

Representative Earl D. Tanner proposes the following substitute bill:

ASSOCIATION RENTAL AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Earl D. Tanner

Senate Sponsor: Wayne A. Harper

Cosponsors: Curtis Oda

Gage Froerer

LONG TITLE

General Description:

This bill modifies provisions of the Condominium Ownership Act and the Community Association Act relating to rentals.

Highlighted Provisions:

This bill:

▶ provides that, regardless of when the association's initial declaration is recorded, a condominium association or a homeowners association may only restrict or prohibit rentals in accordance with the provisions of this bill if, on or after May 13, 2014, the association:

- adopts a rental restriction or prohibition; or
- amends an existing rental restriction or prohibition; and
- ▶ prohibits, except under certain circumstances, a condominium association or a homeowners association from requiring a unit owner or a lot owner to:
 - obtain the association's approval of a prospective renter; or
 - give the association a copy of certain documents relating to a renter;



25 ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill coordinates with S.B. 147, Residential Rental Amendments, by providing
30 superseding technical and substantive amendments.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **57-8-10**, as last amended by Laws of Utah 2011, Chapter 355

34 **57-8-13.8**, as last amended by Laws of Utah 1992, Chapter 12

35 **57-8-13.10**, as last amended by Laws of Utah 2003, Chapter 265

36 **57-8a-209**, as enacted by Laws of Utah 2009, Chapter 178

37 ENACTS:

38 **57-8-10.1**, Utah Code Annotated 1953

39 **Utah Code Sections Affected by Coordination Clause:**

40 **57-8-10.1**, Utah Code Annotated 1953

41 **57-8a-209**, as enacted by Laws of Utah 2009, Chapter 178



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

44 Section 1. Section **57-8-10** is amended to read:

45 **57-8-10. Contents of declaration.**

46 (1) [~~Prior to~~] Before the conveyance of any unit in a condominium project, a
47 declaration shall be recorded that contains the covenants, conditions, and restrictions relating to
48 the project that shall be enforceable equitable servitudes, where reasonable, and which shall run
49 with the land. Unless otherwise provided, these servitudes may be enforced by [~~any~~] a unit
50 owner [~~and his successors~~] or a unit owner's successor in interest.

51 (2) (a) For every condominium project, the declaration shall:

52 (i) [~~The declaration shall~~] include a description of the land or interests in real property
53 included within the project[-];

54 (ii) [~~The declaration shall~~] contain a description of any buildings[~~, which~~] that states
55 the number of storeys and basements, the number of units, the principal materials of which the

56 building is or is to be constructed, and a description of all other significant improvements
57 contained or to be contained in the project[-];

58 (iii) [~~The declaration shall~~] contain the unit number of each unit, the square footage of
59 each unit, and any other description or information necessary to properly identify each unit[-];

60 (iv) [~~The declaration shall~~] describe the common areas and facilities of the project[-];
61 and

62 (v) [~~The declaration shall~~] describe any limited common areas and facilities and shall
63 state to which units the use of the common areas and facilities is reserved.

64 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or
65 other apparatus intended to serve a single unit, but located outside the boundaries of the unit,
66 shall constitute a limited common area and facility appertaining to that unit exclusively,
67 whether or not the declaration makes such a provision.

68 (c) The condominium plat recorded with the declaration may provide or supplement
69 the information required under Subsections (2)(a) and (b).

70 (d) (i) The declaration shall include the percentage or fraction of undivided interest in
71 the common areas and facilities appurtenant to each unit and [~~its~~] the unit owner for all
72 purposes, including voting, derived and allocated in accordance with Subsection 57-8-7(2).

73 (ii) If any use restrictions are to apply, the declaration shall state the purposes for which
74 the units are intended and [~~restricted as to~~] the use restrictions that apply.

75 (iii) (A) The declaration shall include the name and address of a person to receive
76 service of process on behalf of the project, in the cases provided by this chapter[~~, together with~~
77 ~~the residence or place of business of that person~~].

78 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall
79 maintain a place of business within, this state.

80 (iv) The declaration shall describe the method by which [~~it~~] the declaration may be
81 amended consistent with this chapter.

82 (v) Any further matters in connection with the property may be included in the
83 declaration, which the person or persons executing the declaration may consider desirable,
84 consistent with this chapter.

