

HB0086S05 compared with HB0086S04

{Omitted text} shows text that was in HB0086S04 but was omitted in HB0086S05
inserted text shows text that was not in HB0086S04 but was inserted into HB0086S05

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1 **Homeowners' Association Requirements**
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson



2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to homeowners' associations.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ increases the monetary amount a unit or lot owner may request if an association fails to properly
make records available for examination;

10 ▶ prohibits a declarant from using association funds in a legal action brought by a homeowner
against the declarant before the end of the period of administrative control; {and}

12 ▶ defines "development right";

13 ▶ amends the conditions for the termination of a period of administrative control for an
association of lot owners;

15 ▶ provides requirements for a declarant of a association of lot owners during the period of
administrative control; and

12 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

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19 None

20 **Other Special Clauses:**

21 None

23 AMENDS:

24 **57-8-17** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah
2022, Chapter 439

25 **57-8-58** , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah 2017,
Chapter 284

26 **57-8a-102 , as last amended by Laws of Utah 2024, Chapter 519 , as last amended by Laws of
Utah 2024, Chapter 519**

27 **57-8a-227** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah
2022, Chapter 439

28 **57-8a-229** , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah 2017,
Chapter 284

29 **57-8a-502 , as last amended by Laws of Utah 2016, Chapter 210 , as last amended by Laws of
Utah 2016, Chapter 210**

30

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

32 Section 1. Section **57-8-17** is amended to read:

33 **57-8-17. Records -- Availability for examination.**

27 (1)

(a) Subject to Subsection (1)(b) and regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association of unit owners shall keep and make available to unit owners:

31 (i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~] in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

34 (ii) a copy of the association's:

35 (A) governing documents;

36 (B) most recent approved minutes;

37 (C) most recent budget and financial statement;

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- 38 (D) most recent reserve analysis; and
- 39 (E) certificate of insurance for each insurance policy the association of unit owners holds.
- 41 (b) An association of unit owners may redact the following information from any document the
association of unit owners produces for inspection or copying:
- 43 (i) a Social Security number;
- 44 (ii) a bank account number; or
- 45 (iii) any communication subject to attorney-client privilege.
- 46 (2)
- (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:
- 48 (i) make documents available to unit owners in accordance with the association of unit owners'
governing documents; and
- 50 (ii)
- (A) if the association of unit owners has an active website, make the documents described in
Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website;
or
- 53 (B) if the association of unit owners does not have an active website, make physical copies of the
documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners during
regular business hours at the association of unit owners' address registered with the Department of
Commerce under Section 57-8-13.1.
- 58 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 59 (c) If a provision of an association of unit owners' governing documents conflicts with a provision of
this section, the provision of this section governs.
- 61 (3) In a written request to inspect or copy documents:
- 62 (a) a unit owner shall include:
- 63 (i) the association of unit owners' name;
- 64 (ii) the unit owner's name;
- 65 (iii) the unit owner's property address;
- 66 (iv) the unit owner's email address;
- 67 (v) a description of the documents requested; and
- 68 (vi) any election or request described in Subsection (3)(b); and
- 69 (b) a unit owner may:

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- 70 (i) elect whether to inspect or copy the documents;
- 71 (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 73 (iii) subject to Subsection (4), request that:
- 74 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 76 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 78 (C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 81 (D) the association of unit owners email the requested documents to an email address provided in the request.
- 83 (4)
- (a) An association of unit owners shall comply with a request described in Subsection (3).
- 85 (b) If an association of unit owners produces the copies or electronic scans:
- 86 (i) the copies or electronic scans shall be legible and accurate; and
- 87 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans and for time spent meeting with the unit owner, which may not exceed:
- 90 (A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 92 (B) 10 cents per page and [~~\$15~~] \$20 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.
- 94 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 96 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 98 (ii) the unit owner shall pay the duplicating service directly.
- 99 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.
- 102 (5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:

