

Effective 5/13/2014

Superseded 5/12/2015

57-8-10.1 Rental restrictions.

- (1) As used in this section, "rentals" or "rental unit" means:
 - (a) a unit owned by an individual not described in Subsection (1)(b) that is occupied by someone while no unit owner occupies the unit as the unit owner's primary residence; and
 - (b) a unit owned by an entity or trust, regardless of who occupies the unit.
- (2)
 - (a) Subject to Subsections (2)(b), (6), and (7), an association of unit owners may:
 - (i) create restrictions on the number and term of rentals in a condominium project; or
 - (ii) prohibit rentals in the condominium project.
 - (b) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (2)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.
- (3) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:
 - (a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:
 - (i) a unit owner in the military for the period of the unit owner's deployment;
 - (ii) a unit occupied by a unit owner's parent, child, or sibling;
 - (iii) a unit owner whose employer has relocated the unit owner for no less than two years; or
 - (iv) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:
 - (A) a current resident of the unit; or
 - (B) the parent, child, or sibling of the current resident of the unit;
 - (b) a provision that allows a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (2)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:
 - (i) the unit owner occupies the unit; or
 - (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; and
 - (c) a requirement that the association of unit owners create, by rule or resolution, procedures to:
 - (i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (3)(a) and (b); and
 - (ii) ensure consistent administration and enforcement of the rental restrictions.
- (4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the following occur:
 - (a) the conveyance, sale, or other transfer of a unit by deed;
 - (b) the granting of a life estate in the unit; or
 - (c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.
- (5) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.
- (6) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (3)(a).

- (7) Subsections (2) through (6) do not apply to:
 - (a) a condominium project that contains a time period unit as defined in Section 57-8-3;
 - (b) any other form of timeshare interest as defined in Section 57-19-2; or
 - (c) a condominium project in which the initial declaration is recorded before May 12, 2009.
- (8) Notwithstanding this section, an association of unit owners may, upon unanimous approval by all unit owners, restrict or prohibit rentals without an exception described in Subsection (3).
- (9) Except as provided in Subsection (10), an association of unit owners may not require a unit owner who owns a rental unit to:
 - (a) obtain the association of unit owners' approval of a prospective renter; or
 - (b) give the association of unit owners:
 - (i) a copy of a rental application;
 - (ii) a copy of a renter's or prospective renter's credit information or credit report;
 - (iii) a copy of a renter's or prospective renter's background check; or
 - (iv) documentation to verify the renter's age.
- (10)
 - (a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection (9)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.
 - (b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (9)(b), if:
 - (i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and
 - (ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.