85 (vi) The declaration shall contain a statement of intention that this chapter applies to
86 the property.

87 (e) The initial recorded declaration shall include:
88 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
89 and

90 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
91 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the unit and all
92 improvements to the unit for the purpose of securing payment of assessments under the terms
93 of the declaration."

94 (3) (a) If the condominium project contains any convertible land, the declaration shall:

95 (i) [~~The declaration shall~~] contain a legal description by metes and bounds of each area
96 of convertible land within the condominium project[-];

97 (ii) [~~The declaration shall~~] state the maximum number of units that may be created
98 within each area of convertible land[-];

99 (iii) [~~(A) The declaration shall~~] state, with respect to each area of convertible land, the
100 maximum percentage of the aggregate land and floor area of all units that may be created and
101 the use of which will not or may not be restricted exclusively to residential purposes[-. ~~(B) The~~
102 ~~statements described in Subsection (3)(a)(iii)(A) need not be supplied if~~], unless none of the
103 units on other portions of the land within the project are restricted exclusively to residential
104 use[-];

105 (iv) [~~The declaration shall~~] state the extent to which any structure erected on any
106 convertible land will be compatible with structures on other portions of the land within the
107 condominium project in terms of quality of construction, the principal materials to be used, and
108 architectural style[-];

109 (v) [~~The declaration shall~~] describe all other improvements that may be made on each
110 area of convertible land within the condominium project[-];

111 (vi) [~~The declaration shall~~] state that any units created within each area of convertible
112 land will be substantially identical to the units on other portions of the land within the project
113 or [~~it shall~~] describe in detail what other type of units may be created[-]; and

114 (vii) [~~The declaration shall~~] describe the declarant's reserved right, if any, to create
115 limited common areas and facilities within any convertible land in terms of the types, sizes, and
116 maximum number of the limited common areas within each convertible land.

117 (b) The condominium plat recorded with the declaration may provide or supplement

118 the information required under Subsection (3)(a).

119 (4) (a) If the condominium project is an expandable condominium project, the
120 declaration shall:

121 [~~(a)~~] (i) [~~(A) The declaration shall~~] contain an explicit reservation of an option to
122 expand the project[-];

123 [~~(B)~~] (ii) [~~The declaration shall~~] include a statement of any limitations on the option to
124 expand, including a statement as to whether the consent of any unit owners [~~shall be~~] is
125 required and, a statement as to the method by which consent shall be ascertained, or a
126 statement that there are no such limitations[-];

127 [~~(ii)~~] (iii) [~~The declaration shall~~] include a time limit, not exceeding seven years [~~from~~
128 ~~the date of the recording of~~] after the day on which the declaration is recorded, upon which the
129 option to expand the condominium project [~~shall expire, together with~~] expires and a statement
130 of any circumstances [~~which~~] that will terminate the option [~~prior to~~] before expiration of the
131 specified time limits[-];

132 [~~(iii)~~] (iv) [~~The declaration shall~~] contain a legal description by metes and bounds of all
133 land that may be added to the condominium project, which is known as additional land[-];

134 [~~(iv)~~] (v) [~~The declaration shall~~] state:

135 (A) if any of the additional land is added to the condominium project, whether all of it
136 or any particular portion of it must be added;

137 (B) any limitations as to what portions may be added; or

138 (C) a statement that there are no such limitations[-];

139 [~~(v)~~] (vi) [~~The declaration shall~~] include a statement as to whether portions of the
140 additional land may be added to the condominium project at different times, [~~together with~~]
141 including any limitations fixing the boundaries of those portions by legal descriptions setting
142 forth the metes and bounds of these lands and regulating the order in which they may be added
143 to the condominium project[-];

144 [~~(vi)~~] (vii) [~~The declaration shall~~] include a statement of any limitations [~~as to~~] on the
145 locations of any improvements that may be made on any portions of the additional land added
146 to the condominium project, or a statement that no assurances are made in that regard[-];

147 [~~(vii)~~] (viii) (A) [~~The declaration shall~~] state the maximum number of units that may be
148 created on the additional land[-] If;