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- 105 (a) the reasonable costs of inspecting and copying the requested documents;
- 106 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner who made the
request for each day the request continues unfulfilled, beginning the sixth day after the day on which
the unit owner made the request; and
- 109 (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies
of the requested documents.
- 111 (6)
- (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise
provided by law, a unit owner may file an action in court under this section if:
- 114 (i) subject to Subsection (9), an association of unit owners fails to make documents available to the
unit owner in accordance with this section, the association of unit owners' governing documents,
or as otherwise provided by law; and
- 117 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)
(d).
- 119 (b) In an action described in Subsection (6)(a):
- 120 (i) the unit owner may request:
- 121 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this
section;
- 123 (B) [~~\$500~~] \$1,000 or actual damage, whichever is greater; or
- 124 (C) any other relief provided by law; and
- 125 (ii) the court [~~shall~~] may award costs and reasonable attorney fees to the prevailing party, including
any reasonable attorney fees incurred before the action was filed that relate to the request that is the
subject of the action.
- 128 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the unit owner made in accordance with
Subsection (6)(b), notice to the association of unit owners, and a hearing in which the court finds a
likelihood that the association of unit owners failed to comply with a provision of this section, the
court shall order the association of unit owners to immediately comply with the provision.
- 133 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on
which the unit owner files the motion.

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- (d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:
- 138 (i) the unit owner's name, address, telephone number, and email address;
- 139 (ii) each requirement of this section with which the association of unit owners has failed to comply;
- 141 (iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and
- 143 (iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.
- 146 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.
- 148 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 150 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.
- 152 (9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.
- 162 Section 2. Section **57-8-58** is amended to read:
- 163 **57-8-58. Liability of declarant or management committee -- Period of declarant control.**
- 158 (1) An association may not, after the period of declarant control, bring a legal action against a declarant, a management committee, or an employee, an independent contractor, or an agent of the declarant or the management committee related to the period of declarant control unless:
- 162 (a) the legal action is approved in advance at a meeting where owners of at least 51% in aggregate in interest of the undivided ownership of the common areas and facilities are:
- 165 (i) present; or
- 166 (ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;
- 168 (b) the legal action is approved by vote in person or by proxy of owners of the lesser of:
- 169 (i) more than 75% in aggregate in interest of the total aggregate interest of the undivided ownership of the common areas and facilities represented by those owners present at the meeting or represented by a proxy as described in Subsection (1)(a); or

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- 173 (ii) more than 51% in aggregate in interest of the undivided ownership of the common areas and
facilities;
- 175 (c) the association provides each unit owner with the items described in Subsection (2);
- 176 (d) the association establishes the trust described in Subsection (3); and
- 177 (e) the association first:
- 178 (i) notifies the person subject to the proposed action of the action and the basis of the association's
claim; and
- 180 (ii) gives the person subject to the proposed action a reasonable opportunity to resolve the dispute that is
the basis of the action.
- 182 (2) Before unit owners in an association may vote to approve an action described in Subsection (1), the
association shall provide each unit owner:
- 184 (a) a written notice that the association is contemplating legal action; and
- 185 (b) after the association consults with an attorney licensed to practice in the state, a written assessment
of:
- 187 (i) the likelihood that the legal action will succeed;
- 188 (ii) the likely amount in controversy in the legal action;
- 189 (iii) the likely cost of resolving the legal action to the association's satisfaction; and
- 190 (iv) the likely effect the legal action will have on a unit owner's or prospective unit buyer's ability to
obtain financing for a unit while the legal action is pending.
- 192 (3) Before the association commences a legal action described in Subsection (1), the association shall:
- 194 (a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including
attorney fees; and
- 196 (b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay
the costs to resolve the legal action.
- 198 (4) This section does not apply to an association that brings a legal action that has an amount in
controversy of less than \$75,000.
- 200 (5) In a legal action brought by one or more unit owners **solely against the declarant** before the end
of the period of declarant control, a declarant may not use any funds paid by a unit owner to the
{ **declarant** } **association** to pay for costs of the **declarant's** legal { **action** } **defense**.

210 **Section 3. Section 57-8a-102 is amended to read:**

211 **57-8a-102. Definitions.**

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As used in this chapter:

- 213 (1)
- (a) "Assessment" means a charge imposed or levied:
- 214 (i) by the association;
- 215 (ii) on or against a lot or a lot owner; and
- 216 (iii) pursuant to a governing document recorded with the county recorder.
- 217 (b) "Assessment" includes:
- 218 (i) a common expense; and
- 219 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 220 (2)
- (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:
- 222 (i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and
- 224 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 225 (A) real property taxes;
- 226 (B) insurance premiums;
- 227 (C) maintenance costs; or
- 228 (D) for improvement of real property not owned by the member.
- 229 (b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.
- 231 (3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.
- 233 (4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.
- 235 (5) "Common areas" means property that the association:
- 236 (a) owns;
- 237 (b) maintains;
- 238 (c) repairs; or
- 239 (d) administers.
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- (6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.
- 242 (7) "Declarant":
- 243 (a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and
- 246 (b) includes the person's successor and assign.
- 247 (8) "Development right" means any right or combination of rights a declarant reserves in the declaration to:
- 249 (a) add real estate to an association;
- 250 (b) create lots, common elements, or limited common elements within an association;
- 251 (c) subdivide lots or convert lots into common elements; or
- 252 (d) withdraw real estate from an association.
- 253 [~~8~~] (9) "Director" means a member of the board of directors.
- 254 [~~9~~] (10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 255 [~~10~~] (11) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 256 [~~11~~] (12)
- (a) "Governing documents" means a written instrument by which the association may:
- 258 (i) exercise powers; or
- 259 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.
- 261 (b) "Governing documents" includes:
- 262 (i) articles of incorporation;
- 263 (ii) bylaws;
- 264 (iii) a plat;
- 265 (iv) a declaration of covenants, conditions, and restrictions; and
- 266 (v) rules of the association.
- 267 [~~12~~] (13) "Independent third party" means a person that:
- 268 (a) is not related to the owner of the residential lot;
- 269 (b) shares no pecuniary interests with the owner of the residential lot; and
- 270 (c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.
- 272 [~~13~~] (14) "Judicial foreclosure" means a foreclosure of a lot:

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- 273 (a) for the nonpayment of an assessment;
- 274 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 275 (c) as provided in Part 3, Collection of Assessments.
- 276 ~~[(14)]~~ (15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 277 (a) by a person or persons other than the owner; and
- 278 (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.
- 280 ~~[(15)]~~ (16) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.
- 282 ~~[(16)]~~ (17) "Lot" means:
- 283 (a) a lot, parcel, plot, or other division of land:
- 284 (i) designated for separate ownership or occupancy; and
- 285 (ii)
- (A) shown on a recorded subdivision plat; or
- 286 (B) the boundaries of which are described in a recorded governing document; or
- 287 (b)
- (i) a unit in a condominium association if the condominium association is a part of a development; or
- 289 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.
- 291 ~~[(17)]~~ (18)
- (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.
- 293 (b) "Means of electronic communication" includes:
- 294 (i) web conferencing;
- 295 (ii) video conferencing; and
- 296 (iii) telephone conferencing.
- 297 ~~[(18)]~~ (19) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.
- 299 ~~[(19)]~~ (20) "Nonjudicial foreclosure" means the sale of a lot:
- 300 (a) for the nonpayment of an assessment;
- 301 (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- 303 (c) as provided in Part 3, Collection of Assessments.

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- 304 [~~(20)~~] (21) "Period of administrative control" means the period during which the person who filed the
association's governing documents or the person's successor in interest retains authority to:
- 307 (a) appoint or remove members of the association's board of directors; or
- 308 (b) exercise power or authority assigned to the association under the association's governing documents.
- 310 [~~(21)~~] (22) "Political sign" means any sign or document that advocates:
- 311 (a) the election or defeat of a candidate for public office; or
- 312 (b) the approval or defeat of a ballot proposition.
- 313 [~~(22)~~] (23) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 314 [~~(23)~~] (24) "Rentals" or "rental lot" means:
- 315 (a) a lot that:
- 316 (i) is not owned by an entity or trust; and
- 317 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary
residence;
- 319 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 320 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.
- 321 [~~(24)~~] (25) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to
primarily residential or recreational purposes.
- 323 [~~(25)~~] (26)
- (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:
- 325 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and
- 327 (ii) governs:
- 328 (A) the conduct of persons; or
- 329 (B) the use, quality, type, design, or appearance of real property or personal property.
- 331 (b) "Rule" does not include the internal business operating procedures of a board.
- 332 [~~(26)~~] (27) "Sex offender" means the same as that term is defined in Section 77-27-21.7.
- 333 [~~(27)~~] (28) "Solar energy system" means:
- 334 (a) a system that is used to produce electric energy from sunlight; and
- 335 (b) the components of the system described in Subsection [~~(27)~~](a) (28)(a).
- 336 Section 4. Section **57-8a-227** is amended to read:
- 337 **57-8a-227. Records -- Availability for examination.**
- 205 (1)

