

Real Estate Amendments
 2025 GENERAL SESSION
 STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to real estate.

Highlighted Provisions:

This bill:

- ▶ authorizes an association to establish by rule a minimum lease term of six months or less;
- ▶ provides that a homeowners' association fee for rentals does not apply to certain exempt persons;
- ▶ provides that a homeowners' association may only charge a fee to an owner that owns a rental within the homeowners' association once every 12 months;
- ▶ requires that a homeowners' association hold a meeting and approve a fee before imposing a fee on an owner that owns a rental within the homeowners' association;
- ▶ provides a remedy by which an owner may contest a fee a homeowners' association imposes for a rental;
- ▶ authorizes a representative of a homeowners' association to act as attorney-in-fact for the owners in a homeowners' association for any disposition of common areas;
- ▶ modifies the circumstances under which a homeowners' association can prohibit or restrict the conversion of a grass park strip to water-efficient landscaping;
- ▶ defines terms;
- ▶ requires that a condominium owner provide the developer notice and an opportunity to repair any alleged design or construction defect before filing a lawsuit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 31 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519
 32 **57-8-10.1**, as last amended by Laws of Utah 2024, Chapter 519
 33 **57-8-32**, as last amended by Laws of Utah 2024, Chapter 519
 34 **57-8a-209**, as last amended by Laws of Utah 2024, Chapter 519
 35 **57-8a-218**, as last amended by Laws of Utah 2024, Chapters 115, 519
 36 **57-8a-231**, as last amended by Laws of Utah 2024, Chapters 56, 519
 37 **57-8a-232**, as enacted by Laws of Utah 2024, Chapter 519
 38 **78B-4-513**, as enacted by Laws of Utah 2008, Chapter 280

39

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

41 Section 1. Section **57-8-8.1** is amended to read:

42 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**

43 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
 44 owners similarly.

45 (b) Notwithstanding Subsection (1)(a), a rule may:

46 (i) vary according to the level and type of service that the association of unit owners
 47 provides to unit owners;

48 (ii) differ between residential and nonresidential uses; or

49 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
 50 reasonable limit on the number of individuals that may use the common areas and
 51 facilities as the rental unit tenant's guest or as the unit owner's guest.

52 (2)(a) If a unit owner owns a rental unit and is in compliance with the association of unit
 53 owners' governing documents and any rule that the association of unit owners adopts
 54 under Subsection [~~(5)~~] (4), a rule may not treat the unit owner differently because the
 55 unit owner owns a rental unit.

56 (b) Notwithstanding Subsection (2)(a), a rule may:

57 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
 58 purposes other than attending an association meeting or managing the rental unit;

59 (ii) if the rental unit owner retains the right to use the association of unit owners'
 60 common areas and facilities, even occasionally:

61 (A) charge a rental unit owner a fee to use the common areas and facilities; and

62 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
 63 reasonable limit on the number of individuals that may use the common areas
 64 and facilities as the rental unit tenant's guest or as the unit owner's guest; or

65 (iii) include a provision in the association of unit owners' governing documents that:

66 (A) requires each tenant of a rental unit to abide by the terms of the governing
67 documents; and

68 (B) holds the tenant and the rental unit owner jointly and severally liable for a
69 violation of a provision of the governing documents.

70 (3)(a) A rule may not interfere with the freedom of a unit owner to determine the
71 composition of the unit owner's household.

72 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:

73 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
74 or

75 (ii) limit the total number of occupants permitted in each residential dwelling on the
76 basis of the residential dwelling's:

77 (A) size and facilities; and

78 (B) fair use of the common areas and facilities.

79 [~~(4) Unless contrary to a declaration, a rule may require a minimum lease term.~~]

80 [~~(5)~~] (4) Unless otherwise provided in the declaration, an association of unit owners may by
81 rule:

82 (a) regulate the use, maintenance, repair, replacement, and modification of common
83 areas and facilities;

84 (b) impose and receive any payment, fee, or charge for:

85 (i) the use, rental, or operation of the common areas, except limited common areas
86 and facilities; and

87 (ii) a service provided to a unit owner;

88 (c) impose a charge for a late payment of an assessment; or

89 (d) provide for the indemnification of the association of unit owners' officers and
90 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
91 Corporation Act.

92 [~~(6)~~] (5)(a) Except as provided in Subsection [~~(6)(b)~~] (5)(b), a rule may not prohibit a unit
93 owner from installing a personal security camera immediately adjacent to the
94 entryway, window, or other outside entry point of the owner's condominium unit.

95 (b) A rule may prohibit a unit owner from installing a personal security camera in a
96 common area not physically connected to the owner's unit.

97 [~~(7)~~] (6)(a) A rule may not abridge the right of a unit owner to display a religious or
98 holiday sign, symbol, or decoration inside the owner's condominium unit.

