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Real Estate Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

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;
- ▶ authorizes a homeowner to designate an individual other than the homeowner as the primary contact for the homeowner;
- ▶ 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:

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519

34 **57-8-10.1**, as last amended by Laws of Utah 2024, Chapter 519

35 **57-8-32**, as last amended by Laws of Utah 2024, Chapter 519

36 **57-8a-209**, as last amended by Laws of Utah 2024, Chapter 519

37 **57-8a-218**, as last amended by Laws of Utah 2024, Chapters 115, 519

38 **57-8a-231**, as last amended by Laws of Utah 2024, Chapters 56, 519

39 **57-8a-232**, as enacted by Laws of Utah 2024, Chapter 519

40 **78B-4-513**, as enacted by Laws of Utah 2008, Chapter 280

41

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

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

44 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**

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

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

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

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

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

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

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

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

61 (ii) if the rental unit owner retains the right to use the association of unit owners'

62 common areas and facilities, even occasionally:

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

64 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a

65 reasonable limit on the number of individuals that may use the common areas

66 and facilities as the rental unit tenant's guest or as the unit owner's guest; or

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

68 (A) requires each tenant of a rental unit to abide by the terms of the governing

69 documents; and

70 (B) holds the tenant and the rental unit owner jointly and severally liable for a

71 violation of a provision of the governing documents.

72 (3)(a) A rule may not interfere with the freedom of a unit owner to determine the

73 composition of the unit owner's household.

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

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

76 or

77 (ii) limit the total number of occupants permitted in each residential dwelling on the

78 basis of the residential dwelling's:

79 (A) size and facilities; and

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

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

82 [(5)] (4) Unless otherwise provided in the declaration, an association of unit owners may by

83 rule:

84 (a) regulate the use, maintenance, repair, replacement, and modification of common

85 areas and facilities;

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

87 (i) the use, rental, or operation of the common areas, except limited common areas

88 and facilities; and

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

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

91 (d) provide for the indemnification of the association of unit owners' officers and

92 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit

93 Corporation Act.

94 [(6)] (5)(a) Except as provided in Subsection [(6)(b)] (5)(b), a rule may not prohibit a unit

95 owner from installing a personal security camera immediately adjacent to the

96 entryway, window, or other outside entry point of the owner's condominium unit.

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

99 ~~[(7)]~~ (6)(a) A rule may not abridge the right of a unit owner to display a religious or
100 holiday sign, symbol, or decoration inside the owner's condominium unit.

101 (b) An association may adopt a reasonable time, place, and manner restriction with
102 respect to a display that is visible from the exterior of a unit.

103 ~~[(8)]~~ (7)(a) A rule may not:

104 (i) prohibit a unit owner from displaying in a window of the owner's condominium
105 unit:

106 (A) a for-sale sign; or

107 (B) a political sign;

108 (ii) regulate the content of a political sign; or

109 (iii) establish design criteria for a political sign.

110 (b) Notwithstanding Subsection ~~[(8)(a)]~~ (7)(a), a rule may reasonably regulate the size
111 and time, place, and manner of posting a for-sale sign or a political sign.

112 ~~[(9)]~~ (8) For any area for which one or more unit owners, but not the association, are
113 responsible for landscape maintenance, the association of unit owners:

114 (a) shall adopt rules supporting water wise landscaping, including:

115 (i) low water use requirements on lawns during drought conditions;

116 (ii) design criterion for water wise landscaping; and

117 (iii) limiting permissible plant material to specific water wise plant material;

118 (b) may not prohibit low water use on lawns during drought conditions; and

119 (c) except where reasonably necessary for erosion control, may not prohibit or restrict
120 the conversion of a grass park strip of less than 8 feet wide to water-efficient
121 landscaping.

122 ~~[(10)]~~ (9) A rule may restrict a sex offender from accessing a protected area that is
123 maintained, operated, or owned by the association, subject to the exceptions described in
124 Subsection 77-27-21.7(3).

125 ~~[(11)]~~ (10)(a) Except as provided in this Subsection ~~[(11)]~~ (10), a rule may not prohibit a
126 unit owner from making modifications, consistent with industry standards, for radon
127 mitigation.

128 (b) Subsection ~~[(11)(a)]~~ (10)(a) does not apply if the modifications would violate:

129 (i) a local land use ordinance;

- 130 (ii) a building code;
- 131 (iii) a health code; or
- 132 (iv) a fire code.
- 133 (c) A rule governing the placement or external appearance of modifications may apply to
- 134 modifications for radon mitigation unless the rule would:
- 135 (i) unreasonably interfere with the modifications' functionality; or
- 136 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 137 modifications.
- 138 (d) A rule may require that a unit owner making modifications related to radon
- 139 mitigation:
- 140 (i) demonstrate or provide proof of radon contamination; and
- 141 (ii) provide proof that the modifications and any related construction will be
- 142 performed by a licensed person.