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- (a) Subject to Subsection (1)(b) and regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association shall keep and make available to lot owners:
- 208 (i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~] in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and
- 211 (ii) a copy of the association's:
- 212 (A) governing documents;
- 213 (B) most recent approved minutes;
- 214 (C) most recent budget and financial statement;
- 215 (D) most recent reserve analysis; and
- 216 (E) certificate of insurance for each insurance policy the association holds.
- 217 (b) An association may redact the following information from any document the association produces for inspection or copying:
- 219 (i) a Social Security number;
- 220 (ii) a bank account number; or
- 221 (iii) any communication subject to attorney-client privilege.
- 222 (2)
- (a) In addition to the requirements described in Subsection (1), an association shall:
- 223 (i) make documents available to lot owners in accordance with the association's governing documents; and
- 225 (ii)
- (A) if the association has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge, through the website; or
- 228 (B) if the association does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the association's address registered with the Department of Commerce under Section 57-8a-105.
- 232 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 233 (c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.
- 235 (3) In a written request to inspect or copy documents:

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- 236 (a) a lot owner shall include:
- 237 (i) the association's name;
- 238 (ii) the lot owner's name;
- 239 (iii) the lot owner's property address;
- 240 (iv) the lot owner's email address;
- 241 (v) a description of the documents requested; and
- 242 (vi) any election or request described in Subsection (3)(b); and
- 243 (b) a lot owner may:
- 244 (i) elect whether to inspect or copy the documents;
- 245 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 247 (iii) subject to Subsection (4), request that:
- 248 (A) the association make the copies or electronic scans of the requested documents;
- 250 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 252 (C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 255 (D) the association email the requested documents to an email address provided in the request.
- 257 (4)
- (a) An association shall comply with a request described in Subsection (3).
- 258 (b) If an association produces the copies or electronic scans:
- 259 (i) the copies or electronic scans shall be legible and accurate; and
- 260 (ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans and for time spent meeting with the lot owner, which may not exceed:
- 263 (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 265 (B) 10 cents per page and [~~\$15~~] \$20 per hour for the employee's, manager's, or other agent's time.
- 267 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
- 269 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 271 (ii) the lot owner shall pay the duplicating service directly.

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- 272 (d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide
the necessary space, light, and power for the imaging equipment.
- 274 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an
association fails to comply with a provision of this section, the association shall pay:
- 277 (a) the reasonable costs of inspecting and copying the requested documents;
- 278 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner who made the
request for each day the request continues unfulfilled, beginning the sixth day after the day on which
the lot owner made the request; and
- 281 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies
of the requested documents.
- 283 (6)
- (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a
lot owner may file an action in court against the association under this section if:
- 286 (i) subject to Subsection (9), an association fails to make documents available to the lot owner in
accordance with this section, the association's governing documents, or as otherwise provided
by law; and
- 289 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 290 (b) In an action described in Subsection (6)(a):
- 291 (i) the lot owner may request:
- 292 (A) injunctive relief requiring the association to comply with the provisions of this section;
- 294 (B) [~~\$500~~] \$1,000 or actual damage, whichever is greater; or
- 295 (C) any other relief provided by law; and
- 296 (ii) the court [~~shall~~] may award costs and reasonable attorney fees to the prevailing party, including
any reasonable attorney fees incurred before the action was filed that relate to the request that is the
subject of the action.
- 299 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the lot owner made in accordance with
Subsection (6)(b), notice to the association, and a hearing in which the court finds a likelihood that
the association failed to comply with a provision of this section, the court shall order the association
to immediately comply with the provision.

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- (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.
- 306 (d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:
- 309 (i) the lot owner's name, address, telephone number, and email address;
- 310 (ii) each requirement of this section with which the association has failed to comply;
- 311 (iii) a demand that the association comply with each requirement with which the association has failed to comply; and
- 313 (iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.
- 316 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association.
- 317 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 319 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.
- 321 (9) An association is not liable for identifying or providing a document in error, if the association identified or provided the erroneous document in good faith.
- 456 Section 5. Section **57-8a-229** is amended to read:
- 457 **57-8a-229. Liability of declarant or board of directors -- Period of administrative control.**
- 326 (1) An association may not, after the period of administrative control, bring a legal action against a declarant, a board of directors, or an employee, an independent contractor, or the agent of the declarant or the previous board of directors related to the period of administrative control unless:
- 330 (a) the legal action is approved in advance at a meeting where owners of at least 51% of the allocated voting interests of the lot owners in the association are:
- 332 (i) present; or
- 333 (ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;
- 335 (b) the legal action is approved by vote in person or by proxy of owners of the lesser of:
- 336 (i) more than 75% of the allocated voting interests of the lot owners present at the meeting or represented by a proxy as described in Subsection (1)(a); or