- 99 (b) An association may adopt a reasonable time, place, and manner restriction with
 100 respect to a display that is visible from the exterior of a unit.
- 101 ~~[(8)]~~ (7)(a) A rule may not:
- 102 (i) prohibit a unit owner from displaying in a window of the owner's condominium
 103 unit:
- 104 (A) a for-sale sign; or
 105 (B) a political sign;
- 106 (ii) regulate the content of a political sign; or
 107 (iii) establish design criteria for a political sign.
- 108 (b) Notwithstanding Subsection ~~[(8)(a)]~~ (7)(a), a rule may reasonably regulate the size
 109 and time, place, and manner of posting a for-sale sign or a political sign.
- 110 ~~[(9)]~~ (8) For any area for which one or more unit owners ~~Œ~~ , ~~←Œ~~ [~~are Œ~~ **or the association is**]
 110a **but not the association, are** ~~←Œ~~
 111 responsible for landscape maintenance, the association of unit owners:
- 112 (a) shall adopt rules supporting water wise landscaping, including:
- 113 (i) low water use requirements on lawns during drought conditions;
 114 (ii) design criterion for water wise landscaping; and
 115 (iii) limiting permissible plant material to specific water wise plant material;
- 116 (b) may not prohibit low water use on lawns during drought conditions; and
 117 (c) except where reasonably necessary for erosion control, may not prohibit or restrict
 118 the conversion of a grass park strip of less than 8 feet wide to water-efficient
 119 landscaping.
- 120 ~~[(10)]~~ (9) A rule may restrict a sex offender from accessing a protected area that is
 121 maintained, operated, or owned by the association, subject to the exceptions described in
 122 Subsection 77-27-21.7(3).
- 123 ~~[(11)]~~ (10)(a) Except as provided in this Subsection ~~[(11)]~~ (10), a rule may not prohibit a
 124 unit owner from making modifications, consistent with industry standards, for radon
 125 mitigation.
- 126 (b) Subsection ~~[(11)(a)]~~ (10)(a) does not apply if the modifications would violate:
- 127 (i) a local land use ordinance;
 128 (ii) a building code;
 129 (iii) a health code; or
 130 (iv) a fire code.
- 131 (c) A rule governing the placement or external appearance of modifications may apply to

132 modifications for radon mitigation unless the rule would:
 133 (i) unreasonably interfere with the modifications' functionality; or
 134 (ii) add more than 40% of the modifications' original cost to the cost of installing the
 135 modifications.

136 (d) A rule may require that a unit owner making modifications related to radon
 137 mitigation:

138 (i) demonstrate or provide proof of radon contamination; and
 139 (ii) provide proof that the modifications and any related construction will be
 140 performed by a licensed person.

141 ~~[(12)]~~ (11) A rule shall be reasonable.

142 ~~[(13)]~~ (12) A declaration, or an amendment to a declaration, may vary any of the
 143 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

144 ~~[(14)]~~ (13) This section applies to an association of unit owners regardless of when the
 145 association of unit owners is created.

146 Section 13. Section **57-8-10.1** is amended to read:

147 **57-8-10.1 . Rental restrictions.**

148 (1)(a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

149 (i) create restrictions on the number and term of rentals in a condominium project; or
 150 (ii) prohibit rentals in the condominium project.

151 (b) ~~[An]~~ Except as provided in Subsection (1)(c), an association of unit owners that
 152 creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall
 153 create the rental restriction or prohibition in a declaration or by amending the
 154 declaration.

155 (c) An association may establish, by rule, a minimum lease term of six months or less.

156 (2) If an association of unit owners prohibits or imposes restrictions on the number and
 157 term of rentals~~[-the restrictions shall include:]~~ or charges a fee described in Subsection
 158 (9)(c), the association of unit owners shall:

159 (a) exempt the following from the prohibition, restriction, or fee:

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

162 (i) a unit owner in the military for the period of the unit owner's deployment;
 163 (ii) a unit occupied by a unit owner's parent, child, or sibling;
 164 (iii) a unit owner whose employer has relocated the unit owner for two years or less;
 165 (iv) a unit owned by an entity that is occupied by an individual who:

- 166 (A) has voting rights under the entity's organizing documents; and
167 (B) has a 25% or greater share of ownership, control, and right to profits and
168 losses of the entity; or
169 (v) a unit owned by a trust or other entity created for estate planning purposes if the
170 trust or other estate planning entity was created for the estate of:
171 (A) a current resident of the unit; or
172 (B) the parent, child, or sibling of the current resident of the unit;
- 173 (b) ~~[a provision that allows]~~ allow a unit owner who has a rental in the condominium
174 project before the time the rental restriction described in Subsection (1)(a) is recorded
175 with the county recorder of the county in which the condominium project is located
176 to continue renting without a fee described in Subsection (9)(c) until:
177 (i) the unit owner occupies the unit;
178 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
179 similar position of ownership or control of an entity or trust that holds an
180 ownership interest in the unit, occupies the unit; or
181 (iii) the unit is transferred; and
- 182 (c) ~~[a requirement that the association of unit owners]~~ create, by rule or resolution,
183 procedures to:
184 (i) determine and track the number of rentals and units in the condominium project
185 subject to the provisions described in Subsections (2)(a) and (b); and
186 (ii) ensure consistent administration and enforcement of ~~[the rental restrictions]~~ any
187 rental prohibition, restriction, or fee.
- 188 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
189 following occur:
190 (a) the conveyance, sale, or other transfer of a unit by deed;
191 (b) the granting of a life estate in the unit; or
192 (c) if the unit is owned by a limited liability company, corporation, partnership, or other
193 business entity, the sale or transfer of more than 75% of the business entity's share,
194 stock, membership interests, or partnership interests in a 12-month period.
- 195 (4) This section does not limit or affect residency age requirements for an association of
196 unit owners that complies with the requirements of the Housing for Older Persons Act,
197 42 U.S.C. Sec. 3607.
- 198 (5) A declaration or amendment to a declaration recorded before transfer of the first unit
199 from the initial declarant may prohibit or restrict rentals without providing for the