143 ~~[(12)]~~ (11) A rule shall be reasonable.

144 ~~[(13)]~~ (12) A declaration, or an amendment to a declaration, may vary any of the

145 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

146 ~~[(14)]~~ (13) This section applies to an association of unit owners regardless of when the

147 association of unit owners is created.

148 Section 2. Section **57-8-10.1** is amended to read:

149 **57-8-10.1 . Rental restrictions.**

- 150 (1)(a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:
- 151 (i) create restrictions on the number and term of rentals in a condominium project; or
- 152 (ii) prohibit rentals in the condominium project.

153 (b) ~~[An]~~ Except as provided in Subsection (1)(c), an association of unit owners that

154 creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall

155 create the rental restriction or prohibition in a declaration or by amending the

156 declaration.

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

158 (2) If an association of unit owners prohibits or imposes restrictions on the number and

159 term of rentals~~[-, the restrictions shall include:]~~ or charges a fee described in Subsection

160 (9)(c), the association of unit owners shall:

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

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

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

- 198 unit owners that complies with the requirements of the Housing for Older Persons Act,
199 42 U.S.C. Sec. 3607.
- 200 (5) A declaration or amendment to a declaration recorded before transfer of the first unit
201 from the initial declarant may prohibit or restrict rentals without providing for the
202 exceptions, provisions, and procedures required under Subsection (2).
- 203 (6)(a) Subsections (1) through (5) do not apply to:
- 204 (i) a condominium project that contains a time period unit as defined in Section
205 57-8-3;
 - 206 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
 - 207 (iii) subject to Subsection (6)(b), a condominium project in which the initial
208 declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the
209 association of unit owners:
 - 210 (A) adopts a rental restriction or prohibition; or
 - 211 (B) amends an existing rental restriction or prohibition.
 - 212 (b) An association that adopts a rental restriction or amends an existing rental restriction
213 or prohibition before May 9, 2017, is not required to include the exemption described
214 in Subsection (2)(a)(iv).
- 215 (7) Notwithstanding this section, an association of unit owners may restrict or prohibit
216 rentals without an exception described in Subsection (2) if:
- 217 (a) the restriction or prohibition receives unanimous approval by all unit owners; and
 - 218 (b) when the restriction or prohibition requires an amendment to the association of unit
219 owners' declaration, the association of unit owners fulfills all other requirements for
220 amending the declaration described in the association of unit owners' governing
221 documents.
- 222 (8) Except as provided in Subsection (9), an association of unit owners may not require a
223 unit owner who owns a rental unit to:
- 224 (a) obtain the association of unit owners' approval of a prospective renter;
 - 225 (b) give the association of unit owners:
 - 226 (i) a copy of a rental application;
 - 227 (ii) a copy of a renter's or prospective renter's credit information or credit report;
 - 228 (iii) a copy of a renter's or prospective renter's background check; or
 - 229 (iv) documentation to verify the renter's age;
 - 230 (c) pay an additional assessment, fine, or fee because the unit is a rental unit;
 - 231 (d) use a lease agreement provided by the association; or

- 232 (e) obtain the association's approval of a lease agreement.
- 233 (9)(a) A unit owner who owns a rental unit shall give an association of unit owners the
234 documents described in Subsection (8)(b) if the unit owner is required to provide the
235 documents by court order or as part of discovery under the Utah Rules of Civil
236 Procedure.
- 237 (b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy
238 of the units by a certain class of individuals, the association of unit owners may
239 require a unit owner who owns a rental unit to give the association of unit owners the
240 information described in Subsection (8)(b), if:
- 241 (i) the information helps the association of unit owners determine whether the renter's
242 occupancy of the unit complies with the association of unit owners' declaration;
243 and
- 244 (ii) the association of unit owners uses the information to determine whether the
245 renter's occupancy of the unit complies with the association of unit owners'
246 declaration.
- 247 (c) ~~[An]~~ Subject to Subsection (9)(d), an association that permits at least 35% of the units
248 in the association to be rental units may charge a unit owner who owns a rental unit [
249 an annual-] a fee of up to \$200 once every 12 months to defray the association's
250 additional administrative expenses directly related to a unit that is a rental unit, as
251 detailed in [an accounting provided to the unit owner] a notice provided to the unit
252 owner.
- 253 (d) Before an association may charge a fee described in Subsection (9)(c), an association
254 shall:
- 255 (i) provide notice to each unit owner in the association of a management committee
256 meeting described in Subsection (9)(d)(ii) 15 days before the day on which the
257 association holds the management committee meeting;
- 258 (ii) hold a management committee meeting to discuss and allow unit members to
259 publicly comment on:
- 260 (A) the new administrative expenses that the association intends to cover using the
261 funds from the fee; and
- 262 (B) the circumstances that required the association to impose or increase the fee;
263 and
- 264 (iii) ensure that during the management committee meeting described in Subsection
265 (9)(d)(ii), the management committee approves the fee by a majority vote.