149 (B) if portions of the additional land may be added to the condominium project and the
150 boundaries of those portions are fixed in accordance with Subsection (4)(a)~~(v)~~(vi), ~~the~~
151 ~~declaration shall also~~ state the maximum number of units that may be created on each portion
152 added to the condominium project~~[- If]; and~~

153 (C) if portions of the additional land may be added to the condominium project and the
154 boundaries of those portions are not fixed in accordance with Subsection (4)(a)~~(v)~~(vi), ~~then~~
155 ~~the declaration shall also~~ state the maximum number of units per acre that may be created on
156 any portion added to the condominium project~~[-];~~

157 ~~(viii)~~ (ix) ~~[With]~~ with respect to the additional land and to any portion of [it] the
158 additional land that may be added to the condominium project, ~~[the declaration shall]~~ state the
159 maximum percentage of the aggregate land and floor area of all units that may be created on it,
160 the use of which will not or may not be restricted exclusively to residential purposes~~[-~~
161 ~~However, these statements need not be supplied if], unless~~ none of the units on the land
162 originally within the project are restricted exclusively to residential use~~[-];~~

163 ~~(ix)~~ (x) ~~[The declaration shall]~~ state the extent to which any structures erected on any
164 portion of the additional land added to the condominium project will be compatible with
165 structures on the land originally within the project in terms of quality of construction, the
166 principal materials to be used, and architectural style~~[- The declaration may also state], or~~ that
167 no assurances are made in those regards~~[-];~~

168 ~~(x)~~ (xi) ~~[The declaration shall]~~ describe all other improvements that will be made on
169 any portion of the additional land added to the condominium project, ~~[or it shall contain a~~
170 ~~statement of]~~ including any limitations ~~[as to]~~ on what other improvements may be made on ~~[it-~~
171 ~~The declaration may also]~~ the additional land, or state that no assurances are made in that
172 regard~~[-];~~

173 ~~(xi)~~ (xii) ~~[The declaration shall]~~ contain a statement that any units created on any
174 portion of the additional land added to the condominium project will be substantially identical
175 to the units on the land originally within the project, ~~[or]~~ a statement of any limitations ~~[as to]~~
176 on what types of units may be created on [it- ~~The declaration may also contain]~~ the additional
177 land, or a statement that no assurances are made in that regard~~[-]; and~~

178 ~~(xii)~~ (xiii) ~~[The declaration shall]~~ describe the declarant's reserved right, if any, to
179 create limited common areas and facilities within any portion of the additional land added to

180 the condominium project, in terms of the types, sizes, and maximum number of limited
181 common areas within each portion~~[-The declaration may also]~~, or state that no assurances are
182 made in those regards.

183 (b) The condominium plat recorded with the declaration may provide or supplement
184 the information required under Subsections (4)(a)~~[(iii)]~~(iv) through ~~[(a)(vi)]~~ (vii) and
185 (4)(a)~~[(ix)]~~(x) through ~~[(a)(xii)]~~ (xiii).

186 (5) (a) If the condominium project is a contractible condominium, the declaration shall:

187 ~~[(a)]~~ (i) ~~[The declaration shall]~~ contain an explicit reservation of an option to contract
188 the condominium project~~[-]~~;

189 (ii) ~~[The declaration shall]~~ contain a statement of any limitations on the option to
190 contract, including a statement ~~[as to]~~ regarding whether the consent of any unit owners ~~[shall~~
191 ~~be]~~ is required, and if so, a statement ~~[as to]~~ regarding the method by which this consent shall
192 be ascertained~~[- The declaration may also contain]~~, or a statement that there are no such
193 limitations~~[-]~~;

194 (iii) ~~[The declaration shall]~~ state the time limit, not exceeding seven years ~~[from the~~
195 ~~recording of]~~ after the day on which the declaration is recorded, upon which the option to
196 contract the condominium project ~~[shall expire]~~ expires, together with a statement of any
197 circumstances ~~[which]~~ that will terminate ~~[this]~~ the option ~~[prior to]~~ before expiration of the
198 specified time limit~~[-]~~;

199 ~~[(b)(i)]~~ (iv) ~~[The declaration shall]~~ include a legal description by metes and bounds of
200 all land that may be withdrawn from the condominium project, which is known as
201 withdrawable land~~[-]~~;

202 ~~[(ii)]~~ (v) ~~[The declaration shall]~~ include a statement as to whether portions of the
203 withdrawable land may be withdrawn from the condominium project at different times,
204 together with any limitations fixing the boundaries of those portions by legal descriptions
205 setting forth the metes and bounds and regulating the order in which they may be withdrawn
206 from the condominium project~~[-]~~; and

207 ~~[(iii)]~~ (vi) ~~[The declaration shall]~~ include a legal description by metes and bounds of all
208 of the land within the condominium project to which the option to contract the project does not
209 extend.

