

HB0217S01 compared with HB0217

{Omitted text} shows text that was in HB0217 but was omitted in HB0217S01

inserted text shows text that was not in HB0217 but was inserted into HB0217S01

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Homeowners' Association Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the Office of the Homeowners' Association Ombudsman;
- establishes the duties, jurisdiction, and functions of the Office of the Homeowners' Association Ombudsman;
- requires the Office of the Homeowners' Association Ombudsman to issue an advisory opinion under certain circumstances;
- provides the circumstances under which an advisory opinion of the Office of the Homeowners' Association Ombudsman is admissible in a subsequent proceeding;
- makes void and unenforceable a homeowners' association transfer fee;
- establishes requirements for a homeowners' association to impose a reinvestment fee;
- changes requirements for amending governing documents;

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- 19 ▶ sets limits on the amount a homeowners' association may charge as a late fee;
- 20 ▶ requires that a homeowners' association provide, upon request, certain documents;
- 21 ▶ prohibits a declarant from selling a part of a common area during the period of administrative control under certain circumstances; and
- 23 ▶ prohibits a homeowners' association from charging any costs associated with producing certain documents.

25 **Money Appropriated in this Bill:**

26 None

27 None

30 **AMENDS:**

31 **57-1-46** , as last amended by Laws of Utah 2024, Chapter 431 , as last amended by Laws of Utah 2024, Chapter 431

32 **57-8-8.1** , as last amended by Laws of Utah 2024, Chapters 115, 519 , as last amended by Laws of Utah 2024, Chapters 115, 519

33 **57-8-17** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah 2022, Chapter 439

34 **57-8-32** , as last amended by Laws of Utah 2024, Chapter 519 , as last amended by Laws of Utah 2024, Chapter 519

35 **57-8-39** , as last amended by Laws of Utah 2017, Chapter 324 , as last amended by Laws of Utah 2017, Chapter 324

36 **57-8a-104** , as last amended by Laws of Utah 2015, Chapters 34, 325 and 387 , as last amended by Laws of Utah 2015, Chapters 34, 325 and 387

37 **57-8a-201** , as enacted by Laws of Utah 2004, Chapter 153 , as enacted by Laws of Utah 2004, Chapter 153

38 **57-8a-227** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah 2022, Chapter 439

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

40 **ENACTS:**

41 **13-75-101** , Utah Code Annotated 1953 , Utah Code Annotated 1953

42 **13-75-102** , Utah Code Annotated 1953 , Utah Code Annotated 1953

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43 **13-75-103** , Utah Code Annotated 1953 , Utah Code Annotated 1953

44 **13-75-104** , Utah Code Annotated 1953 , Utah Code Annotated 1953

45

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

47 Section 1. Section **1** is enacted to read:

48

Part 1. Office of the Homeowners' Association Ombudsman

13-75-101. Definitions.

49 As used in this part:

51 (1) "Association of lot owners" means an association as that term is defined in Section 57-8a-102.

53 (2) "Association of unit owners" means the same as that term is defined in Section 57-8-3.

54 (3) "Department" means the Department of Commerce created in Section 13-1-2.

55 (4) "Governing documents of an association of lot owners" means the same as governing documents as that term is defined in Section 57-8a-102.

57 (5) "Governing documents of an association of unit owners" means the same as governing documents as that term is defined in Section 57-8-3.

59 (6) "Lot owner" means the same as that term is defined in Section 57-8a-102.

60 (7) "Office" means the Office of the Homeowners' Association Ombudsman created in Subsection 13-75-102(1).

62 (8) "Unit owner" means the same as that term is defined in Section 57-8-3.

63 Section 2. Section **2** is enacted to read:

13-75-102. Creation of Office of the Homeowners' Association Ombudsman.

65 (1) There is created an Office of the Homeowners' Association Ombudsman in the department.

67 (2) The executive director of the department shall appoint attorneys with background or expertise in real estate law to fill legal positions within the office in the department.

69 (3) An individual appointed under this section is an exempt employee.

70 Section 3. Section **3** is enacted to read:

13-75-103. Duties and jurisdiction of office.

72 (1) The attorneys of the office shall:

73 (a) develop and maintain expertise in and understanding of issues impacting unit owners, lot owners, associations of lot owners, and associations of unit owners; and

75 (b) upon request:

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76 (i) analyze a complaint from a lot owner, a unit owner, an association of lot owners, or an association of unit owners regarding the unlawful conduct of a lot owner, a unit owner, an association of lot owners, or an association of unit owners; and

79 (ii) provide an advisory opinion as described in Section 13-75-104.

