

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, 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 for a failure to register or update a previous registration.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 **57-8-6.3**, Utah Code Annotated 1953

28 **57-8-13.1**, Utah Code Annotated 1953

29 **57-8a-105**, Utah Code Annotated 1953

30 **57-8a-106**, Utah Code Annotated 1953

31

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

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

34 **57-8-6.3. Fee for providing information needed at closing.**

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

38 (2) An association of unit owners may not:

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

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

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

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

46 (i) is conveyed in writing to the primary contact person designated under Subsection
47 57-8-13.1(3)(d);

48 (ii) contains:

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

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

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

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

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

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

57 association of unit owners is formed.

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

59 **57-8-13.1. Registration with Department of Commerce.**

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

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

64 (b) An association of unit owners existing under a declaration recorded before May 10,
65 2011, shall, no later than July 1, 2011, register with the department in the manner established
66 by the department.

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

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

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

72 (c) the name and address of each management committee member;

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

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

79 (4) An association of unit owners that has registered under Subsection (2) shall submit
80 to the department an updated registration, in the manner established by the department, within
81 90 days after a change in any of the information provided under Subsection (3).

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

84 (a) a lien for the nonpayment of common expenses may not arise under Section
85 57-8-20 against any condominium unit; and

86 (b) an association of unit owners may not enforce a previous lien under Section
87 57-8-20 against any condominium unit.

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

89 **57-8a-105. Registration with Department of Commerce.**

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

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

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

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

100 (a) the name and address of the association;

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

103 (c) contact information for the manager;

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

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

110 (4) An association that has registered under Subsection (2) shall submit to the
111 department an updated registration, in the manner established by the department, within 90
112 days after a change in any of the information provided under Subsection (3).

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

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

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

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

120 **57-8a-106. Fee for providing information needed at closing.**

121 (1) Unless specifically authorized in the declaration of covenants, conditions, and
122 restrictions, the bylaws, or the rules, a fee for providing association payoff information needed
123 in connection with the financing, refinancing, or closing of a lot owner's sale of the owner's lot.

124 (2) An association may not:

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

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

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

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

132 (i) is conveyed in writing to the primary contact person designated under Subsection
133 57-8a-105(3)(d);

134 (ii) contains:

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

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

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

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

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

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

FISCAL NOTE

H.B. 104 2nd Sub. (Gray)

SHORT TITLE: Homeowner Association Amendments

SPONSOR: Adams, J. S.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this legislation will increase annual revenue and expenditures for the Department of Commerce by \$70,100 (plus \$9,600 in one-time revenues and expenditures in FY 2012).

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Commerce Service Fund	\$0	\$70,100	\$70,100
Commerce Service, One-time	\$0	\$9,600	\$0
Total Revenue	\$0	\$79,700	\$70,100
Expenditure:			
Commerce Service Fund	\$0	\$70,100	\$70,100
Commerce Service, One-time	\$0	\$9,600	\$0
Total Expenditure	\$0	\$79,700	\$70,100
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	\$0	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Homeowners associations will incur filing fee costs.