210 ~~[(e)]~~ (b) The condominium plat recorded with the declaration may provide or

211 supplement the information required under ~~[Subsection (5)(b)]~~ Subsections (5)(a)(iv) through
212 (vi).

213 (6) (a) If the condominium project is a leasehold condominium, ~~[then]~~ the declaration
214 shall, with respect to any ground lease or other leases the expiration or termination of which
215 will or may terminate or contract the condominium project:

216 (i) ~~[The declaration shall]~~ include recording information enabling the location of each
217 lease in the official records of the county recorder~~[-];~~;

218 (ii) ~~[The declaration shall]~~ include the date upon which each lease is due to expire~~[-];~~;

219 (iii) ~~[The declaration shall]~~ state whether any land or improvements will be owned by
220 the unit owners in fee simple~~[-. If];~~;

221 (iv) if there is to be fee simple ownership~~[-, the declaration shall]~~ of any land or
222 improvement, as described in Subsection (6)(a)(iii), include:

223 (A) a description of the land or improvements, including ~~[without limitation,]~~ a legal
224 description by metes and bounds of the land; or

225 (B) a statement of any rights the unit owners have to remove these improvements
226 within a reasonable time after the expiration or termination of the lease or leases involved, or a
227 statement that they shall have no such rights~~[-]; and~~

228 ~~[(iv)]~~ (v) ~~[The declaration shall]~~ include a statement of the rights the unit owners have
229 to extend or renew any of the leases or to redeem or purchase any of the reversions, or a
230 statement that they have no such rights.

231 (b) After the recording of the declaration, ~~[no]~~ a lessor who executed the declaration,
232 ~~[and no]~~ or the lessor's successor in interest ~~[to this lessor, has any right or power to],~~ may not
233 terminate any part of the leasehold interest of any unit owner who:

234 (i) makes timely payment of ~~[his]~~ the unit owner's share of the rent to the persons
235 designated in the declaration for the receipt of the rent; and

236 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
237 the lease if ~~[they]~~ the covenants were violated.

238 (7) (a) If the condominium project contains time period units, the declaration shall also
239 contain the location of each condominium unit in the calendar year. This information shall be
240 set out in a fourth column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the
241 exhibit or schedule accompanies the declaration.

242 (b) The declaration shall also put timeshare owners on notice that tax notices will be
243 sent to the management committee, not each timeshare owner.

244 (c) The time period units created with respect to any given physical unit shall be such
245 that the aggregate of the durations involved constitute a full calendar year.

246 (8) (a) The declaration, bylaws, and condominium plat shall be duly executed and
247 acknowledged by all of the owners and any lessees of the land which is made subject to this
248 chapter.

249 (b) As used in Subsection (8)(a), "owners and lessees" does not include, in their
250 respective capacities, any mortgagee, any trustee or beneficiary under a deed of trust, any other
251 lien holder, any person having an equitable interest under any contract for the sale or lease of a
252 condominium unit, or any lessee whose leasehold interest does not extend to any portion of the
253 common areas and facilities.

254 [~~(9) (a) As used in this section, "rentals" or "rental unit" means:~~]

255 [~~(i) a unit owned by an individual not described in Subsection (9)(a)(ii) that is occupied
256 by someone while no unit owner occupies the unit as the unit owner's primary residence; and]~~

257 [~~(ii) a unit owned by an entity or trust, regardless of who occupies the unit.]~~

258 [~~(b) (i) Subject to Subsections (9)(c), (f), and (g), an association of unit owners may:]~~

259 [~~(A) create restrictions on the number and term of rentals in a condominium project;~~

260 or]

261 [~~(B) prohibit rentals in the condominium project.]~~

262 [~~(ii) An association of unit owners that creates a rental restriction or prohibition in
263 accordance with Subsection (9)(b)(i) shall create the rental restriction or prohibition in a
264 declaration or by amending the declaration.]~~