80 (2)

(a) Neither the office nor the office's attorneys may represent private parties, state agencies, local governments, or any other individual or entity in a legal action that arises from or relates to a matter addressed in this chapter.

83 (b) No attorney of the office may be compelled to testify in a civil action filed concerning the subject matter of any review or advisory opinion arranged through the office.

86 (3) Except as provided in Section 13-75-105, evidence of a review by the office and the opinions, writings, findings, and determinations of the office are not admissible as evidence in a judicial action.

89 (4) The office:

90 (a) shall analyze a complaint and issue an advisory opinion only for issues relating to a violation of the law; and

92 (b) may not provide any service that requires interpreting the governing documents of an association of lot owners or the governing documents of an association of unit owners, unless the complaint alleges the governing documents of an association of lot owners or the governing documents of an association of unit owners contain at least one provision that violates the law.

97 Section 4. Section 4 is enacted to read:

98 **13-75-104. Advisory opinion -- Process of advisory opinions.**

99 (1) A lot owner, a unit owner, an association of lot owners, or an association of unit owners may request a written advisory opinion:

101 (a) from the office to determine compliance with:

102 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a, Community Association Act; or

104 (ii) other applicable laws of this state; and

105 (b) at any time before a court with jurisdiction issues a final decision regarding the issue of the requested opinion.

107 (2) A person making a request for an advisory opinion described in Subsection (1) shall:

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- 108 (a) file the request with the office; and
109 (b) pay a filing fee of \$150.
- 110 (3) The office may establish policies providing for partial fee waivers for a person who is financially
unable to pay the entire fee described in Subsection (2)(b).
- 112 (4)
113 . (a) The office may not issue an advisory opinion unless the person requesting an advisory opinion
exhausts all existing remedies provided in:
- 114 (i) the governing documents of an association of lot owners, if the dispute involves a lot owner; or
116 (ii) the governing documents of an association of unit owners, if the dispute involves a unit owner.
- 118 (b) A person requesting an advisory opinion shall include in the person's complaint a description of how
that person exhausted all existing remedies provided in the applicable governing documents.
- 121 (5) Upon receipt of a request for an advisory opinion, the office shall:
- 122 (a) inquire of all parties if there are other necessary parties to the dispute; and
123 (b) deliver notice of the request to the opposing parties indicated in the request and any other necessary
party identified in accordance with Subsection (5)(a).
- 125 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:
- 126 (a) issue a written advisory opinion addressing the issues described in the request for an advisory
opinion;
- 128 (b) include in the advisory opinion a statement of the facts and law supporting the opinion's
conclusions; and
- 130 (c) deliver copies of the advisory opinion to all necessary parties identified in accordance with
Subsection (5)(a).
- 132 (7)
133 . (a) The office shall issue a written statement declining to issue an advisory opinion when, in the opinion
of the office:
- 134 (i) the issues are not ripe for review; or
135 (ii) the issues raised are beyond the scope of the office's statutory duty to review.
- 136 (b) Notwithstanding Subsection (7)(a), the office is not required to issue a written statement, and may
decline to review a request, if the request deals solely with a contractual dispute.

