

OREGON LAND TITLE ASSOCIATION
Legislation Adopted in the 2019 Regular Session
Bills of Interest to Title Companies

(1) HB 2001-B, Chapter 639, Oregon Laws 2019

Housing density

Generally permits a duplex, triplex, quadplex or townhouse on land zoned for single family dwellings; leaves in place existing covenants for single family dwellings, but, for a new subdivision, created after the bill's effective date, a single family restriction is unenforceable unless the covenant also permits a duplex, triplex, quadplex or townhouse; makes unenforceable any new covenant that unreasonably restricts housing that is otherwise allowable under the maximum zoning density for the land. Effective Aug. 8, 2019.

(2) HB 2285-A, Chapter 191, Oregon Laws 2019

Residential property – city or county receivership proceedings

Clarifies reporting and notice requirements in city- or county-initiated receivership proceedings involving residential properties that city or county determines are threats to public health, safety or welfare. Establishes new provisions that allow city or county, in lieu of receivership proceedings, to file a motion for a general judgment against the property in the amount of the estimated abatement costs; Judgment will be entered if the court makes specific findings. The general judgment has lien priority superior to all other liens and encumbrances except taxes, assessments, mining labor liens, irrigation power liens, and purchase-money security interests under limited circumstances. Effective Jan. 1, 2020.

(3) HB 2306-B, Chapter 397, Oregon Laws 2019

Residential subdivisions – issuance of building permits

Establishes new provisions that prohibit city or county from denying issuance of building permits for construction of residential dwellings in a residential subdivision if substantial completion of public improvements required as condition of development occurs and developer obtains a bond or undertakes alternative form of financial guarantee acceptable to city or county securing completion of remaining public improvements. Under the new law, a city or county may refuse to issue final certificates of occupancy for any residential dwellings if all conditions of development are not fully completed or conditions for release of bond are not fulfilled. Effective Jan. 1, 2020.

(4) HB 2312-B, Chapter 584, Oregon Laws 2019

Residential property – flood insurance warning

Adds a single sentence note to the seller property disclosure statement required by ORS 105.464. The new note follows the statement's existing question regarding whether a residential property is in a designated floodplain. The new note reads: "Note: Flood insurance may be required for homes in a floodplain." Effective Jan. 1, 2020.

(5) HB 2341-A, Chapter 139, Oregon Laws 2019

Employment Accommodations

Makes unlawful employment practice for employer to, because of known limitations related to pregnancy, childbirth or related medical condition of job applicant or employee, take certain actions related to reasonable accommodations to known limitations related to pregnancy, childbirth or related

medical condition; specifies that requirements apply to employers who employ six or more persons. Effective Jan. 1, 2020.

(6) HB 2415-B, Chapter 486, Oregon Laws 2019

Public improvement and home improvement contracts/Retainage accounts

For a public improvement contract that exceeds \$500,000 or for a contract for construction and home improvement that exceeds \$500,000, the contracting agency or the owner, contractor or subcontractor must place retainage into an interest-bearing escrow account. Effective Jan. 1, 2020.

(7) HB 2423-B, Chapter 401, Oregon Laws 2019

Small homes

Adopts Small Home Specialty Code to regulate construction of homes not more than 400 square feet in size. Effective Oct. 1, 2019.

(8) HB 2425-A, Chapter 402, Oregon Laws 2019

Recording of documents

Allows county clerk to record electronic document or document bearing electronic signature. County clerk may charge for electronic delivery of images. Effective Jan. 1, 2020.

(9) HB 2459-A, Chapter 140, Oregon Laws 2019

Lien information statements for real property subject to an encumbrance

New law provides that a person holding an encumbrance against real property may request an itemized statement of the amount necessary to pay off another encumbrance from the person that holds the other encumbrance on the same property. The person that receives a request may provide the itemized statement without permission from the obligor unless federal or state law requires obligor's consent. "Encumbrance" is defined as "claim, lien, charge or other liability that is attached to and is binding upon real property in this state as security for payment of a monetary obligation." No required time for response is provided. No remedy for failure to respond is provided. Effective Jan. 1, 2020.

(10) HB 2460-A, Chapter 488, Oregon Laws 2019

Liability of transferee for deferred homestead property taxes

Provides that transferee of tax-deferred homestead property is liable to Department of Revenue for amounts of outstanding deferred property taxes if transferee is using homestead more than 90 days following death of qualifying taxpayer, and if transferee is potential recipient of homestead property under intestate succession, by devise, from estate of deceased taxpayer, or by gift or assignment from insolvent taxpayer. Effective on Sept. 29, 2019.