265 [~~(c) If an association of unit owners prohibits or imposes restrictions on the number
266 and term of rentals, the restrictions shall include:]~~

267 [~~(i) a provision that requires a condominium project to exempt from the rental
268 restrictions the following unit owner and the unit owner's unit:]~~

269 [~~(A) a unit owner in the military for the period of the unit owner's deployment;]~~

270 [~~(B) a unit occupied by a unit owner's parent, child, or sibling;]~~

271 [~~(C) a unit owner whose employer has relocated the unit owner for no less than two
272 years; or]~~

273 ~~[(D) a unit owned by a trust or other entity created for estate planning purposes if the~~
274 ~~trust or other estate planning entity was created for the estate of:]~~

275 ~~[(F) a current resident of the unit; or]~~

276 ~~[(H) the parent, child, or sibling of the current resident of the unit;]~~

277 ~~[(ii) a provision allowing a unit owner who has a rental in the condominium project~~
278 ~~before the time the rental restriction described in Subsection (9)(b)(i) is recorded with the~~
279 ~~county recorder of the county in which the condominium project is located to continue renting~~
280 ~~until:]~~

281 ~~[(A) the unit owner occupies the unit; or]~~

282 ~~[(B) an officer, owner, member, trustee, beneficiary, director, or person holding a~~
283 ~~similar position of ownership or control of an entity or trust that holds an ownership interest in~~
284 ~~the unit, occupies the unit; and]~~

285 ~~[(iii) a requirement that the association of unit owners create, by rule or resolution,~~
286 ~~procedures to:]~~

287 ~~[(A) determine and track the number of rentals and units in the condominium project~~
288 ~~subject to the provisions described in Subsections (9)(c)(i) and (ii); and]~~

289 ~~[(B) ensure consistent administration and enforcement of the rental restrictions:]~~

290 ~~[(d) For purposes of Subsection (9)(c)(ii), a transfer occurs when one or more of the~~
291 ~~following occur:]~~

292 ~~[(i) the conveyance, sale, or other transfer of a unit by deed;]~~

293 ~~[(ii) the granting of a life estate in the unit; or]~~

294 ~~[(iii) if the unit is owned by a limited liability company, corporation, partnership, or~~
295 ~~other business entity, the sale or transfer of more than 75% of the business entity's share, stock,~~
296 ~~membership interests, or partnership interests in a 12-month period:]~~

297 ~~[(e) This section does not limit or affect residency age requirements for an association~~
298 ~~of unit owners that complies with the requirements of the Housing for Older Persons Act, 42~~
299 ~~U.S.C. Sec. 3607:]~~

300 ~~[(f) A declaration or amendment to a declaration recorded prior to transfer of the first~~
301 ~~unit from the initial declarant may prohibit or restrict rentals without providing for the~~
302 ~~exceptions, provisions, and procedures required under Subsection (9)(c).]~~

303 ~~[(g) This section does not apply to:]~~

304 ~~[(i) a condominium project containing a time period unit as defined in Section 57-8-3;]~~
 305 ~~[(ii) any other form of timeshare interest as defined in Section 57-19-2; or]~~
 306 ~~[(iii) a condominium project in which the initial declaration is recorded before May 12,~~
 307 ~~2009;]~~

308 ~~[(h) Notwithstanding this section, an association of unit owners may, upon unanimous~~
 309 ~~approval by all unit owners, restrict or prohibit rentals without an exception described in~~
 310 ~~Subsection (9)(c).]~~

311 Section 2. Section 57-8-10.1 is enacted to read:

312 **57-8-10.1. Rental restrictions.**

313 (1) As used in this section, "rentals" or "rental unit" means:

314 (a) a unit owned by an individual not described in Subsection (1)(b) that is occupied by
 315 someone while no unit owner occupies the unit as the unit owner's primary residence; and

316 (b) a unit owned by an entity or trust, regardless of who occupies the unit.

317 (2) (a) Subject to Subsections (2)(b), (6), and (7), an association of unit owners may:

318 (i) create restrictions on the number and term of rentals in a condominium project; or

319 (ii) prohibit rentals in the condominium project.