- 200 exceptions, provisions, and procedures required under Subsection (2).
- 201 (6)(a) Subsections (1) through (5) do not apply to:
- 202 (i) a condominium project that contains a time period unit as defined in Section
- 203 57-8-3;
- 204 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
- 205 (iii) subject to Subsection (6)(b), a condominium project in which the initial
- 206 declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the
- 207 association of unit owners:
- 208 (A) adopts a rental restriction or prohibition; or
- 209 (B) amends an existing rental restriction or prohibition.
- 210 (b) An association that adopts a rental restriction or amends an existing rental restriction
- 211 or prohibition before May 9, 2017, is not required to include the exemption described
- 212 in Subsection (2)(a)(iv).
- 213 (7) Notwithstanding this section, an association of unit owners may restrict or prohibit
- 214 rentals without an exception described in Subsection (2) if:
- 215 (a) the restriction or prohibition receives unanimous approval by all unit owners; and
- 216 (b) when the restriction or prohibition requires an amendment to the association of unit
- 217 owners' declaration, the association of unit owners fulfills all other requirements for
- 218 amending the declaration described in the association of unit owners' governing
- 219 documents.
- 220 (8) Except as provided in Subsection (9), an association of unit owners may not require a
- 221 unit owner who owns a rental unit to:
- 222 (a) obtain the association of unit owners' approval of a prospective renter;
- 223 (b) give the association of unit owners:
- 224 (i) a copy of a rental application;
- 225 (ii) a copy of a renter's or prospective renter's credit information or credit report;
- 226 (iii) a copy of a renter's or prospective renter's background check; or
- 227 (iv) documentation to verify the renter's age;
- 228 (c) pay an additional assessment, fine, or fee because the unit is a rental unit;
- 229 (d) use a lease agreement provided by the association; or
- 230 (e) obtain the association's approval of a lease agreement.
- 231 (9)(a) A unit owner who owns a rental unit shall give an association of unit owners the
- 232 documents described in Subsection (8)(b) if the unit owner is required to provide the
- 233 documents by court order or as part of discovery under the Utah Rules of Civil

234 Procedure.

235 (b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy
236 of the units by a certain class of individuals, the association of unit owners may
237 require a unit owner who owns a rental unit to give the association of unit owners the
238 information described in Subsection (8)(b), if:

239 (i) the information helps the association of unit owners determine whether the renter's
240 occupancy of the unit complies with the association of unit owners' declaration;
241 and

242 (ii) the association of unit owners uses the information to determine whether the
243 renter's occupancy of the unit complies with the association of unit owners'
244 declaration.

245 (c) ~~[An]~~ Subject to Subsection (9)(d), an association that permits at least 35% of the units
246 in the association to be rental units may charge a unit owner who owns a rental unit [
247 an annual] a fee of up to \$200 once every 12 months to defray the association's
248 additional administrative expenses directly related to a unit that is a rental unit, as
249 detailed in [an accounting provided to the unit owner] a notice provided to the unit
250 owner.

251 (d) Before an association may charge a fee described in Subsection (9)(c), an association
252 shall:

253 (i) provide notice to each unit owner in the association of a management committee
254 meeting described in Subsection (9)(d)(ii) 30 days before the day on which the
255 association holds the management committee meeting;

256 (ii) hold a management committee meeting to discuss and allow unit members to
257 publicly comment on:

258 (A) the new administrative expenses that the association intends to cover using the
259 funds from the fee; and

260 (B) the circumstances that required the association to impose or increase the fee;
261 and

262 (iii) ensure that during the management committee meeting described in Subsection
263 (9)(d)(ii), the management committee approves the fee by a majority vote.

264 ~~[(d)]~~ (e) An association may require a unit owner who owns a rental unit and the renter of
265 the unit owner's rental unit to sign an addendum to a lease agreement provided by the
266 association.

267 (10) The provisions of Subsections (8) and (9) apply to an association of unit owners

- 268 regardless of when the association of unit owners is created.
- 269 (11) Within 30 days after the day on which the association imposes a fee described in
270 Subsection (9)(c), an association shall provide to each unit owner impacted by the fee a
271 notice describing:
- 272 (a) the new administrative expenses that the association intends to cover using the funds
273 from the fee; and
- 274 (b) the circumstances that required the association to impose or increase the fee.
- 275 (12)(a) A unit owner may contest a fee described in Subsection (9)(c) by providing to
276 the association a written request that the association waive the fee if:
- 277 (i) the association fails to provide the notice described in Subsection (11) within 30
278 days after the day on which the association imposes the fee; or
- 279 (ii) the notice the association provides to the unit owner does not contain the
280 information required in Subsection (11).
- 281 (b) If a unit owner contests a fee under this Subsection (12) by submitting a written
282 request, an association shall waive the fee if:
- 283 (i) the association does not provide the notice described in Subsection (11) to the unit
284 owner; or
- 285 (ii) a notice provided by the association does not contain the information required in
286 Subsection (11).

