

Superseded 5/12/2015

57-8a-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Assessment" means a charge imposed or levied:
 - (i) by the association;
 - (ii) on or against a lot or a lot owner; and
 - (iii) pursuant to a governing document recorded with the county recorder.
 - (b) "Assessment" includes:
 - (i) a common expense; and
 - (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- (2)
 - (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:
 - (i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and
 - (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
 - (A) real property taxes;
 - (B) insurance premiums;
 - (C) maintenance costs; or
 - (D) for improvement of real property not owned by the member.
 - (b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.
- (3) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.
- (4) "Common areas" means property that the association:
 - (a) owns;
 - (b) maintains;
 - (c) repairs; or
 - (d) administers.
- (5) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.
- (6) "Declarant":
 - (a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and
 - (b) includes the person's successor and assign.
- (7)
 - (a) "Governing documents" means a written instrument by which the association may:
 - (i) exercise powers; or
 - (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.
 - (b) "Governing documents" includes:
 - (i) articles of incorporation;
 - (ii) bylaws;
 - (iii) a plat;
 - (iv) a declaration of covenants, conditions, and restrictions; and
 - (v) rules of the association.
- (8) "Independent third party" means a person that:
 - (a) is not related to the owner of the residential lot;

- (b) shares no pecuniary interests with the owner of the residential lot; and
 - (c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.
- (9) "Judicial foreclosure" means a foreclosure of a lot:
- (a) for the nonpayment of an assessment; and
 - (b)
 - (i) in the manner provided by law for the foreclosure of a mortgage on real property; and
 - (ii) as provided in Part 3, Collection of Assessments.
- (10) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- (a) by a person or persons other than the owner; and
 - (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.
- (11) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.
- (12) "Lot" means:
- (a) a lot, parcel, plot, or other division of land:
 - (i) designated for separate ownership or occupancy; and
 - (ii)
 - (A) shown on a recorded subdivision plat; or
 - (B) the boundaries of which are described in a recorded governing document; or
 - (b)
 - (i) a unit in a condominium association if the condominium association is a part of a development; or
 - (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.
- (13) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.
- (14) "Nonjudicial foreclosure" means the sale of a lot:
- (a) for the nonpayment of an assessment; and
 - (b)
 - (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
 - (ii) as provided in Part 3, Collection of Assessments.
- (15) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.