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- (8) The party that requests the advisory opinion shall pay the filing fee described in Subsection (2)(b), unless the office issues an advisory opinion in favor of the party that requests the advisory opinion, in which case all necessary parties shall share the cost of the filing fee equally.
- 143 (9) An advisory opinion issued as described in Subsection (6) is neither binding on any party to, nor admissible as evidence in, a dispute involving an association of lot owners or an association of unit owners, except as provided in Subsection (10).
- 146 (10)
- . (a) As used in this Subsection (10), "qualifying conditions" means the office issues an advisory opinion described in this section, the same issue that is the subject of the advisory opinion is subsequently litigated in court, and the court rules in favor of the same party as the advisory opinion in a final judgment.
- 150 (b) If the qualifying conditions are met, the court may award the substantially prevailing party:
- 152 (i) reasonable attorney fees and court costs relating to the development of the cause of action from the date the office delivers the advisory opinion to the date of the court's resolution; and
- 155 (ii) if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action, a civil penalty of \$250 for each day described in Subsection (11).
- 158 (11) The civil penalty described in Subsection (10)(b):
- 159 (a) begins to accrue on the later of:
- 160 (i) 30 days after the day on which the office delivers the advisory opinion; or
- 161 (ii) the day on which the substantially prevailing party or opposing party filed the action in court; and
- 163 (b) ends the day on which the court enters a final judgment.
- 164 Section 5. Section **57-1-46** is amended to read:
- 165 **57-1-46. Transfer fee and reinvestment fee covenants.**
- 166 (1) As used in this section:
- 167 (a) "Association expenses" means expenses incurred by a common interest association for:
- 169 ~~[(i) the administration of the common interest association;]~~
- 170 ~~[(ii)]~~ (i) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of association facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;
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- ~~[(iii)]~~ (ii) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of property owners, tenants, common areas, the burdened property, or property governed by the common interest association; or
- 177 ~~[(iv)]~~ (iii) other facilities, activities, services, or programs that are required or permitted under the common interest association's organizational documents.
- 179 (b) "Association facilities" means any real property, improvements on real property, or personal property owned, leased, constructed, developed, managed, or used by a common interest association, including common areas.
- 182 (c) "Association transfer fee" means a fee, charge, or payment that is:
- 183 (i) related to the sale of real property; and
- 184 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
- 185 (A) a common interest association; or
- 186 (B) a person acting on behalf of the common interest association.
- 187 ~~[(e)]~~ (d) "Burdened property" means the real property that is subject to a reinvestment fee covenant or transfer fee covenant.
- 189 ~~[(d)]~~ (e) "Common areas" means areas described within:
- 190 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 191 (ii) the definition of "common areas" under Section 57-8a-102.
- 192 ~~[(e)]~~ (f)
- . (i) "Common interest association" means:
- 193 ~~[(f)]~~ means:
- 194 (A) an association, as defined in Section 57-8a-102;
- 195 (B) an association of unit owners, as defined in Section 57-8-3; or
- 196 (C) a nonprofit association~~[-and]~~ .
- 197 (ii) "Common interest association" includes a person authorized by an association, association of unit owners, or nonprofit association[-as the case may be].
- 199 ~~[(f)]~~ (g) "Large master planned development" means an approved development:
- 200 (i) of at least 500 acres or 500 units; and
- 201 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 202 (A) common infrastructure;
- 203 (B) association facilities;

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- 204 (C) community programming;
- 205 (D) resort facilities;
- 206 (E) open space; or
- 207 (F) recreation amenities.
- 208 ~~(g)~~ (h) "Nonprofit association" means a nonprofit corporation organized under Title 16, Chapter 6a,
Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern, manage, or maintain
burdened property.
- 211 ~~(h)~~ (i) "Organizational documents" means:
- 212 (i) for an association, as defined in Section 57-8a-102, ~~[means-]~~governing documents as defined in
Section 57-8a-102;
- 214 (ii) for an association of unit owners, as defined in Section 57-8-3, ~~[means-]~~a declaration as defined in
Section 57-8-3; and
- 216 (iii) for a nonprofit association:
- 217 (A) ~~[means-]~~a written instrument by which the nonprofit association exercises powers or manages,
maintains, or otherwise affects the property under the jurisdiction of the nonprofit association; and
- 220 (B) ~~[includes-]~~articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and
declarations of covenants, conditions, and restrictions.
- 222 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:
- 224 (i) upon a buyer or seller of real property;
- 225 (ii) upon and as a result of a transfer of the real property; and
- 226 (iii) that is dedicated to benefiting the common areas, including payment for:
- 227 (A) common planning, facilities, and infrastructure;
- 228 (B) obligations arising from an environmental covenant;
- 229 (C) community programming;
- 229 ~~{(C)}~~ (D) resort facilities;
- 230 ~~{(D)}~~ (E) open space; {or}
- 231 ~~{(E)}~~ (F) recreation amenities{-};
- 233 (G) charitable purposes; or
- 234 (H) association expenses.
- 232 ~~(i)~~ (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 233 (i) affects real property; and

