

HB0104S02 compared with HB0104S01

~~{deleted text}~~ shows text that was in HB0104S01 but was deleted in HB0104S02.

inserted text shows text that was not in HB0104S01 but was inserted into HB0104S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator J. Stuart Adams proposes the following substitute bill:

HOMEOWNER ASSOCIATION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies provisions relating to condominium owner and homeowner associations.

Highlighted Provisions:

This bill:

- ▶ prohibits an association from charging a fee for providing payoff information needed for a closing on a sale of a unit or lot unless provided for in the declaration, limits the amount of the fee, ~~{and}~~ provides a consequence if an association fails to provide the information within a specified time, and provides requirements for a request for payoff information; and
- ▶ requires associations to register with the Department of Commerce and to submit an updated registration under specified circumstances, and establishes consequences

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for a failure to register or update a previous registration ~~{, and}~~;

~~{~~ → makes technical changes.

~~{~~ Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-8-6.3, Utah Code Annotated 1953

57-8-13.1, Utah Code Annotated 1953

57-8a-105, Utah Code Annotated 1953

57-8a-106, Utah Code Annotated 1953

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

Section 1. Section **57-8-6.3** is enacted to read:

57-8-6.3. Fee for providing information needed at closing.

(1) Unless specifically authorized in the declaration, **bylaws, or rules**, an association of unit owners may not charge a fee for providing association payoff information needed in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's unit.

(2) An association of unit owners may not:

(a) require a fee described in Subsection (1) that is authorized in the declaration, **bylaws, or rules** to be paid before closing; or

(b) charge the fee if it exceeds ~~{\$25}~~ **\$50**.

(3) (a) An association of unit owners that fails to provide information described in Subsection (1) within five business days after the closing agent requests the information may not enforce a lien against that unit for money due to the association at closing.

(b) A request under Subsection (3)(a) is not effective unless the request:

(i) is conveyed in writing to the primary contact person designated under Subsection **57-8-13.1(3)(d)**;

(ii) contains:

(A) the name, telephone number, and address of the person making the request; and

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(B) the facsimile number or email address for delivery of the payoff information; and
(iii) is accompanied by a written consent for the release of the payoff information:
(A) identifying the person requesting the information as a person to whom the payoff
information may be released; and

(B) signed and dated by an owner of the unit for which the payoff information is
requested.

(4) This section applies to each association of unit owners, regardless of when the
association of unit owners is formed.

Section 2. Section 57-8-13.1 is enacted to read:

57-8-13.1. Registration with Department of Commerce.

(1) As used in this section, "department" means the Department of Commerce created
in Section 13-1-2.

(2) (a) No later than 90 days after the recording of a declaration, an association of unit
owners shall register with the department in the manner established by the department.

(b) An association of unit owners existing under a declaration recorded before May 10,
2011, shall, no later than July 1, 2011, register with the department in the manner established
by the department.

(3) The department shall require an association of unit owners registering as required
in this section to provide with each registration:

(a) the name and address of the association of unit owners;

(b) the name, address, telephone number, and, if applicable, email address of the
president of the association of unit owners;

(c) ~~contact information for~~ the name and address of each management committee
member;

(d) the name, address, telephone number, and, if the contact person wishes to use email
or facsimile transmission for communicating payoff information, the email address or facsimile
number, as applicable, of a primary contact person who has association payoff information that
a closing agent needs in connection with the closing of a unit owner's financing, refinancing, or
sale of the owner's unit; and

(e) a registration fee not to exceed \$37.

(4) An association of unit owners that has registered under Subsection (2) shall submit

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to the department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5) During any period of noncompliance with the registration requirements of Subsection (2) or the requirement for an updated registration under Subsection (4):

(a) a lien for the nonpayment of common expenses may not arise under Section 57-8-20 against any condominium unit; and

(b) an association of unit owners may not enforce a previous lien under Section 57-8-20 against any condominium unit.

Section 3. Section **57-8a-105** is enacted to read:

57-8a-105. Registration with Department of Commerce.

(1) As used in this section, "department" means the Department of Commerce created in Section 13-1-2.

(2) (a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions establishing an association, the association shall register with the department in the manner established by the department.

(b) An association existing under a declaration of covenants, conditions, and restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.

(3) The department shall require an association registering as required in this section to provide with each registration:

(a) the name and address of the association;

(b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;

(c) contact information for the manager;

(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's lot; and

(e) a registration fee not to exceed \$37.

(4) An association that has registered under Subsection (2) shall submit to the

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department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5) During any period of noncompliance with the registration requirements of Subsection (2) or the requirement for an updated registration under Subsection (4):

(a) a lien for the nonpayment of an assessment may not arise under Section 57-8a-203 against any lot; and

(b) an association may not enforce a previous lien under Section 57-8a-203 against any lot.

Section 4. Section **57-8a-106** is enacted to read:

57-8a-106. Fee for providing information needed at closing.

(1) Unless specifically authorized in the declaration of covenants, conditions, and restrictions, ~~an association may not charge~~ the bylaws, or the rules, a fee for providing association payoff information needed in connection with the financing, refinancing, or closing of a lot owner's sale of the owner's lot.

(2) An association may not:

(a) require a fee described in Subsection (1) that is authorized in the declaration of covenants, conditions, and restrictions, the bylaws, or the rules to be paid before closing; or

(b) charge the fee if it exceeds ~~the \$25~~ \$50.

(3) (a) An association that fails to provide information described in Subsection (1) within five business days after the closing agent requests the information may not enforce a lien against that unit for money due to the association at closing.

(b) A request under Subsection (3)(a) is not effective unless the request:

(i) is conveyed in writing to the primary contact person designated under Subsection 57-8a-105(3)(d);

(ii) contains:

(A) the name, telephone number, and address of the person making the request; and

(B) the facsimile number or email address for delivery of the payoff information; and

(iii) is accompanied by a written consent for the release of the payoff information:

(A) identifying the person requesting the information as a person to whom the payoff information may be released; and

(B) signed and dated by an owner of the lot for which the payoff information is

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requested.

(4) This section applies to each association, regardless of when the association is formed.