287 Section 4. Section **57-8-32** is amended to read:

288 **57-8-32 . Sale of property and common areas and facilities.**

- 289 (1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the
290 declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and
291 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
292 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
293 common areas and facilities.
- 294 (2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and
295 each unit owner shall execute and deliver the appropriate instruments and perform all
296 acts as necessary to effect the sale, conveyance, transfer, or other disposition of the
297 property or common areas and facilities.
- 298 (3) The general easement of ingress, egress, and use of the common areas and facilities
299 granted to an association and unit owners through recorded governing documents is
300 extinguished in any portion of the common areas and facilities the unit owners sell,
301 convey, transfer, or otherwise dispose of, if:

- 302 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
 303 portion of the common areas and facilities, comply with:
 304 (i) the provisions of this section; and
 305 (ii) Section 10-9a-606 or 17-27a-606; and
 306 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
 307 areas and facilities results in a person other than the association or a unit owner
 308 owning the portion of the common areas and facilities.
- 309 (4) This section applies to an association of unit owners regardless of when the association
 310 of unit owners is created.
- 311 (5) Unless otherwise prohibited by the association's declaration or bylaws, an authorized
 312 representative of the association may act as attorney-in-fact for the association's unit
 313 owners in executing a sale, conveyance, transfer, or other disposition of the common
 314 areas and facilities following an affirmative vote described in Subsection (1).

315 Section 11. Section **57-8a-209** is amended to read:

316 **57-8a-209 . Rental restrictions.**

- 317 ~~(1)~~(1)(a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
 318 (i) create restrictions on the number and term of rentals in an association; or
 319 (ii) prohibit rentals in the association.
- 320 (b) ~~An~~ Except as provided in Subsection (1)(c), an association that creates a rental
 321 restriction or prohibition in accordance with Subsection (1)(a) shall create the rental
 322 restriction or prohibition in a recorded declaration of covenants, conditions, and
 323 restrictions, or by amending the recorded declaration of covenants, conditions, and
 324 restrictions.
- 325 (c) An association may establish, by rule, a minimum lease term of six months or less.
- 326 (2) If an association prohibits or imposes ~~restrictions~~ a restriction on the number and term
 327 of rentals~~, the restrictions shall include:~~ or charges a fee described in Subsection (9)(c),
 328 the association shall:
- 329 (a) ~~a provision that requires the association to exempt from the rental restrictions the~~
 330 following lot owner and the lot owner's lot exempt the following from the
 331 prohibition, restriction, or fee:
 332 (i) a lot owner in the military for the period of the lot owner's deployment;
 333 (ii) a lot occupied by a lot owner's parent, child, or sibling;
 334 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
 335 (iv) a lot owned by an entity that is occupied by an individual who:

- 336 (A) has voting rights under the entity's organizing documents; and
337 (B) has a 25% or greater share of ownership, control, and right to profits and
338 losses of the entity; or
339 (v) a lot owned by a trust or other entity created for estate planning purposes if the
340 trust or other estate planning entity was created for:
341 (A) the estate of a current resident of the lot; or
342 (B) the parent, child, or sibling of the current resident of the lot;
- 343 (b) ~~[a provision that allows]~~ allow a lot owner who has a rental in the association before
344 the time the rental restriction described in Subsection (1)(a) is recorded with the
345 county recorder of the county in which the association is located to continue renting
346 without a fee described in Subsection (9)(c) until:
347 (i) the lot owner occupies the lot;
348 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
349 similar position of ownership or control of an entity or trust that holds an
350 ownership interest in the lot, occupies the lot; or
351 (iii) the lot is transferred; and
352 (c) ~~[a requirement that the association]~~ create, by rule or resolution, procedures to:
353 (i) determine and track the number of rentals and lots in the association subject to the
354 provisions described in Subsections (2)(a) and (b); and
355 (ii) ensure consistent administration and enforcement of ~~[the rental restrictions]~~ any
356 rental prohibition, restriction, or fee.
- 357 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
358 following occur:
359 (a) the conveyance, sale, or other transfer of a lot by deed;
360 (b) the granting of a life estate in the lot; or
361 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
362 business entity, the sale or transfer of more than 75% of the business entity's share,
363 stock, membership interests, or partnership interests in a 12-month period.
- 364 (4) This section does not limit or affect residency age requirements for an association that
365 complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
366 3607.
- 367 (5) A declaration of covenants, conditions, and restrictions or amendments to the
368 declaration of covenants, conditions, and restrictions recorded before the transfer of the
369 first lot from the initial declarant may prohibit or restrict rentals without providing for