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- 234 (ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon
and as a result of a transfer of the real property, a fee that is dedicated to benefitting the burdened
property, including payment for:
- 237 (A) common ~~{planning, }~~ facilities~~{,}~~ and infrastructure;
- 238 (B) obligations arising from an environmental covenant;
- 239 ~~{(C) community programming;}~~
- 240 ~~{(D){} {(E)}~~ resort facilities;
- 241 ~~{(E){} {(D)}~~ open space;
- 245 ~~(F) {or~~
- 242 ~~{(F)}(E)~~ recreation amenities~~{;{} }.~~
- 243 ~~{(G) charitable purposes; or}~~
- 244 ~~{(H) association expenses.}~~
- 245 [(j)] (l) "Transfer fee covenant":
- 246 (i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other
instrument or document:
- 248 (A) that affects real property;
- 249 (B) that is imposed on a future buyer or seller of real property, other than a person who is a party to the
covenant, restriction, agreement, or other instrument or document; and
- 252 (C) to pay a fee upon and as a result of a transfer of the real property; and
- 253 (ii) does not include:
- 254 (A) an obligation imposed by a court judgment, order, or decree;
- 255 (B) an obligation imposed by the federal government or a state or local government entity; or
- 257 (C) a reinvestment fee covenant.
- 258 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 259 (3)
- . (a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be sold, assigned, or
conveyed unless the sale, assignment, or conveyance is to a common interest association that was
formed to benefit the burdened property.
- 262 (b) A common interest association may assign or pledge to a lender the right to receive payment under a
reinvestment fee covenant if:
- 264 (i) the assignment or pledge is as collateral for a credit facility; and

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- 265 (ii) the lender releases the collateral interest upon payment in full of all amounts that the common
interest association owes to the lender under the credit facility.
- 267 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if the
reinvestment fee covenant is intended to affect property that is the subject of a previously recorded
transfer fee covenant or reinvestment fee covenant.
- 270 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the payment of
a fee that exceeds .5% of the value of the burdened property, unless the burdened property is part of
a large master planned development.
- 273 (6)
- . (a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and unenforceable unless
a notice of reinvestment fee covenant, separate from the reinvestment fee covenant, is recorded in
the office of the recorder of each county in which any of the burdened property is located.
- 277 (b) A notice under Subsection (6)(a) shall:
- 278 (i) state the name and address of the common interest association to which the fee under the
reinvestment fee covenant is required to be paid;
- 280 (ii) include the notarized signature of the common interest association's authorized representative;
- 282 (iii) state that the burden of the reinvestment fee covenant is intended to run with the land and to bind
successors in interest and assigns;
- 284 (iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional
reinvestment fee covenant on the burdened property;
- 286 (v) state the duration of the reinvestment fee covenant;
- 287 (vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and
- 289 (vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the
burdened property.
- 291 (c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of
Subsection (6)(b) is valid and effective.
- 293 (7)
- . (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not
enforceable after May 31, 2010, unless:
- 295 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in the office of
the recorder of each county in which any of the burdened property is located; or

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- 298 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in Subsection (7)(b),
is recorded in the office of the recorder of each county in which any of the burdened property is
located.
- 301 (b) A notice under Subsection (7)(a)(ii) shall:
- 302 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee
covenant, or the beneficiary's authorized representative;
- 304 (ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer
fee covenant;
- 306 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is intended to run
with the land and to bind successors in interest and assigns; and
- 308 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 309 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that substantially complies
with the requirements of Subsection (7)(b) is valid and effective.
- 312 (d) A notice under Subsection (7)(b):
- 313 (i) that is recorded after May 31, 2010, is not enforceable; and
- 314 (ii) shall comply with the requirements of Section 57-1-47.
- 315 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010, seeking to amend a
notice under Subsection (7)(b) recorded before May 31, 2010, is not an enforceable amendment.
- 318 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:
- 320 (a) an involuntary transfer;
- 321 (b) a transfer that results from a court order;
- 322 (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who,
before the transfer, provides adequate proof of consanguinity;
- 324 (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of
distribution; or
- 326 (e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment
fee covenant requires the payment of a common interest association's costs directly related to the
transfer of the burdened property, not to exceed \$250.
- 330 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable{-} unless:
- 335 (a) the association uses the fee only to pay expenses related to the transfer; and
- 336 (b) the fee does not exceed \$100.

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331 (10) An association may not impose or set the amount of a reinvestment fee unless {~~at least 67%~~
332 } a majority of voting interests in the association, or a higher percentage if required in the
333 organizational documents, approves the reinvestment fee.