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

269 (10) The provisions of Subsections (8) and (9) apply to an association of unit owners
270 regardless of when the association of unit owners is created.

271 (11) Within 30 days after the day on which the association imposes a fee described in
272 Subsection (9)(c), an association shall provide to each unit owner impacted by the fee a
273 notice describing:

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

276 (b) the circumstances that required the association to impose or increase the fee.

277 (12)(a) A unit owner may contest a fee described in Subsection (9)(c) by providing to
278 the association a written request that the association waive the fee if:

279 (i) the association fails to provide the notice described in Subsection (11) within 30
280 days after the day on which the association imposes the fee; or

281 (ii) the notice the association provides to the unit owner does not contain the
282 information required in Subsection (11).

283 (b) If a unit owner contests a fee under this Subsection (12) by submitting a written
284 request, an association shall waive the fee if:

285 (i) the association does not provide the notice described in Subsection (11) to the unit
286 owner; or

287 (ii) a notice provided by the association does not contain the information required in
288 Subsection (11).

289 (13)(a) A unit owner of a rental unit may designate, in a written notice to the association,
290 a primary contact individual who is not the unit owner with whom the association
291 may communicate as though the primary contact individual is the unit owner.

292 (b) If a unit owner designates a primary contact individual under this Subsection (13),
293 the association shall provide the unit owner a written notice that confirms the
294 association has changed the association's records to identify the primary contact
295 individual designated by the unit owner.

296 Section 3. Section **57-8-32** is amended to read:

297 **57-8-32 . Sale of property and common areas and facilities.**

298 (1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the
299 declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and

300 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
 301 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
 302 common areas and facilities.

303 (2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and
 304 each unit owner shall execute and deliver the appropriate instruments and perform all
 305 acts as necessary to effect the sale, conveyance, transfer, or other disposition of the
 306 property or common areas and facilities.

307 (3) The general easement of ingress, egress, and use of the common areas and facilities
 308 granted to an association and unit owners through recorded governing documents is
 309 extinguished in any portion of the common areas and facilities the unit owners sell,
 310 convey, transfer, or otherwise dispose of, if:

311 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
 312 portion of the common areas and facilities, comply with:

313 (i) the provisions of this section; and

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

315 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
 316 areas and facilities results in a person other than the association [~~or a unit owner~~]
 317 owning the portion of the common areas and facilities.

318 (4) This section applies to an association of unit owners regardless of when the association
 319 of unit owners is created.

320 (5) Unless otherwise prohibited by the association's declaration or bylaws, an authorized
 321 representative of the association may act as attorney-in-fact for the association's unit
 322 owners in executing a sale, conveyance, transfer, or other disposition of the common
 323 areas and facilities following an affirmative vote described in Subsection (1).

324 Section 4. Section **57-8a-209** is amended to read:

325 **57-8a-209 . Rental restrictions.**

326 ~~[(1)]~~(1)(a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

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

328 (ii) prohibit rentals in the association.

329 (b) ~~[An]~~ Except as provided in Subsection (1)(c), an association that creates a rental
 330 restriction or prohibition in accordance with Subsection (1)(a) shall create the rental
 331 restriction or prohibition in a recorded declaration of covenants, conditions, and
 332 restrictions, or by amending the recorded declaration of covenants, conditions, and
 333 restrictions.