- 370 the exceptions, provisions, and procedures required under Subsection (2).
- 371 (6)(a) Subsections (1) through (5) do not apply to:
- 372 (i) an association that contains a time period unit as defined in Section 57-8-3;
- 373 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
- 374 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
- 375 unless, on or after May 12, 2015, the association:
- 376 (A) adopts a rental restriction or prohibition; or
- 377 (B) amends an existing rental restriction or prohibition.
- 378 (b) An association that adopts a rental restriction or amends an existing rental restriction
- 379 or prohibition before May 9, 2017, is not required to include the exemption described
- 380 in Subsection (2)(a)(iv).
- 381 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an
- 382 exception described in Subsection (2) if:
- 383 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
- 384 (b) when the restriction or prohibition requires an amendment to the association's
- 385 recorded declaration of covenants, conditions, and restrictions, the association fulfills
- 386 all other requirements for amending the recorded declaration of covenants,
- 387 conditions, and restrictions described in the association's governing documents.
- 388 (8) Except as provided in Subsection (9), an association may not require a lot owner who
- 389 owns a rental lot to:
- 390 (a) obtain the association's approval of a prospective renter;
- 391 (b) give the association:
- 392 (i) a copy of a rental application;
- 393 (ii) a copy of a renter's or prospective renter's credit information or credit report;
- 394 (iii) a copy of a renter's or prospective renter's background check; or
- 395 (iv) documentation to verify the renter's age;
- 396 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;
- 397 (d) use a lease agreement provided by the association; or
- 398 (e) obtain the association's approval of a lease agreement.
- 399 (9)(a) A lot owner who owns a rental lot shall give an association the documents
- 400 described in Subsection (8)(b) if the lot owner is required to provide the documents
- 401 by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 402 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
- 403 prohibits or restricts occupancy of the lots by a certain class of individuals, the

- 404 association may require a lot owner who owns a rental lot to give the association the
405 information described in Subsection (8)(b), if:
- 406 (i) the information helps the association determine whether the renter's occupancy of
407 the lot complies with the association's declaration of covenants, conditions, and
408 restrictions; and
- 409 (ii) the association uses the information to determine whether the renter's occupancy
410 of the lot complies with the association's declaration of covenants, conditions, and
411 restrictions.
- 412 (c) An association that permits at least 35% of the lots in the association to be rental lots
413 may charge a lot owner who owns a rental lot [~~an annual~~] a fee of up to \$200 once
414 every 12 months to defray the association's additional administrative expenses
415 directly related to a lot that is a rental lot, as detailed in [~~an accounting provided to~~
416 ~~the lot owner~~] a notice described in Subsection (12).
- 417 (d) An association may require a lot owner who owns a rental lot and the renter of the lot
418 owner's rental lot to sign an addendum to a lease agreement provided by the
419 association.
- 420 (e) Before an association may charge a fee described in Subsection (9)(c), an association
421 shall:
- 422 (i) provide notice to each lot owner in the association of a board meeting described in
423 Subsection (9)(e)(ii) 30 days before the day on which the association holds the
424 board meeting;
- 425 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
- 426 (A) the new administrative expenses that the association intends to cover using the
427 funds from the fee; and
- 428 (B) the circumstances that require the association to impose or increase the fee;
429 and
- 430 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board
431 approves the fee by a majority vote.
- 432 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
433 rental of an internal accessory dwelling unit, as defined in Section 10-9a-530 or
434 17-27a-526, constructed within a lot owner's residential lot, if the internal accessory
435 dwelling unit complies with all applicable:
- 436 (a) land use ordinances;
- 437 (b) building codes;

438 (c) health codes; and

439 (d) fire codes.

440 (11) The provisions of Subsections (8) through (10) apply to an association regardless of
441 when the association is created.

442 (12) Within 30 days after the day on which the association imposes a fee described in
443 Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a
444 notice describing:

445 (a) the new administrative expenses that the association intends to cover using the funds
446 from the fee; and

447 (b) the circumstances that require the association to impose or increase the fee.

448 (13)(a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the
449 association a written request that the association waive the fee if:

450 (i) the association fails to provide the notice described in Subsection (12) within 30
451 days after the day on which the association imposes the fee; or

452 (ii) the notice the association provides to the lot owner does not contain the
453 information required in Subsection (12).

454 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written
455 request, an association of lot owners shall waive the fee if:

456 (i) the association does not provide the notice described in Subsection (12) to the lot
457 owner; or

458 (ii) a notice provided by the association does not contain the information required in
459 Subsection (12).

460 Section 22. Section **57-8a-218** is amended to read:

461 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
462 **design criteria.**

463 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
464 owners similarly.

465 (b) Notwithstanding Subsection (1)(a), a rule may:

466 (i) vary according to the level and type of service that the association provides to lot
467 owners;

468 (ii) differ between residential and nonresidential uses; and

469 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
470 limit on the number of individuals who may use the common areas and facilities
471 as guests of the lot tenant or lot owner.