340 Section 6. Section **57-8-8.1** is amended to read:

341 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

336 (1)

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

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

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

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

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

345 (2)

. (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners'
governing documents and any rule that the association of unit owners adopts under Subsection (5), a
rule may not treat the unit owner differently because the unit owner owns a rental unit.

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

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

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

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

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

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

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

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

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- 363 (3)
- . (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.
- 365 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 366 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 368 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 370 (A) size and facilities; and
- 371 (B) fair use of the common areas and facilities.
- 372 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 373 (5) ~~Unless otherwise provided in the declaration, an~~ An association of unit owners may by rule:
- 374 (a) unless otherwise provided in the declaration:
- 382 (i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;
- 376 ~~{(b)}~~ and
- 384 ~~[(b)]~~ (ii) impose and receive any payment, fee, or charge for:
- 377 [(i)] (A) the use, rental, or operation of the common areas, except limited common areas and facilities;
- [and] or
- 379 [(ii)] (B) a service provided to a unit owner;
- 380 [(e)] (b) impose~~[-a charge]~~, for a late payment of an assessment:
- 381 (i) a monthly penalty, ~~{equal}~~ not to exceed the lesser of:
- 382 (A) 5% of the assessment amount; or
- 383 (B) \$50; and
- 384 (ii) interest on the assessment and penalty of up to 1.5% per month; or
- 385 [(d)] (c) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 388 (6)
- . (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.
- 391 (b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

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- 393 (7)
. (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.
- 395 (b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.
- 397 (8)
. (a) A rule may not:
- 398 (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
- 400 (A) a for-sale sign; or
- 401 (B) a political sign;
- 402 (ii) regulate the content of a political sign; or
- 403 (iii) establish design criteria for a political sign.
- 404 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.
- 406 (9) For any area for which one or more unit owners are responsible for landscape maintenance, the association of unit owners:
- 408 (a) shall adopt rules supporting water wise landscaping, including:
- 409 (i) low water use requirements on lawns during drought conditions;
- 410 (ii) design criterion for water wise landscaping; and
- 411 (iii) limiting permissible plant material to specific water wise plant material;
- 412 (b) may not prohibit low water use on lawns during drought conditions; and
- 413 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.
- 415 (10) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).
- 418 (11)
. (a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.
- 420 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 421 (i) a local land use ordinance;
- 422 (ii) a building code;
- 423 (iii) a health code; or

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- 424 (iv) a fire code.
- 425 (c) A rule governing the placement or external appearance of modifications may apply to modifications
for radon mitigation unless the rule would:
- 427 (i) unreasonably interfere with the modifications' functionality; or
- 428 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 430 (d) A rule may require that a unit owner making modifications related to radon mitigation:
- 432 (i) demonstrate or provide proof of radon contamination; and
- 433 (ii) provide proof that the modifications and any related construction will be performed by a licensed
person.
- 435 (12) A rule shall be reasonable.
- 436 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections
(1) through (5), except Subsection (1)(b)(ii).
- 438 (14) This section applies to an association of unit owners regardless of when the association of unit
owners is created.
- 448 Section 7. Section **57-8-17** is amended to read:
- 449 **57-8-17. Records -- Availability for examination.**
- 442 (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:
- 446 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance with Sections
16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610;~~and~~
- 449 (ii) a copy of the association's:
- 450 (A) governing documents;
- 451 (B) most recent approved minutes;
- 452 (C) most recent annual budget and financial statement;
- 453 (D) most recent reserve analysis;~~and~~
- 454 (E) certificate of insurance for each insurance policy the association of unit owners holds[-] ;
- 456 (F) management committee meeting minutes from the previous three calendar years;
- 458 (G) a profit and loss statement for the previous three fiscal years; and
- 459 (H) a balance sheet for the previous three fiscal years; and

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- 460 (iii) a copy of each service contract to which the association is currently a party.
- 461 (b) An association of unit owners may redact the following information from any document the
association of unit owners produces for inspection or copying:
- 463 (i) a Social Security number;
- 464 (ii) a bank account number; or
- 465 (iii) any communication subject to attorney-client privilege.
- 466 (2)
- . (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:
- 468 (i) make documents available to unit owners in accordance with the association of unit owners'
governing documents; and
- 470 (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
- 473 (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.
- 478 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 479 (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.
- 481 (3) In a written request to inspect or copy documents:
- 482 (a) a unit owner shall include:
- 483 (i) the association of unit owners' name;
- 484 (ii) the unit owner's name;
- 485 (iii) the unit owner's property address;
- 486 (iv) the unit owner's email address;
- 487 (v) a description of the documents requested; and
- 488 (vi) any election or request described in Subsection (3)(b); and
- 489 (b) a unit owner may:
- 490 (i) elect whether to inspect or copy the documents;