- 334 (c) An association may establish, by rule, a minimum lease term of six months or less.
- 335 (2) If an association prohibits or imposes ~~[restrictions]~~ a restriction on the number and term
- 336 of rentals~~[, the restrictions shall include:]~~ or charges a fee described in Subsection (9)(c).
- 337 the association shall:
- 338 (a) ~~[a provision that requires the association to exempt from the rental restrictions the~~
- 339 ~~following lot owner and the lot owner's lot]~~ exempt the following from the
- 340 prohibition, restriction, or fee:
- 341 (i) a lot owner in the military for the period of the lot owner's deployment;
- 342 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 343 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
- 344 (iv) a lot owned by an entity that is occupied by an individual who:
- 345 (A) has voting rights under the entity's organizing documents; and
- 346 (B) has a 25% or greater share of ownership, control, and right to profits and
- 347 losses of the entity; or
- 348 (v) a lot owned by a trust or other entity created for estate planning purposes if the
- 349 trust or other estate planning entity was created for:
- 350 (A) the estate of a current resident of the lot; or
- 351 (B) the parent, child, or sibling of the current resident of the lot;
- 352 (b) ~~[a provision that allows]~~ allow a lot owner who has a rental in the association before
- 353 the time the rental restriction described in Subsection (1)(a) is recorded with the
- 354 county recorder of the county in which the association is located to continue renting
- 355 without a fee described in Subsection (9)(c) until:
- 356 (i) the lot owner occupies the lot;
- 357 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
- 358 similar position of ownership or control of an entity or trust that holds an
- 359 ownership interest in the lot, occupies the lot; or
- 360 (iii) the lot is transferred; and
- 361 (c) ~~[a requirement that the association]~~ create, by rule or resolution, procedures to:
- 362 (i) determine and track the number of rentals and lots in the association subject to the
- 363 provisions described in Subsections (2)(a) and (b); and
- 364 (ii) ensure consistent administration and enforcement of ~~[the rental restrictions]~~ any
- 365 rental prohibition, restriction, or fee.
- 366 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
- 367 following occur:

- 368 (a) the conveyance, sale, or other transfer of a lot by deed;
- 369 (b) the granting of a life estate in the lot; or
- 370 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
- 371 business entity, the sale or transfer of more than 75% of the business entity's share,
- 372 stock, membership interests, or partnership interests in a 12-month period.
- 373 (4) This section does not limit or affect residency age requirements for an association that
- 374 complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
- 375 3607.
- 376 (5) A declaration of covenants, conditions, and restrictions or amendments to the
- 377 declaration of covenants, conditions, and restrictions recorded before the transfer of the
- 378 first lot from the initial declarant may prohibit or restrict rentals without providing for
- 379 the exceptions, provisions, and procedures required under Subsection (2).
- 380 (6)(a) Subsections (1) through (5) do not apply to:
- 381 (i) an association that contains a time period unit as defined in Section 57-8-3;
- 382 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
- 383 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
- 384 unless, on or after May 12, 2015, the association:
- 385 (A) adopts a rental restriction or prohibition; or
- 386 (B) amends an existing rental restriction or prohibition.
- 387 (b) An association that adopts a rental restriction or amends an existing rental restriction
- 388 or prohibition before May 9, 2017, is not required to include the exemption described
- 389 in Subsection (2)(a)(iv).
- 390 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an
- 391 exception described in Subsection (2) if:
- 392 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
- 393 (b) when the restriction or prohibition requires an amendment to the association's
- 394 recorded declaration of covenants, conditions, and restrictions, the association fulfills
- 395 all other requirements for amending the recorded declaration of covenants,
- 396 conditions, and restrictions described in the association's governing documents.
- 397 (8) Except as provided in Subsection (9), an association may not require a lot owner who
- 398 owns a rental lot to:
- 399 (a) obtain the association's approval of a prospective renter;
- 400 (b) give the association:
- 401 (i) a copy of a rental application;

- 402 (ii) a copy of a renter's or prospective renter's credit information or credit report;
- 403 (iii) a copy of a renter's or prospective renter's background check; or
- 404 (iv) documentation to verify the renter's age;
- 405 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;
- 406 (d) use a lease agreement provided by the association; or
- 407 (e) obtain the association's approval of a lease agreement.
- 408 (9)(a) A lot owner who owns a rental lot shall give an association the documents
- 409 described in Subsection (8)(b) if the lot owner is required to provide the documents
- 410 by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 411 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
- 412 prohibits or restricts occupancy of the lots by a certain class of individuals, the
- 413 association may require a lot owner who owns a rental lot to give the association the
- 414 information described in Subsection (8)(b), if:
- 415 (i) the information helps the association determine whether the renter's occupancy of
- 416 the lot complies with the association's declaration of covenants, conditions, and
- 417 restrictions; and
- 418 (ii) the association uses the information to determine whether the renter's occupancy
- 419 of the lot complies with the association's declaration of covenants, conditions, and
- 420 restrictions.
- 421 (c) An association that permits at least 35% of the lots in the association to be rental lots
- 422 may charge a lot owner who owns a rental lot [~~an annual~~] a fee of up to \$200 once
- 423 every 12 months to defray the association's additional administrative expenses
- 424 directly related to a lot that is a rental lot, as detailed in [~~an accounting provided to~~
- 425 ~~the lot owner~~] a notice described in Subsection (12).
- 426 (d) An association may require a lot owner who owns a rental lot and the renter of the lot
- 427 owner's rental lot to sign an addendum to a lease agreement provided by the
- 428 association.
- 429 (e) Before an association may charge a fee described in Subsection (9)(c), an association
- 430 shall:
- 431 (i) provide notice to each lot owner in the association of a board meeting described in
- 432 Subsection (9)(e)(ii) 15 days before the day on which the association holds the
- 433 board meeting;
- 434 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
- 435 (A) the new administrative expenses that the association intends to cover using the