- 472 (2)(a) If a lot owner owns a rental lot and is in compliance with the association's
473 governing documents and any rule that the association adopts under Subsection (4), a
474 rule may not treat the lot owner differently because the lot owner owns a rental lot.
- 475 (b) Notwithstanding Subsection (2)(a), a rule may:
- 476 (i) limit or prohibit a rental lot owner from using the common areas for purposes
477 other than attending an association meeting or managing the rental lot;
 - 478 (ii) if the rental lot owner retains the right to use the association's common areas,
479 even occasionally:
 - 480 (A) charge a rental lot owner a fee to use the common areas; or
 - 481 (B) for a lot that an owner leases for a term of less than 30 days, impose a
482 reasonable limit on the number of individuals who may use the common areas
483 and facilities as guests of the lot tenant or lot owner; or
 - 484 (iii) include a provision in the association's governing documents that:
 - 485 (A) requires each tenant of a rental lot to abide by the terms of the governing
486 documents; and
 - 487 (B) holds the tenant and the rental lot owner jointly and severally liable for a
488 violation of a provision of the governing documents.
- 489 (3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or
490 holiday sign, symbol, or decoration:
- 491 (i) inside a dwelling on a lot; or
 - 492 (ii) outside a dwelling on:
 - 493 (A) a lot;
 - 494 (B) the exterior of the dwelling, unless the association has an ownership interest
495 in, or a maintenance, repair, or replacement obligation for, the exterior; or
 - 496 (C) the front yard of the dwelling, unless the association has an ownership interest
497 in, or a maintenance, repair, or replacement obligation for, the yard.
- 498 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
499 place, and manner restriction with respect to a display that is:
- 500 (i) outside a dwelling on:
 - 501 (A) a lot;
 - 502 (B) the exterior of the dwelling; or
 - 503 (C) the front yard of the dwelling; and
 - 504 (ii) visible from outside the lot.
- 505 (4)(a) A rule may not prohibit a lot owner from displaying a political sign:

- 506 (i) inside a dwelling on a lot; or
507 (ii) outside a dwelling on:
508 (A) a lot;
509 (B) the exterior of the dwelling, regardless of whether the association has an
510 ownership interest in the exterior; or
511 (C) the front yard of the dwelling, regardless of whether the association has an
512 ownership interest in the yard.
- 513 (b) A rule may not regulate the content of a political sign.
- 514 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
515 and manner of posting a political sign.
- 516 (d) An association design provision may not establish design criteria for a political sign.
- 517 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:
518 (i) inside a dwelling on a lot; or
519 (ii) outside a dwelling on:
520 (A) a lot;
521 (B) the exterior of the dwelling, regardless of whether the association has an
522 ownership interest in the exterior; or
523 (C) the front yard of the dwelling, regardless of whether the association has an
524 ownership interest in the yard.
- 525 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
526 and manner of posting a for-sale sign.
- 527 (6)(a) A rule may not interfere with the freedom of a lot owner to determine the
528 composition of the lot owner's household.
- 529 (b) Notwithstanding Subsection (6)(a), an association may:
530 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
531 or
532 (ii) limit the total number of occupants permitted in each residential dwelling on the
533 basis of the residential dwelling's:
534 (A) size and facilities; and
535 (B) fair use of the common areas.
- 536 (7)(a) A rule may not interfere with a reasonable activity of a lot owner within the
537 confines of a dwelling or lot, including backyard landscaping or amenities, to the
538 extent that the activity is in compliance with local laws and ordinances, including
539 nuisance laws and ordinances.

- 540 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
 541 confines of a dwelling or lot, including backyard landscaping or amenities, if the
 542 activity:
- 543 (i) is not normally associated with a project restricted to residential use; or
 544 (ii)(A) creates monetary costs for the association or other lot owners;
 545 (B) creates a danger to the health or safety of occupants of other lots;
 546 (C) generates excessive noise or traffic;
 547 (D) creates unsightly conditions visible from outside the dwelling;
 548 (E) creates an unreasonable source of annoyance to persons outside the lot; or
 549 (F) if there are attached dwellings, creates the potential for smoke to enter another
 550 lot owner's dwelling, the common areas, or limited common areas.
- 551 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
 552 that affect the use of or behavior inside the dwelling.
- 553 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
 554 objection to the board, alter the allocation of financial burdens among the various lots.
- 555 (b) Notwithstanding Subsection (7)(b), an association may:
- 556 (i) change the common areas available to a lot owner;
 557 (ii) adopt generally applicable rules for the use of common areas; or
 558 (iii) deny use privileges to a lot owner who:
- 559 (A) is delinquent in paying assessments;
 560 (B) abuses the common areas; or
 561 (C) violates the governing documents.
- 562 (c) This Subsection (8) does not permit a rule that:
- 563 (i) alters the method of levying assessments; or
 564 (ii) increases the amount of assessments as provided in the declaration.
- 565 (9) ~~§~~ → [(a) ← ~~§~~ Subject to Subsection (9)(b), a] A rule may not:
- 566 ~~§~~ → [(i)] (a) ← ~~§~~ prohibit the transfer of a lot; or
 567 ~~§~~ → [(ii)] (b) ← ~~§~~ require the consent of the association or board to transfer a lot.
 568 [(b) Unless contrary to a declaration, a rule may require a minimum lease term.]
- 569 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
 570 on a lot before the adoption of the rule or design criteria if the personal property was
 571 in compliance with all rules and other governing documents previously in force.
- 572 (b) The exemption in Subsection (10)(a):
- 573 (i) applies during the period of the lot owner's ownership of the lot; and