320 (b) An association of unit owners that creates a rental restriction or prohibition in

321 accordance with Subsection (2)(a) shall create the rental restriction or prohibition in a

322 declaration or by amending the declaration.

323 (3) If an association of unit owners prohibits or imposes restrictions on the number and
 324 term of rentals, the restrictions shall include:

325 (a) a provision that requires a condominium project to exempt from the rental
 326 restrictions the following unit owner and the unit owner's unit:

327 (i) a unit owner in the military for the period of the unit owner's deployment;

328 (ii) a unit occupied by a unit owner's parent, child, or sibling;

329 (iii) a unit owner whose employer has relocated the unit owner for no less than two
 330 years; or

331 (iv) a unit owned by a trust or other entity created for estate planning purposes if the
 332 trust or other estate planning entity was created for the estate of:

333 (A) a current resident of the unit; or

334 (B) the parent, child, or sibling of the current resident of the unit;

335 (b) a provision that allows a unit owner who has a rental in the condominium project
336 before the time the rental restriction described in Subsection (2)(a) is recorded with the county
337 recorder of the county in which the condominium project is located to continue renting until:

338 (i) the unit owner occupies the unit; or

339 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
340 similar position of ownership or control of an entity or trust that holds an ownership interest in
341 the unit, occupies the unit; and

342 (c) a requirement that the association of unit owners create, by rule or resolution,
343 procedures to:

344 (i) determine and track the number of rentals and units in the condominium project
345 subject to the provisions described in Subsections (3)(a) and (b); and

346 (ii) ensure consistent administration and enforcement of the rental restrictions.

347 (4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the
348 following occur:

349 (a) the conveyance, sale, or other transfer of a unit by deed;

350 (b) the granting of a life estate in the unit; or

351 (c) if the unit is owned by a limited liability company, corporation, partnership, or
352 other business entity, the sale or transfer of more than 75% of the business entity's share, stock,
353 membership interests, or partnership interests in a 12-month period.

354 (5) This section does not limit or affect residency age requirements for an association
355 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42
356 U.S.C. Sec. 3607.

357 (6) A declaration or amendment to a declaration recorded before transfer of the first
358 unit from the initial declarant may prohibit or restrict rentals without providing for the
359 exceptions, provisions, and procedures required under Subsection (3).

360 (7) Subsections (2) through (6) do not apply to:

361 (a) a condominium project that contains a time period unit as defined in Section
362 [57-8-3](#);

363 (b) any other form of timeshare interest as defined in Section [57-19-2](#); or

364 (c) a condominium project in which the initial declaration is recorded before May 12,
365 2009, unless, on or after May 13, 2014, the association of unit owners:

366 (i) adopts a rental restriction or prohibition; or

367 (ii) amends an existing rental restriction or prohibition.

368 (8) Notwithstanding this section, an association of unit owners may, upon unanimous

369 approval by all unit owners, restrict or prohibit rentals without an exception described in

370 Subsection (3).

371 (9) Except as provided in Subsection (10), an association of unit owners may not

372 require a unit owner who owns a rental unit to:

373 (a) obtain the association of unit owners' approval of a prospective renter; or

374 (b) give the association of unit owners:

375 (i) a copy of a rental application;

376 (ii) a copy of a renter's or prospective renter's credit information or credit report;

377 (iii) a copy of a renter's or prospective renter's background check; or

378 (iv) documentation to verify the renter's age.

379 (10) (a) A unit owner who owns a rental unit shall give an association of unit owners

380 the documents described in Subsection (9)(b) if the unit owner is required to provide the

381 documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

382 (b) If an association of unit owners' declaration lawfully prohibits or restricts

383 occupancy of the units by a certain class of individuals, the association of unit owners may

384 require a unit owner who owns a rental unit to give the association of unit owners the

385 information described in Subsection (9)(b), if:

386 (i) the information helps the association of unit owners determine whether the renter's

387 occupancy of the unit complies with the association of unit owners' declaration; and

388 (ii) the association of unit owners uses the information to determine whether the

389 renter's occupancy of the unit complies with the association of unit owners' declaration.