- 436 funds from the fee; and
- 437 (B) the circumstances that require the association to impose or increase the fee;
- 438 and
- 439 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board
- 440 approves the fee by a majority vote.
- 441 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
- 442 rental of an internal accessory dwelling unit, as defined in Section 10-9a-530 or
- 443 17-27a-526, constructed within a lot owner's residential lot, if the internal accessory
- 444 dwelling unit complies with all applicable:
- 445 (a) land use ordinances;
- 446 (b) building codes;
- 447 (c) health codes; and
- 448 (d) fire codes.
- 449 (11) The provisions of Subsections (8) through (10) apply to an association regardless of
- 450 when the association is created.
- 451 (12) Within 30 days after the day on which the association imposes a fee described in
- 452 Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a
- 453 notice describing:
- 454 (a) the new administrative expenses that the association intends to cover using the funds
- 455 from the fee; and
- 456 (b) the circumstances that require the association to impose or increase the fee.
- 457 (13)(a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the
- 458 association a written request that the association waive the fee if:
- 459 (i) the association fails to provide the notice described in Subsection (12) within 30
- 460 days after the day on which the association imposes the fee; or
- 461 (ii) the notice the association provides to the lot owner does not contain the
- 462 information required in Subsection (12).
- 463 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written
- 464 request, an association of lot owners shall waive the fee if:
- 465 (i) the association does not provide the notice described in Subsection (12) to the lot
- 466 owner; or
- 467 (ii) a notice provided by the association does not contain the information required in
- 468 Subsection (12).
- 469 (14)(a) A lot owner of a rental lot may designate, in a written notice to the association, a

470 primary contact individual who is not the lot owner with whom the association may
471 communicate as though the primary contact individual is the lot owner.

472 (b) If a lot owner designates a primary contact individual under this Subsection (14), the
473 association shall provide the lot owner a written notice that confirms the association
474 has changed the association's records to identify the primary contact individual
475 designated by the lot owner.

476 Section 5. Section **57-8a-218** is amended to read:

477 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
478 **design criteria.**

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

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

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

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

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

488 (2)(a) If a lot owner owns a rental lot and is in compliance with the association's
489 governing documents and any rule that the association adopts under Subsection (4), a
490 rule may not treat the lot owner differently because the lot owner owns a rental lot.

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

492 (i) limit or prohibit a rental lot owner from using the common areas for purposes
493 other than attending an association meeting or managing the rental lot;

494 (ii) if the rental lot owner retains the right to use the association's common areas,
495 even occasionally:

496 (A) charge a rental lot owner a fee to use the common areas; or

497 (B) for a lot that an owner leases for a term of less than 30 days, impose a
498 reasonable limit on the number of individuals who may use the common areas
499 and facilities as guests of the lot tenant or lot owner; or

500 (iii) include a provision in the association's governing documents that:

501 (A) requires each tenant of a rental lot to abide by the terms of the governing
502 documents; and

503 (B) holds the tenant and the rental lot owner jointly and severally liable for a

- 504 violation of a provision of the governing documents.
- 505 (3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or
506 holiday sign, symbol, or decoration:
- 507 (i) inside a dwelling on a lot; or
508 (ii) outside a dwelling on:
- 509 (A) a lot;
510 (B) the exterior of the dwelling, unless the association has an ownership interest
511 in, or a maintenance, repair, or replacement obligation for, the exterior; or
512 (C) the front yard of the dwelling, unless the association has an ownership interest
513 in, or a maintenance, repair, or replacement obligation for, the yard.
- 514 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
515 place, and manner restriction with respect to a display that is:
- 516 (i) outside a dwelling on:
- 517 (A) a lot;
518 (B) the exterior of the dwelling; or
519 (C) the front yard of the dwelling; and
520 (ii) visible from outside the lot.
- 521 (4)(a) A rule may not prohibit a lot owner from displaying a political sign:
- 522 (i) inside a dwelling on a lot; or
523 (ii) outside a dwelling on:
- 524 (A) a lot;
525 (B) the exterior of the dwelling, regardless of whether the association has an
526 ownership interest in the exterior; or
527 (C) the front yard of the dwelling, regardless of whether the association has an
528 ownership interest in the yard.
- 529 (b) A rule may not regulate the content of a political sign.
- 530 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
531 and manner of posting a political sign.
- 532 (d) An association design provision may not establish design criteria for a political sign.
- 533 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:
- 534 (i) inside a dwelling on a lot; or
535 (ii) outside a dwelling on:
- 536 (A) a lot;
537 (B) the exterior of the dwelling, regardless of whether the association has an