- 574 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
575 of the rule described in Subsection (10)(a).
- 576 (11) A rule or action by the association or action by the board may not unreasonably
577 impede a declarant's ability to satisfy existing development financing for community
578 improvements and right to develop:
- 579 (a) the project; or
580 (b) other properties in the vicinity of the project.
- 581 (12) A rule or association or board action may not interfere with:
- 582 (a) the use or operation of an amenity that the association does not own or control; or
583 (b) the exercise of a right associated with an easement.
- 584 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
585 completed application for design review, or to proceed in accordance with another
586 approval process, under the terms of the governing documents in existence at the time
587 the completed application was submitted by the owner for review.
- 588 (14) Unless otherwise provided in the declaration, an association may by rule:
- 589 (a) regulate the use, maintenance, repair, replacement, and modification of common
590 areas;
- 591 (b) impose and receive any payment, fee, or charge for:
- 592 (i) the use, rental, or operation of the common areas, except limited common areas;
593 and
594 (ii) a service provided to a lot owner;
- 595 (c) impose a charge for a late payment of an assessment; or
596 (d) provide for the indemnification of the association's officers and board consistent with
597 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 598 (15) A rule may not prohibit a lot owner from installing a personal security camera
599 immediately adjacent to the entryway, window, or other outside entry point of the
600 owner's dwelling unit.
- 601 (16)(a) For any area for which one or more lot owners are responsible for landscape
602 maintenance of any landscaping within the lot owner's lot or the common areas, the
603 association shall adopt rules supporting water wise landscaping as defined in Section
604 57-8a-231 including:
- 605 (i) low water use requirements on lawns during drought conditions;
606 (ii) design criterion for water wise landscaping; and
607 (iii) limiting permissible plant material to specific water wise plant material.

- 608 (b) A rule may not:
- 609 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
- 610 as defined in Section 57-8a-231; or
- 611 (ii) prohibit low water use on lawns during drought conditions.
- 612 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
- 613 residential lot from constructing an internal accessory dwelling unit, as defined in
- 614 Section 10-9a-530 or 17-27a-526, within the owner's residential lot.
- 615 (b) Subsection (17)(a) does not apply if the construction would violate:
- 616 (i) a local land use ordinance;
- 617 (ii) a building code;
- 618 (iii) a health code; or
- 619 (iv) a fire code.
- 620 (18)(a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a
- 621 residential lot from making modifications, consistent with industry standards, for
- 622 radon mitigation.
- 623 (b) Subsection (18)(a) does not apply if the modifications would violate:
- 624 (i) a local land use ordinance;
- 625 (ii) a building code;
- 626 (iii) a health code; or
- 627 (iv) a fire code.
- 628 (c) A rule governing the placement or external appearance of modifications for radon
- 629 mitigation does not apply to a lot owner's modifications if the rule would:
- 630 (i) unreasonably interfere with the modifications' functionality; or
- 631 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 632 modifications.
- 633 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 634 (i) demonstrate or provide proof of radon contamination; and
- 635 (ii) provide proof that the modifications and any related construction will be
- 636 performed by a licensed person.
- 637 (19) A rule may restrict a sex offender from accessing a protected area that is maintained,
- 638 operated, or owned by the association, subject to the exceptions described in Subsection
- 639 77-27-21.7(3).
- 640 (20) A rule shall be reasonable.
- 641 (21) A declaration, or an amendment to a declaration, may vary any of the requirements of

- 642 Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
643 (22) A rule may not be inconsistent with a provision of the association's declaration,
644 bylaws, or articles of incorporation.
- 645 (23) This section applies to an association regardless of when the association is created.
646 Section 6. Section **57-8a-231** is amended to read:
647 **57-8a-231 . Water wise landscaping.**
- 648 (1) As used in this section:
- 649 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
650 grasses.
- 651 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose
652 and applied to the soil.
- 653 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
654 through a nozzle.
- 655 (d)(i) "Vegetative coverage" means the ground level surface area covered by the
656 exposed leaf area of a plant or group of plants at full maturity.
- 657 (ii) "Vegetative coverage" does not mean the ground level surface area covered by
658 the exposed leaf area of a tree or trees.
- 659 (e) "Water wise landscaping" means any or all of the following:
- 660 (i) installation of plant materials suited to the microclimate and soil conditions that
661 can:
662 (A) remain healthy with minimal irrigation once established; or
663 (B) be maintained without the use of overhead spray irrigation;
- 664 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
665 and water application; or
- 666 (iii) the use of other landscape design features that:
667 (A) minimize the need of the landscape for supplemental water from irrigation;
668 (B) reduce the landscape area dedicated to lawn or turf; or
669 (C) encourage vegetative coverage.
- 670 (f) "Water wise plant material" means a plant material suited to water wise landscaping
671 as defined in this section.
- 672 (2) An association may not enact or enforce a governing document that prohibits, or has the
673 effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise
674 landscaping on the lot owner's lot.
- 675 (3)(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from

676 requiring a property owner to:

677 (i) comply with a site plan review or other review process before installing water
678 wise landscaping;

679 (ii) maintain plant material in a healthy condition; and

680 (iii) follow specific water wise landscaping design requirements adopted by the
681 association including a requirement that:

682 (A) restricts or clarifies the use of mulches considered detrimental to the
683 association's operations; and

684 (B) restricts or prohibits the use of specific plant materials other than water wise
685 plant materials.

686 (b) ~~[An]~~ Except where reasonably necessary for erosion control, an association may not
687 require a lot owner to install or keep in place lawn or turf in an area less than eight
688 feet wide.