390 Section 3. Section **57-8-13.8** is amended to read:

391 **57-8-13.8. Contraction of project.**

392 A condominium project may be contracted under the provisions of the declaration and

393 the provisions of this chapter. Any such contraction shall be considered to have occurred at the

394 time of the recordation of an amendment to the declaration, executed by the declarant,

395 containing a legal description by metes and bounds of the land withdrawn from the

396 condominium project. If portions of the withdrawable land were described pursuant to

397 Subsection 57-8-10(5)(~~(b)~~(i))(a)(iv), then no described portion may be so withdrawn after the
398 conveyance of any unit on the portion. If no withdrawable portions were described, then none
399 of the withdrawable land may be withdrawn after the first conveyance of any unit on the
400 portion.

401 Section 4. Section 57-8-13.10 is amended to read:

402 **57-8-13.10. Condominiums containing convertible land -- Expandable**
403 **condominiums -- Allocation of interests in common areas and facilities.**

404 (1) If a condominium project contains any convertible land or is an expandable
405 condominium, then the declaration may not allocate undivided interests in the common areas
406 and facilities on the basis of par value unless the declaration:

407 (a) prohibits the creation of any units not substantially identical to the units depicted on
408 the condominium plat recorded pursuant to Subsection 57-8-13(1); or

409 (b) prohibits the creation of any units not described under Subsection
410 57-8-10(3)(a)(vii) in the case of convertible land, Subsection 57-8-10(4)(a)(~~(xi)~~(xii) in the
411 case of additional land, and contains from the outset a statement of the par value that shall be
412 assigned to every unit that may be created.

413 (2) (a) Interests in the common areas and facilities may not be allocated to any units to
414 be created within any convertible land or within any additional land until a condominium plat
415 depicting the same is recorded pursuant to Subsection 57-8-13(2).

416 (b) Simultaneously with the recording of the supplemental condominium plat required
417 under Subsection (2)(a), the declarant shall execute and record an amendment to the
418 declaration which reallocates undivided interests in the common areas and facilities so that the
419 units depicted on the supplemental condominium plat shall be allocated undivided interests in
420 the common areas and facilities on the same basis as the units depicted on the condominium
421 plat that was recorded simultaneously with the declaration pursuant to Subsection 57-8-13(1).

422 (3) If all of a convertible space is converted into common areas and facilities, including
423 limited common areas and facilities, then the undivided interest in the common areas and
424 facilities appertaining to the convertible space shall afterward appertain to the remaining units
425 and shall be allocated among them in proportion to their undivided interests in the common
426 areas and facilities. The principal officer of the unit owners' association or of the management
427 committee, or any other officer specified in the declaration, shall immediately prepare, execute,

428 and record an amendment to the declaration reflecting the reallocation of undivided interest
429 produced by the conversion.

430 (4) (a) If the expiration or termination of any lease of a leasehold condominium causes
431 a contraction of the condominium project which reduces the number of units, or if the
432 withdrawal of withdrawable land of a contractible condominium causes a contraction of the
433 condominium project which reduces the number of units, the undivided interest in the common
434 areas and facilities appertaining to any units so withdrawn shall afterward appertain to the
435 remaining units, being allocated among them in proportion to their undivided interests in the
436 common areas and facilities.

437 (b) The principal officer of the unit owners' association or of the management
438 committee, or any other officer specified in the declaration shall immediately prepare, execute,
439 and record an amendment to the declaration, reflecting the reallocation of undivided interests
440 produced by the reduction of units.

441 Section 5. Section **57-8a-209** is amended to read:

442 **57-8a-209. Rental restrictions.**

443 (1) As used in this section, "rentals" or "rental lot" means:

444 (a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by
445 someone while no lot owner occupies the lot as the lot owner's primary residence; and

446 (b) a lot owned by an entity or trust, regardless of who occupies the lot.

447 (2) (a) Subject to Subsections (2)(b), (6), and (7), an association may:

448 (i) create restrictions on the number and term of rentals in an association; or

449 (ii) prohibit rentals in the association.

450 (b) An association that creates a rental restriction or prohibition in accordance with
451 Subsection (1)(a)(i) shall create the rental restriction or prohibition in a recorded declaration of
452 covenants, conditions, and restrictions, or by amending the recorded declaration of covenants,
453 conditions, and restrictions.