- 538 ownership interest in the exterior; or
- 539 (C) the front yard of the dwelling, regardless of whether the association has an
- 540 ownership interest in the yard.
- 541 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
- 542 and manner of posting a for-sale sign.
- 543 (6)(a) A rule may not interfere with the freedom of a lot owner to determine the
- 544 composition of the lot owner's household.
- 545 (b) Notwithstanding Subsection (6)(a), an association may:
- 546 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
- 547 or
- 548 (ii) limit the total number of occupants permitted in each residential dwelling on the
- 549 basis of the residential dwelling's:
- 550 (A) size and facilities; and
- 551 (B) fair use of the common areas.
- 552 (7)(a) A rule may not interfere with a reasonable activity of a lot owner within the
- 553 confines of a dwelling or lot, including backyard landscaping or amenities, to the
- 554 extent that the activity is in compliance with local laws and ordinances, including
- 555 nuisance laws and ordinances.
- 556 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
- 557 confines of a dwelling or lot, including backyard landscaping or amenities, if the
- 558 activity:
- 559 (i) is not normally associated with a project restricted to residential use; or
- 560 (ii)(A) creates monetary costs for the association or other lot owners;
- 561 (B) creates a danger to the health or safety of occupants of other lots;
- 562 (C) generates excessive noise or traffic;
- 563 (D) creates unsightly conditions visible from outside the dwelling;
- 564 (E) creates an unreasonable source of annoyance to persons outside the lot; or
- 565 (F) if there are attached dwellings, creates the potential for smoke to enter another
- 566 lot owner's dwelling, the common areas, or limited common areas.
- 567 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
- 568 that affect the use of or behavior inside the dwelling.
- 569 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
- 570 objection to the board, alter the allocation of financial burdens among the various lots.
- 571 (b) Notwithstanding Subsection (7)(b), an association may:

- 572 (i) change the common areas available to a lot owner;
- 573 (ii) adopt generally applicable rules for the use of common areas; or
- 574 (iii) deny use privileges to a lot owner who:
- 575 (A) is delinquent in paying assessments;
- 576 (B) abuses the common areas; or
- 577 (C) violates the governing documents.
- 578 (c) This Subsection (8) does not permit a rule that:
- 579 (i) alters the method of levying assessments; or
- 580 (ii) increases the amount of assessments as provided in the declaration.
- 581 (9)~~[(a) Subject to Subsection (9)(b), a]~~ A rule may not:
- 582 ~~[(i)]~~ (a) prohibit the transfer of a lot; or
- 583 ~~[(ii)]~~ (b) require the consent of the association or board to transfer a lot.
- 584 ~~[(b) Unless contrary to a declaration, a rule may require a minimum lease term.]~~
- 585 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
- 586 on a lot before the adoption of the rule or design criteria if the personal property was
- 587 in compliance with all rules and other governing documents previously in force.
- 588 (b) The exemption in Subsection (10)(a):
- 589 (i) applies during the period of the lot owner's ownership of the lot; and
- 590 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
- 591 of the rule described in Subsection (10)(a).
- 592 (11) A rule or action by the association or action by the board may not unreasonably
- 593 impede a declarant's ability to satisfy existing development financing for community
- 594 improvements and right to develop:
- 595 (a) the project; or
- 596 (b) other properties in the vicinity of the project.
- 597 (12) A rule or association or board action may not interfere with:
- 598 (a) the use or operation of an amenity that the association does not own or control; or
- 599 (b) the exercise of a right associated with an easement.
- 600 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
- 601 completed application for design review, or to proceed in accordance with another
- 602 approval process, under the terms of the governing documents in existence at the time
- 603 the completed application was submitted by the owner for review.
- 604 (14) Unless otherwise provided in the declaration, an association may by rule:
- 605 (a) regulate the use, maintenance, repair, replacement, and modification of common