689 (4)(a) Subject to Subsection (4)(b), if an association does not adopt rules as required by
690 Subsection 57-8a-218(16) and fails to remedy the noncompliance within the time
691 specified in Subsection (4)(c), a lot owner may file an action in state court for:

692 (i) injunctive relief requiring the association to comply with the requirements of
693 Subsection 57-8a-218(16);

694 (ii) \$500, or the lot owner's actual damages, whichever is greater;

695 (iii) any other remedy provided by law; and

696 (iv) reasonable costs and attorney fees.

697 (b) No fewer than 90 days before the day on which a lot owner files a complaint under
698 Subsection (4)(a), the lot owner shall deliver written notice described in Subsection
699 (4)(c) to the association.

700 (c) The lot owner shall include in a notice described in Subsection (4)(b):

701 (i) the requirements in Subsection 57-8a-218(16) for adopting water wise landscaping
702 rules with which the association has failed to comply;

703 (ii) a demand that the association come into compliance with the requirements; and

704 (iii) a date, no fewer than 90 days after the day on which the lot owner delivers the
705 notice, by which the association must remedy the association's noncompliance.

706 ~~§ → [(5) An association shall adopt rules supporting water wise landscaping for any area~~
706a ~~which~~

707 ~~the association is responsible for landscape maintenance.~~ ← §

708 Section 7. Section **57-8a-232** is amended to read:

709 **57-8a-232 . Sale of common areas.**

710 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the
711 governing documents, an association may by an affirmative vote of at least 67% of the
712 voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of
713 all or part of the common areas.

714 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each
715 lot owner shall execute and deliver the appropriate instruments and perform all acts as
716 necessary to effect the sale, conveyance, transfer, or other disposition of the common
717 areas.

718 (3) The general easement of ingress, egress, and use of the common areas and facilities
719 granted to an association and lot owners through recorded governing documents is
720 extinguished in any portion of the common areas~~[-and facilities]~~ the association sells,
721 conveys, transfers, or otherwise disposes of, if:

722 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
723 portion of the common areas, comply with:

724 (i) the provisions of this section; and

725 (ii) Section 10-9a-606 or 17-27a-606; and

726 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
727 areas results in a person other than the association or a lot owner owning the portion
728 of the common areas~~[-and facilities]~~.

729 (4) This section applies to an association regardless of when the association is created.

730 (5) Unless otherwise prohibited by the association's governing documents, an authorized
731 representative of the association may act as attorney-in-fact for the association's lot
732 owners in executing a sale, conveyance, transfer, or other disposition of the common
733 areas following an affirmative vote described in Subsection (1).

734 Section 18. Section **78B-4-513** is amended to read:

735 **78B-4-513 . Cause of action for defective construction.**

736 (1) As used in this section:

737 (a) "Condominium" means a single unit in a multiunit project together with an undivided
738 interest in common in the common areas and facilities of the condominium building.

739 (b) "Condominium developer" means a person that:

740 (i) acquires the land for building a condominium;

741 (ii) obtains financing for the construction of a condominium;

742 (iii) oversees the construction of the condominium; and

- 743 (iv) sells the condominium to a consumer.
- 744 [(1)] (2) Except as provided in Subsection [(2)] (3), an action for defective design or
745 construction is limited to breach of the contract, whether written or otherwise, including
746 both express and implied warranties.
- 747 [(2)] (3) An action for defective design or construction may include damage to other
748 property or physical personal injury if the damage or injury is caused by the defective
749 design or construction.
- 750 [(3)] (4) For purposes of Subsection [(2)] (3), property damage does not include:
- 751 (a) the failure of construction to function as designed; or
- 752 (b) diminution of the value of the constructed property because of the defective design
753 or construction.
- 754 [(4)] (5) Except as provided in Subsections [(2)] (3) and [(6)] (7), only a person in privity of
755 contract with the original contractor, architect, engineer, or the real estate developer may
756 bring an action for defective design or construction~~[may be brought only by a person in~~
757 ~~privity of contract with the original contractor, architect, engineer, or the real estate~~
758 ~~developer]~~.
- 759 [(5)] (6) If a person in privity of contract sues for defective design or construction under this
760 section, nothing in this section precludes the person from bringing, in the same suit,
761 another cause of action to which the person is entitled based on an intentional or willful
762 breach of a duty existing in law.
- 763 [(6)] (7) Nothing in this section precludes a person from assigning a right under a contract to
764 another person, including to a subsequent owner or a homeowners association.
- 765 (8)(a) Before bringing an action against a condominium developer for defective design
766 or construction, a condominium owner shall provide written notice:
- 767 (i) describing the defective design or construction; and
- 768 (ii) requesting that the condominium developer make all necessary repairs to fix the
769 defective design or construction.
- 770 (b) A condominium developer, upon receiving a notice described in Subsection (8)(a),
771 shall make all reasonable repairs requested in the notice.
- 772 (c) If the condominium developer does not complete the repairs described in the notice
773 in Subsection (8)(b) within nine months after the day on which the condominium
774 owner provides the notice described in Subsection (8)(a), the condominium owner
775 may bring an action against the condominium developer for defective design or
776 construction.

777 (9) A condominium owner may not bring an action against the condominium's developer
778 for defective design or construction before the condominium owner provides the notice
779 described in Subsection (8)(a) and the developer fails to comply with Subsection (8)(c).

780 Section 23. **Effective Date.**

781 This bill takes effect on May 7, 2025.