454 (3) If an association prohibits or imposes restrictions on the number and term of
455 rentals, the restrictions shall include:

456 (a) a provision that requires the association to exempt from the rental restrictions the
457 following lot owner and the lot owner's lot:

458 (i) a lot owner in the military for the period of the lot owner's deployment;

459 (ii) a lot occupied by a lot owner's parent, child, or sibling;
460 (iii) a lot owner whose employer has relocated the lot owner for no less than two years;
461 or
462 (iv) a lot owned by a trust or other entity created for estate planning purposes if the
463 trust or other estate planning entity was created for:
464 (A) the estate of a current resident of the lot; or
465 (B) the parent, child, or sibling of the current resident of the lot;
466 (b) a provision [~~allowing~~] that allows a lot owner who has a rental in the association
467 before the time the rental restriction described in Subsection (2)(a) is recorded with the county
468 recorder of the county in which the association is located to continue renting until:
469 (i) the lot owner occupies the lot; or
470 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
471 similar position of ownership or control of an entity or trust that holds an ownership interest in
472 the lot, occupies the lot; and
473 (c) a requirement that the association create, by rule or resolution, procedures to:
474 (i) determine and track the number of rentals and lots in the association subject to the
475 provisions described in Subsections (3)(a) and (b); and
476 (ii) ensure consistent administration and enforcement of the rental restrictions.
477 (4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the
478 following occur:
479 (a) the conveyance, sale, or other transfer of a lot by deed;
480 (b) the granting of a life estate in the lot; or
481 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
482 business entity, the sale or transfer of more than 75% of the business entity's share, stock,
483 membership interests, or partnership interests in a 12-month period.
484 (5) This section does not limit or affect residency age requirements for an association
485 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
486 3607.
487 (6) [~~The~~] A declaration of covenants, conditions, and restrictions or amendments to the
488 declaration of covenants, conditions, and restrictions recorded [~~prior to~~] before the transfer of
489 the first lot from the initial declarant may prohibit or restrict rentals without providing for the

490 exceptions, provisions, and procedures required under Subsection (3)~~(a)~~.

491 (7) ~~[This section does]~~ Subsections (2) through (6) do not apply to:

492 (a) an association ~~[containing]~~ that contains a time period unit as defined in Section
493 57-8-3;

494 (b) any other form of timeshare interest as defined in Section 57-19-2; or

495 (c) an association in which the initial declaration of covenants, conditions, and
496 restrictions is recorded before May 12, 2009~~[-]~~, unless, on or after May 13, 2014, the
497 association:

498 (i) adopts a rental restriction or prohibition; or

499 (ii) amends an existing rental restriction or prohibition.

500 (8) Notwithstanding this section, an association may, upon unanimous approval by all
501 lot owners, restrict or prohibit rentals without an exception described in Subsection (3).

502 (9) Except as provided in Subsection (10), an association may not require a lot owner
503 who owns a rental lot to:

504 (a) obtain the association's approval of a prospective renter; or

505 (b) give the association:

506 (i) a copy of a rental application;

507 (ii) a copy of a renter's or prospective renter's credit information or credit report;

508 (iii) a copy of a renter's or prospective renter's background check; or

509 (iv) documentation to verify the renter's age.

510 (10) (a) A lot owner who owns a rental lot shall give an association the documents
511 described in Subsection (9)(b) if the lot owner is required to provide the documents by court
512 order or as part of discovery under the Utah Rules of Civil Procedure.

513 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
514 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may
515 require a lot owner who owns a rental lot to give the association the information described in
516 Subsection (9)(b), if:

517 (i) the information helps the association determine whether the renter's occupancy of
518 the lot complies with the association's declaration of covenants, conditions, and restrictions;
519 and

520 (ii) the association uses the information to determine whether the renter's occupancy of

521 the lot complies with the association's declaration of covenants, conditions, and restrictions.

522 Section 6. **Coordinating H.B. 89 with S.B. 147 -- Superseding technical and**
523 **substantive amendments.**

524 If this H.B. 89 and S.B. 147, Residential Rental Amendments, both pass and become
525 law, it is the intent of the Legislature that the amendments to Sections [57-8-10.1](#) and [57-8a-209](#)
526 in this bill supersede the amendments to Sections [57-8-10.1](#) and [57-8a-209](#) in S.B. 147, when
527 the Office of Legislative Research and General Counsel prepares the Utah Code database for
528 publication.