- 606 areas;
- 607 (b) impose and receive any payment, fee, or charge for:
- 608 (i) the use, rental, or operation of the common areas, except limited common areas;
- 609 and
- 610 (ii) a service provided to a lot owner;
- 611 (c) impose a charge for a late payment of an assessment; or
- 612 (d) provide for the indemnification of the association's officers and board consistent with
- 613 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 614 (15) A rule may not prohibit a lot owner from installing a personal security camera
- 615 immediately adjacent to the entryway, window, or other outside entry point of the
- 616 owner's dwelling unit.
- 617 (16)(a) For any area for which one or more lot owners, but not the association, are
- 618 responsible for landscape maintenance of any landscaping within the lot owner's lot
- 619 or the common areas, the association shall adopt rules supporting water wise
- 620 landscaping as defined in Section 57-8a-231 including:
- 621 (i) low water use requirements on lawns during drought conditions;
- 622 (ii) design criterion for water wise landscaping; and
- 623 (iii) limiting permissible plant material to specific water wise plant material.
- 624 (b) A rule may not:
- 625 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
- 626 as defined in Section 57-8a-231; or
- 627 (ii) prohibit low water use on lawns during drought conditions.
- 628 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
- 629 residential lot from constructing an internal accessory dwelling unit, as defined in
- 630 Section 10-9a-530 or 17-27a-526, within the owner's residential lot.
- 631 (b) Subsection (17)(a) does not apply if the construction would violate:
- 632 (i) a local land use ordinance;
- 633 (ii) a building code;
- 634 (iii) a health code; or
- 635 (iv) a fire code.
- 636 (18)(a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a
- 637 residential lot from making modifications, consistent with industry standards, for
- 638 radon mitigation.
- 639 (b) Subsection (18)(a) does not apply if the modifications would violate:

- 640 (i) a local land use ordinance;
- 641 (ii) a building code;
- 642 (iii) a health code; or
- 643 (iv) a fire code.
- 644 (c) A rule governing the placement or external appearance of modifications for radon
- 645 mitigation does not apply to a lot owner's modifications if the rule would:
- 646 (i) unreasonably interfere with the modifications' functionality; or
- 647 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 648 modifications.
- 649 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 650 (i) demonstrate or provide proof of radon contamination; and
- 651 (ii) provide proof that the modifications and any related construction will be
- 652 performed by a licensed person.
- 653 (19) A rule may restrict a sex offender from accessing a protected area that is maintained,
- 654 operated, or owned by the association, subject to the exceptions described in Subsection
- 655 77-27-21.7(3).
- 656 (20) A rule shall be reasonable.
- 657 (21) A declaration, or an amendment to a declaration, may vary any of the requirements of
- 658 Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 659 (22) A rule may not be inconsistent with a provision of the association's declaration,
- 660 bylaws, or articles of incorporation.
- 661 (23) This section applies to an association regardless of when the association is created.
- 662 Section 6. Section **57-8a-231** is amended to read:
- 663 **57-8a-231 . Water wise landscaping.**
- 664 (1) As used in this section:
- 665 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
- 666 grasses.
- 667 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose
- 668 and applied to the soil.
- 669 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
- 670 through a nozzle.
- 671 (d)(i) "Vegetative coverage" means the ground level surface area covered by the
- 672 exposed leaf area of a plant or group of plants at full maturity.
- 673 (ii) "Vegetative coverage" does not mean the ground level surface area covered by

- 674 the exposed leaf area of a tree or trees.
- 675 (e) "Water wise landscaping" means any or all of the following:
- 676 (i) installation of plant materials suited to the microclimate and soil conditions that
- 677 can:
- 678 (A) remain healthy with minimal irrigation once established; or
- 679 (B) be maintained without the use of overhead spray irrigation;
- 680 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
- 681 and water application; or
- 682 (iii) the use of other landscape design features that:
- 683 (A) minimize the need of the landscape for supplemental water from irrigation;
- 684 (B) reduce the landscape area dedicated to lawn or turf; or
- 685 (C) encourage vegetative coverage.
- 686 (f) "Water wise plant material" means a plant material suited to water wise landscaping
- 687 as defined in this section.
- 688 (2) An association may not enact or enforce a governing document that prohibits, or has the
- 689 effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise
- 690 landscaping on the lot owner's lot.
- 691 (3)(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from
- 692 requiring a property owner to:
- 693 (i) comply with a site plan review or other review process before installing water
- 694 wise landscaping;
- 695 (ii) maintain plant material in a healthy condition; and
- 696 (iii) follow specific water wise landscaping design requirements adopted by the
- 697 association including a requirement that:
- 698 (A) restricts or clarifies the use of mulches considered detrimental to the
- 699 association's operations; and
- 700 (B) restricts or prohibits the use of specific plant materials other than water wise
- 701 plant materials.
- 702 (b) ~~[An]~~ Except where reasonably necessary for erosion control, an association may not
- 703 require a lot owner to install or keep in place lawn or turf in an area less than eight
- 704 feet wide.
- 705 (4)(a) Subject to Subsection (4)(b), if an association does not adopt rules as required by
- 706 Subsection 57-8a-218(16) and fails to remedy the noncompliance within the time
- 707 specified in Subsection (4)(c), a lot owner may file an action in state court for:

- 708 (i) injunctive relief requiring the association to comply with the requirements of
 709 Subsection 57-8a-218(16);
 710 (ii) \$500, or the lot owner's actual damages, whichever is greater;
 711 (iii) any other remedy provided by law; and
 712 (iv) reasonable costs and attorney fees.
- 713 (b) No fewer than 90 days before the day on which a lot owner files a complaint under
 714 Subsection (4)(a), the lot owner shall deliver written notice described in Subsection
 715 (4)(c) to the association.
- 716 (c) The lot owner shall include in a notice described in Subsection (4)(b):
 717 (i) the requirements in Subsection 57-8a-218(16) for adopting water wise landscaping
 718 rules with which the association has failed to comply;
 719 (ii) a demand that the association come into compliance with the requirements; and
 720 (iii) a date, no fewer than 90 days after the day on which the lot owner delivers the
 721 notice, by which the association must remedy the association's noncompliance.

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

723 **57-8a-232 . Sale of common areas.**

- 724 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the
 725 governing documents, an association may by an affirmative vote of at least 67% of the
 726 voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of
 727 all or part of the common areas.
- 728 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each
 729 lot owner shall execute and deliver the appropriate instruments and perform all acts as
 730 necessary to effect the sale, conveyance, transfer, or other disposition of the common
 731 areas.
- 732 (3) The general easement of ingress, egress, and use of the common areas and facilities
 733 granted to an association and lot owners through recorded governing documents is
 734 extinguished in any portion of the common areas ~~and facilities~~ the association sells,
 735 conveys, transfers, or otherwise disposes of, if:
 736 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
 737 portion of the common areas, comply with:
 738 (i) the provisions of this section; and
 739 (ii) Section 10-9a-606 or 17-27a-606; and
 740 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
 741 areas results in a person other than the association ~~or a lot owner~~ owning the portion

742 of the common areas ~~and facilities~~].

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

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

748 Section 8. Section **78B-4-513** is amended to read:

749 **78B-4-513 . Cause of action for defective construction.**

750 (1) As used in this section:

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

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

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

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

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

757 (iv) sells the condominium to a consumer.

758 [(1)] (2) Except as provided in Subsection [(2)] (3), an action for defective design or
759 construction is limited to breach of the contract, whether written or otherwise, including
760 both express and implied warranties.

761 [(2)] (3) An action for defective design or construction may include damage to other
762 property or physical personal injury if the damage or injury is caused by the defective
763 design or construction.

764 [(3)] (4) For purposes of Subsection [(2)] (3), property damage does not include:

765 (a) the failure of construction to function as designed; or

766 (b) diminution of the value of the constructed property because of the defective design
767 or construction.

768 [(4)] (5) Except as provided in Subsections [(2)] (3) and [(6)] (7), only a person in privity of
769 contract with the original contractor, architect, engineer, or the real estate developer may
770 bring an action for defective design or construction ~~may be brought only by a person in~~
771 ~~privity of contract with the original contractor, architect, engineer, or the real estate~~
772 ~~developer~~].

773 [(5)] (6) If a person in privity of contract sues for defective design or construction under this
774 section, nothing in this section precludes the person from bringing, in the same suit,
775 another cause of action to which the person is entitled based on an intentional or willful

776 breach of a duty existing in law.

777 [~~(6)~~] (7) Nothing in this section precludes a person from assigning a right under a contract to

778 another person, including to a subsequent owner or a homeowners association.

779 (8)(a) Before bringing an action against a condominium developer for defective design

780 or construction, a condominium owner shall provide written notice:

781 (i) describing the defective design or construction; and

782 (ii) requesting that the condominium developer make all necessary repairs to fix the

783 defective design or construction.

784 (b) A condominium developer, upon receiving a notice described in Subsection (8)(a),

785 shall make all reasonable repairs requested in the notice.

786 (c) If the condominium developer does not complete the repairs described in the notice

787 in Subsection (8)(b) within nine months after the day on which the condominium

788 owner provides the notice described in Subsection (8)(a), the condominium owner

789 may bring an action against the condominium developer for defective design or

790 construction.

791 (9) A condominium owner may not bring an action against the condominium's developer

792 for defective design or construction before the condominium owner provides the notice

793 described in Subsection (8)(a) and the developer fails to comply with Subsection (8)(c).

794 Section 9. **Effective Date.**

795 This bill takes effect on May 7, 2025.