(11) HB 2466-A, Chapter 66, Oregon Laws 2019

Owners associations – financial practices – fidelity bond

Requires certain planned community homeowners associations and all condominium unit owners associations to carry fidelity bond coverage in amount specified by statute. After the turnover meeting, the association's board of directors may elect to maintain a bond in an amount less than statutory requirement or to not maintain a bond provided this action is approved by owners. This board decision requiring owners' approval must be made on an annual basis. Applies regardless of date of formation. Effective Jan. 1, 2020.

(12) HB 2485-A, Chapter 69, Oregon Laws 2019

Condominium associations

Establishes procedures for adoption by condominium association of restated declaration, restated assignment of use of limited common elements and restated bylaws to correct scrivener's errors or to conform format and style. New specific provisions governing amended or restated bylaws. Requires amendment procedures contained in bylaws of condominium to be consistent with provisions of law in effect at time of recording. Various other provisions including redesignation of withdrawable variable property, termination date of condominium consisting of nonresidential units, amendment of floor plans. New specific provisions governing document submission requirements and procedures for approval by the Real Estate Commissioner. New notice to prospective purchasers. Effective Jan. 1, 2020.

(13) HB 2486-A, Chapter 403, Oregon Laws 2019

Condominium reports

Companion bill to HB 2485. Among other things, the amendments authorize the Real Estate Agency to electronically facilitate the condominium reporting process, and to reduce the number of signatures required on the Condominium Information Report and amendments. Effective Jan. 1, 2020.

(14) HB 2530-B, Chapter 405, Oregon Laws 2019

Housing for veterans

Requires persons who send or serve documents related to termination of tenancy, forcible entry or detainer, and residential foreclosures to include certain information regarding assistance that may be available to veterans of United States armed forces. Effective Jan. 1, 2020.

(15) HB 2587-A, Chapter 591, Oregon Laws 2019

Homestead property tax deferral program

Previous statute prohibited owner of homestead tax-deferred property from pledging said property as security for a reverse mortgage. This bill amends ORS 311.700 to provide that real property which secures a reverse mortgage is not eligible for homestead tax deferral. This prohibition does not apply to property securing a reverse mortgage obligation entered on or after July 1, 2011, and before Jan. 1, 2017, provided the taxpayer has 40% or more equity in the homestead property at the time of filing the deferral claim. Effective on Sept. 29, 2019.

(16) HB 2835-B, Chapter 409, Oregon Laws 2019

Recreational use of waterways

This bill results in new statutory provisions. The first section applies to restrictions or closures of public access sites. Before a state agency may restrict or close access to a public access site, the agency must post notice on the agency's website for 30 days. Exceptions to this requirement include emergency restriction or closure fire prevention, critical wildlife management activities, restriction or closure adopted by rule by the State Land Board, temporary restriction or closure for not more than 30 days or for routine maintenance or construction. Any state agency that restricted, closed, opened or reopened access to a public access site in the previous calendar year must submit a report to the legislature. "Public access site" is defined as "a site on state public lands where the public may access the lands for recreational use of a floatable natural waterway." The second section applies to an ODOT bridge "project," defined as construction of new bridge across a floatable natural waterway, or improvements to an existing bridge that crosses a floatable natural waterway. ODOT must notify Department of State Lands, State Parks and Recreation Department, and State Marine Board when ODOT proposes such a

project for funding under a draft Statewide Transportation Improvement Program. The notified agencies may propose changes to the project to enable or maintain public access to any affected floatable natural waterway. Certain exceptions apply to ODOT notice requirement. Effective Sept. 29, 2019.

(17) HB 3006-A, Chapter 414, Oregon Laws 2019

Probate – no asset estates

Allows personal representative of estate with no known assets to file statement in lieu of accountings if distributees of the estate consent in writing. Effective Jan. 1, 2020.

(18) HB 3007-A, Chapter 165, Oregon Laws 2019

Probate – small estates

Overview. Modifies provisions relating to small estate statutes. Regarding a sale to a third party, the affiant may complete a sale if each heir or devisee who otherwise would succeed to the interest conveyed joins in the conveyance. Such a sale shall be completed before two years and four months after the filing of the small estate affidavit or amended affidavit. For real property distributed to the inheriting parties, the affiant shall convey the property by a bargain and sale deed after allowed claims are paid. The conveyance is subject to liens and encumbrances against the decedent or the estate. Effective Jan. 1, 2020.