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- 338 (ii) more than 51% of the allocated voting interests of the lot owners in the association;
340 (c) the association provides each lot owner with the items described in Subsection (2);
341 (d) the association establishes the trust described in Subsection (3); and
342 (e) the association first:
343 (i) notifies the person subject to the proposed legal action of the legal action and basis of the
association's claim; and
345 (ii) gives the person subject to the claim a reasonable opportunity to resolve the dispute that is the basis
of the proposed legal action.
- 347 (2) Before lot owners in an association may vote to approve an action described in Subsection (1), the
association shall provide each lot owner:
349 (a) a written notice that the association is contemplating legal action; and
350 (b) after the association consults with an attorney licensed to practice in the state, a written assessment
of:
352 (i) the likelihood that the legal action will succeed;
353 (ii) the likely amount in controversy in the legal action;
354 (iii) the likely cost of resolving the legal action to the association's satisfaction; and
355 (iv) the likely effect the legal action will have on a lot owner's or prospective lot buyer's ability to
obtain financing for a lot while the legal action is pending.
- 357 (3) Before the association commences a legal action described in Subsection (1), the association shall:
359 (a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including
attorney fees; and
361 (b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay
the costs to resolve the legal action.
- 363 (4) This section does not apply to an association that brings a legal action that has an amount in
controversy of less than \$75,000.
- 365 (5) In a legal action brought by one or more lot owners solely against the declarant before the end of the
period of {administrative} declarant control, a declarant may not use any funds paid by {the} a lot
owner to the {declarant} association to pay for costs of the {legal action} declarant's legal defense.

501 Section 6. Section 57-8a-502 is amended to read:

502 **57-8a-502. Period of administrative control.**

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- (1) Unless otherwise provided for in a declaration and subject to Subsection (2), a period of administrative control terminates ~~[on the first to occur of the following:]~~ 60 days after the day on which 80% of the lots that may be created in the association are conveyed to lot owners other than a declarant.
- 507 ~~[(a) 60 days after 75% of the lots that may be created are conveyed to lot owners other than a declarant;]~~
- 509 ~~[(b) seven years after all declarants have ceased to offer lots for sale in the ordinary course of business; or]~~
- 511 ~~[(c) the day the declarant, after giving written notice to the lot owners, records an instrument voluntarily surrendering all rights to control activities of the association.]~~
- 513 (2) Notwithstanding Subsection (1), the period of administrative control terminates no later than the earlier of:
- 515 (a) the day on which the declarant no longer owns any lot and no longer possess any development right;
or
- 517 (b) seven years after the day on which a declarant has ceased to offer lots, including lots that may be created, for sale in the ordinary course of business.
- 519 ~~[(2)]~~ (3)
- (a) A declarant may voluntarily surrender the right to appoint and remove a member of the board before the period of administrative control terminates under Subsection (1).
- 522 (b) Subject to Subsection ~~[(2)(a)]~~ (3)(a), the declarant may require, for the duration of the period of administrative control, that actions of the association or board, as specified in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.
- 526 (c) During a period of administrative control, except as provided in Subsection ~~[(2)(a)]~~ (3)(a), a declarant may appoint the declarant's officers, employees, or agents as members of the board.
- 529 ~~[(3)]~~ (4)
- (a) Upon termination of the period of administrative control, the lot owners shall elect a board consisting of an odd number of at least three members, a majority of whom shall be lot owners.
- 532 (b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.
- 534 (c) The board members and officers shall take office upon election or appointment.
- 535 (5) During the period of administrative control, the declarant shall:

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- 536 (a) use reasonable care and prudence in managing and maintaining the common areas;
537 (b) establish a sound fiscal basis for the association by imposing and collecting assessments and
establishing reserves for the maintenance and replacement of common areas;
540 (c) for a service that the association is or will be obligated to provide, disclose to the lot owners the
amount of money the declarant provides for or subsidizes for that service;
542 (d) maintain records and account for the financial affairs of the association from the association's
inception;
544 (e) comply with and enforce the terms of the declaration, including design controls, land-use
restrictions, and the payment of assessments; and
546 (f) disclose to the lot owners all material facts and circumstances affecting:
547 (i) the condition of the property that the association is responsible for maintaining; and
549 (ii) the financial condition of the association, including the interest of the declarant and the declarant's
affiliates in any contract, lease, or other agreement entered into by the association.

552 Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

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