

1 **HOMEOWNERS ASSOCIATION REQUIREMENTS**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John W. Hickman**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses requirements in Title 57, Chapter 8, Condominium Ownership Act,
10 and Chapter 8a, Community Association Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ addresses restrictions on amending governing documents for condominium projects
- 14 and community associations;
- 15 ▶ requires disclosure of the existence of covenants, conditions, and restrictions at the
- 16 sale of a condominium unit or property in a community association; and
- 17 ▶ limits the duration of certain contracts entered into by the association during a
- 18 period of administrative control.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **57-8-39**, Utah Code Annotated 1953

26 **57-8-40**, Utah Code Annotated 1953

27 **57-8a-104**, Utah Code Annotated 1953



28 **57-8a-105**, Utah Code Annotated 1953



30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **57-8-39** is enacted to read:

32 **57-8-39. Limitation on requirements for amending declaration or bylaws.**

33 (1) When the period of control described in Section 57-8-16.5 ends, neither the
34 declaration nor bylaws may require that an amendment to the declaration or bylaws be
35 approved by more than 67% of the voting interests.

36 (2) Voting interests under Subsection (1) are calculated in the manner required by the
37 declaration or bylaws.

38 (3) Nothing in this section affects any other rights reserved by a declarant.

39 Section 2. Section **57-8-40** is enacted to read:

40 **57-8-40. Documentation required at sale.**

41 (1) Before the sale of a condominium unit, the seller shall present to the buyer for the
42 buyer's signature a form entitled "Disclosure of Common Interest Community."

43 (2) The disclosure required under Subsection (1) may be in a form prepared by the
44 seller, but shall include a statement that the buyer:

45 (a) understands that the condominium unit is subject to covenants, conditions, and
46 restrictions as provided in the declaration or bylaws;

47 (b) understands that the buyer will be required to pay assessments on a periodic basis
48 as provided in the declaration and bylaws; and

49 (c) has a right to receive a copy, for a reasonable fee, of the declaration and bylaws.

50 (3) The failure of a seller to provide the buyer with the form required by this section
51 does not affect the buyer of any rights or responsibilities under the declaration or bylaws.

52 Section 3. Section **57-8a-104** is enacted to read:

53 **57-8a-104. Limitation on requirements for amending governing documents --**
54 **Limitation on contracts.**

55 (1) (a) As used in this section, "period of administrative control" means the period
56 during which the person who filed the association's original governing documents or a
57 successor in interest retains authority to:

58 (i) appoint or remove members of the association's board of directors; or

59 (ii) exercise power or authority assigned to the association under its governing
60 documents.

61 (b) The period described in Subsection (1)(a) ends upon the first to occur of the
62 following:

63 (i) a time period set in the governing documents, which may not be longer than six
64 years; or

65 (ii) the conveyance of units to which 3/4 of the undivided interest in the common areas
66 and facilities appertain.

67 (2) When the period of administrative control ends, the governing documents may not
68 require that an amendment to the governing documents be approved by more than 67% of the
69 voting interests.

70 (3) Any contract, lease of recreational areas or facilities, or other agreement executed
71 on behalf of the association during a period of administrative control is only binding beyond
72 the period of administrative control if agreed to by a majority of voting interests.

73 (4) Voting interests under Subsections (2) and (3) are calculated in the manner required
74 by the governing documents.

75 (5) Nothing in this section affects any other rights reserved by the person who filed the
76 association's original governing documents or a successor in interest.

77 Section 4. Section **57-8a-105** is enacted to read:

78 **57-8a-105. Documentation required at sale.**

79 (1) Before the sale of property in an association, the seller shall present to the buyer for
80 the buyer's signature a form entitled "Disclosure of Common Interest Community."

81 (2) The disclosure required under Subsection (1) may be in a form prepared by the
82 seller, but shall include a statement that the buyer:

83 (a) understands that the property is subject to covenants, conditions, and restrictions as
84 provided in the governing documents;

85 (b) understands that the buyer will be required to pay assessments on a periodic basis
86 as provided in the governing documents; and

87 (c) has a right to receive a copy, for a reasonable fee, of the governing documents.

88 (3) The failure of a seller to provide the buyer with the form required by this section
89 does not affect the buyer of any rights or responsibilities under the governing documents.

Legislative Review Note
as of 12-18-06 4:07 PM

Office of Legislative Research and General Counsel

S.B. 87 - Homeowners Association Requirements

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/3/2007, 8:54:39 AM, Lead Analyst: Eckersley, S.

Office of the Legislative Fiscal Analyst