Additional remarks. SB 3007 revises sections of the probate code that concern small estates. A small estate is an estate in which not more than \$75,000 of the fair market value of the estate is attributable to personal property and not more than \$200,000 of the fair market value of the estate is attributable to real property. If it later comes to light that the limits are exceeded, an amended affidavit may not be filed and the affiant's authority with respect to the estate terminates except for the duty to turn over personal property to a personal representative. (See Sec. 4.)

A warning notice of a small estate filing must appear on the affidavit's first page. The notice must be at least 14 point bold type set out and must contain the same or a substantially similar text as the text set out in the statute. Also new in this section is a requirement that an affidavit state that no personal representative has been appointed or that the estate is not currently being administered in Oregon. The affidavit also must state the mailing address for presentment of claims, and, if the affiant wishes to authorize creditors to present claims by email or fax, the affidavit must state the email address or fax number for presentment of claims. Other elements that must be filed include a certified copy of the death record of the decedent, the original will, or a certified copy of the will if filed in an estate proceeding in another jurisdiction, and proof that the will meets the requirements of ORS 113.055. (See Sec. 7.)

The bill sets out a procedure for the affiant to seek payment of debts and to obtain possession or control over personal property of the estate. (See Sec. 9.) A procedure also is set out for presentment of claims and for allowance or disallowance of claims. (See Sec. 9 and 10.) The bill sets out the procedures for a summary determination, that is, an adjudication by the probate court of a contested claim. A summary determination of the disputed claim may not be appealed but may be enforced by filing a petition for summary review under ORS 114.550. (See Sec. 12.) An affiant is required to retain records of the administration of the estate until the later of the expiration of the two year period established by ORS 114.550 or the conclusion of any summary review proceeding under ORS 114.550. (See Sec. 13.)

The bill contains a separate section for sales and transfers to third parties. The affiant may transfer or sell any real property if each heir or devisee who would succeed to the interest conveyed joins in the conveyance. Any transfer or conveyance under the section to a purchaser in good faith and for a valuable consideration transfers or conveys the stated interest free of any interest of the claiming successors, and the purchaser has no duty with respect to application of the sales proceeds. (See Sec.

15.) The bill sets out matters that are liabilities of the affiant. (See Sec. 16.) The bill sets out the procedures for a summary review of a disallowed claim or for compelling an affiant to distribute property of the estate. (See Sec. 17.)

The bill contains directions for distribution of estate assets. When such property is distributed it is subject to liens and encumbrances against the decedent and the estate as well as to rights of creditors until expiration of the two year period established in ORS 114.550. When the affiant transfers an interest in real property under this section, the affiant will do so by recording a bargain and sale deed to the person entitled to the property. (See Sec. 19.)

In general the changes apply to decedents who die on or after the effective date of the bill, that is, Jan. 1, 2020.

(19) HB 3008-A, Chapter 166, Oregon Laws 2019

Probate estates

Establishes new provisions and amendments relating to probate proceedings that involve personal injury and wrongful death claims. Effective Jan. 1, 2020.

(20) HB 3427-A, Chapter 122, Oregon Laws 2019

Corporate activity tax for school funding

Imposes a corporate activity tax (CAT) to fund state investments in education. The Oregon CAT applies to taxable commercial activity (TCA) in excess of \$1 million at the rate of 0.57 percent, plus a flat tax of \$250 on the taxpayer's first \$1 million of TCA. A taxpayer whose TCA does not exceed \$1 million is exempt. Various categories of commercial activity are exempt. Applies to tax years beginning on or after Jan. 1, 2020. Effective Sept. 29, 2019.

