 days after the legislative session ends.

Additionally, HB 3186, which would tighten requirements on apartment-to-condominium conversions, last week passed the House. And Senate Bill 543 was introduced to require association funds be deposited in Federal Deposit Insurance Corp.-insured bank accounts but allowing the use of out-of-state banks for such purposes. Both of these bills are expected to pass into law. SB 543 contains an emergency clause and would be effective immediately upon passage. HB 3186 would be effective Jan. 1, 2008.

Over the next two days, we will explore these bills and their impact on homeowner associations in Oregon.

Board of directors appointments eased

HB 2665 supplements the Planned Community Act and the Condominium Act so that, if a homeowner association fails to fill vacancies on the board sufficient to constitute a quorum, an owner or its lender may request the circuit court appoint a receiver to manage the affairs of the association. The salary of the receiver would be a common expense.

Previously there was no statutory remedy if members of a homeowner association failed to elect a board to perform its duties. This hampered developers in turning over association control to uncooperative buyers. HB 2665 provides that, if a home builder has complied with its responsibilities and yet the owners still fail to elect the directors and assume control, the declarant is relieved from further administrative responsibility.

The bill also simplifies the administrative process so that, if any meeting cannot be organized because of a lack of a quorum of owners present in person or by proxy, the meeting may be adjourned and a new meeting held at which a much lower quorum requirement will be applicable to facilitate a successful meeting.

Communications, voting expanded

HB 2665 also allows greater flexibility in the dissemination of information and clarifies the process for association voting. At discretion of the board, any required notice or information may



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be e-mailed or faxed notwithstanding any requirement under the declaration or bylaws.

However, electronic communications may not be used to give notice of certain matters such as failure to pay assessments, foreclosure of an association's lien or an action the association may take against an owner.

Vote-by-mail has also been expanded to allow voting by e-mail, but there is an opt-out provision so owners cannot be forced to use e-mail for communications or voting.

Annual meetings still have to be held in person, except for second home associations.

Maintenance plan clarified

In the previous legislative session, a bill was passed to require an annually updated condominium maintenance plan to avoid unnecessary repair and replacement expense and disputes due to inadequate maintenance.

HB 2665 reflects the clarifications and changes needed based on experience with this relatively new maintenance plan requirement. It helps the association determine how much owners must pay into the operating account for maintenance work and into the reserve fund for the future repairs and replacements of the common elements as they wear out.

Condominiums are exempted from these reserve and maintenance requirements unless there are more than two units in the condominium. Most homeowner associations will, however, be subject to the reserve and maintenance requirements.

Insurance law updated

HB 2665 updates the law on insurance for condominiums and planned communities. If the declaration and bylaws do not assign payment responsibility for the deductible in an association's insurance policy, the board may adopt a resolution to assign responsibility to all owners or specific owners affected by the loss.

Among other insurance changes, the bill addresses the problem of old documents having deductible limits too low due to not being inflation indexed.

Last, the bill allows the board to exceed maximum deductibles specified in bylaws if it is in the best interest of the association.

Tomorrow, we will look at the other bills affecting Oregon homeowner associations.

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