(21) SB 11-A, Chapter 309, Oregon Laws 2019

Rights of redemption

Requires that, under certain circumstances, a buyer of residential real property furnish a specified warning notice to the seller. The warning concerns the giving up of property rights, including redemption rights and possible rights to surplus funds generated by a sheriff's execution sale. The buyer must give the warning after a lien foreclosure is filed, and before the redemption period in ORS 18.964 ends, and before purchasing the property. The text of the warning is set out in the bill, and it must be in clear and conspicuous type of 14-point or larger. The buyer is obligated to execute and record an affidavit of compliance with the notice requirement. The affidavit may be affixed to the deed to the buyer. A similar warning must be included in the notice of execution sale posted on the sheriff's website and published by a qualified newspaper. A third similar warning must be included as an attachment to a complaint to foreclose a residential trust deed. The text of these other two warning notices is set out in the bill. The third notice, besides referring to property rights and rights to surplus funds, must contain certain contact information for assistance on responding to a foreclosure. The requirement for the first notice applies to purchases occurring on or after Jan. 1, 2020. The requirement for the second notice applies to sheriff's notices posted on or after Jan. 1, 2020. The requirement for the third notice applies to complaints filed on or after Jan. 1, 2020.

(22) SB 359-A, Chapter 325, Oregon Laws 2019

Correction of defective corporate actions

Establishes new provisions that provide structure and procedures by which business corporations and nonprofit corporations may validate, ratify and approve defective corporate action. "Defective corporate action" means an overissue of shares or an action that is and would have been

within the corporation's power to take at the time of the validation and at the time the action was taken. Provides for filing Articles of Validation with Secretary of State under certain circumstances. Effective Jan. 1, 2020.

(23) SB 360-A, Chapter 174, Oregon Laws 2019

Corporations; nonprofit corporations

Establishes new provisions governing liability of officer, director, employee or agent of a shell entity formed or used for illegal purpose, or to defraud or deceive a person or governmental agency, or to fraudulently conceal any business activity from another person or a governmental agency. Establishes new provisions governing use of email or other electronic means for board of directors to take action without a meeting. Makes multiple amendments to existing statutes in ORS Chapter 65. Effective May 24, 2019; becomes operative Jan. 1, 2020.

(24) SB 361-A, Chapter 546, Oregon Laws 2019

Trusts; prudent investor rule

Modifies prudent investor rule to allow trustee to engage in sustainable or socially responsible investment strategies that align with the settlor's and beneficiaries' social, environmental, governance, or other values or beliefs, as well as the financial needs of the beneficiaries. Effective Jan. 1, 2020.

(25) SB 369-A, Chapter 327, Oregon Laws 2019

Actions arising out of construction, alteration or repair

Modifies definition in ORS 12.135 of substantial completion for purposes of statute of limitations applicable to actions arising out of construction, alteration or repair of improvement to real property. Effective Jan. 1, 2020.

(26) SB 454-C, Chapter 678, Oregon Laws 2019

Administration of unclaimed property

Transfers administration of Uniform Disposition of Unclaimed Property Act, unclaimed estates, and escheating funds from Department of State Lands to State Treasurer. Effective Sept. 29, 2019.

(27) SB 484-A, Chapter 251, Oregon Laws 2019

Residential rental applicant screening charges

Limits landlord to one applicant screening charge per 60-day period, for each applicant who applies to rent multiple dwelling units owned or managed by landlord. Requires landlord to refund screening charge if vacancy is filled before screening or if no screening occurs. Effective Jan. 1, 2020.

(28) SB 608, Chapter 1, Oregon Laws 2019

Residential tenancies

Prohibits landlord from terminating month-to-month tenancy without cause after 12 months of occupancy, with some exemptions and qualifications. Provides that fixed term tenancy becomes month-to-month tenancy upon ending date if not renewed or terminated; allows non-renewal in some circumstances. Limits rent increases for residential tenancies to one per year. Limits maximum annual rent increase to seven percent above annual change in consumer price index. Effective Feb. 28, 2019.

(29) SB 970-A, Chapter 268, Oregon Laws 2019

Landlord screening

Residential landlord may not consider medical marijuana use, prior drug conviction based solely on use or possession of marijuana, possession of a medical marijuana card, or status as a medical marijuana patient when evaluating a rental applicant. Landlord may not prohibit a tenant from engaging a real estate broker or licensed manufactured structure dealer to facilitate the sale or sublease of tenant's manufactured or floating home under ORS 90.555. Landlord of a manufactured or floating home facility must provide the applicant, purchaser or tenant with a copy of an informational handout in a form prescribed by Housing and Community Services Department. Facility landlord may not prohibit facility tenant from subleasing while facility tenant actively markets for sale the tenant's manufactured or floating home if landlord has a policy of renting manufactured or floating homes that are listed for sale by the landlord. Effective Jan. 1, 2020.

**—Compiled and summarized by Cleve Abbe and Pat Ihnat
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