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- 491 (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 493 (iii) subject to Subsection (4), request that:
- 494 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 496 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 498 (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
- 501 (D) the association of unit owners email the requested documents to an email address provided in the request.
- 503 (4)
- . (a) An association of unit owners shall comply with a request described in Subsection (3) within two weeks after the day on which the association of unit owners receives the request.
- 506 (b) If an association of unit owners produces the copies or electronic scans:
- 507 (i) the copies or electronic scans shall be legible and accurate; ~~and~~
- 508 (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:
- 511 (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
- 513 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans ~~[-]~~ ; and
- 515 (iii) the association may not charge the unit owner for any costs associated with fulfilling a request for the electronic transmission of the documents described in Subsection (3).
- 518 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 520 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 522 (ii) the unit owner shall pay the duplicating service directly.
- 523 (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.

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- 526 (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:
- 529 (a) the reasonable costs of inspecting and copying the requested documents;
- 530 (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
- 533 (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies
of the requested documents.
- 535 (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:
- 538 (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
- 541 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)
(d).
- 543 (b) In an action described in Subsection (6)(a):
- 544 (i) the unit owner may request:
- 545 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this
section;
- 547 (B) \$500 or actual damage, whichever is greater; or
- 548 (C) any other relief provided by law; and
- 549 (ii) the court shall 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.
- 552 (c)
- . (i) In an action described in Subsection (6)(a), upon motion by the unit owner, 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.

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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 unit owner files the motion.
- 559 (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:
- 562 (i) the unit owner's name, address, telephone number, and email address;
- 563 (ii) each requirement of this section with which the association of unit owners has failed to comply;
- 565 (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
- 567 (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.
- 570 (7)
- . (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.
- 572 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 574 (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.
- 576 (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.
- 587 Section 8. Section **57-8-32** is amended to read:
- 588 **57-8-32. Sale of property and common areas and facilities.**
- 581 (1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.
- 586 (2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.
- 590 (3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

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- 594 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the
common areas and facilities, comply with:
- 596 (i) the provisions of this section; and
- 597 (ii) Section 10-9a-606 or 17-27a-606; and
- 598 (b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities
results in a person other than the association or a unit owner owning the portion of the common
areas and facilities.
- 601 (4) This section applies to an association of unit owners regardless of when the association of unit
owners is created.
- 603 (5) A declarant may not sell any part of the common areas and facilities during the period of
administrative control, ~~except as provided in Section 10-9a-606 or 17-27a-606.~~
- 613 Section 9. Section ~~57-8-39~~ is amended to read:
- 614 **57-8-39. Limitation on requirements for amending governing documents -- Limitation on
contracts.**
- 608 (1)
- . (a)
- . (i) To amend the governing documents, the governing documents may not require:
- 610 [~~(A)~~ for an amendment adopted after the period of administrative control, the vote or approval
of unit owners with more than 67% of the voting interests;]
- 612 [~~(B)~~] (A) the approval of any specific unit owner; or
- 613 [~~(C)~~] (B) the vote or approval of lien holders holding more than 67% of the first position
security interests secured by a mortgage or trust deed in the association of unit owners.
- 616 (ii) To adopt an amendment after the period of administrative control, the governing documents
shall require the vote or approval of unit owners with { ~~at least 67%~~ } a majority of the voting
interests, or a higher percentage if required in the organizational documents.
- 619 [~~(ii)~~] (iii) Any provision in the governing documents that prohibits a vote or approval to amend any
part of the governing documents during a particular time period is invalid.
- 622 (b) Subsection (1)(a) does not apply to an amendment affecting only:
- 623 (i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the
declaration;
- 625 (ii) unit boundaries; or

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- 626 (iii) unit owners' voting rights.
- 627 (c) The management committee may not amend the declaration.
- 628 (2)
- . (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association of unit owners during a period of administrative control is binding beyond the period of administrative control unless terminated by the management committee after the period of administrative control ends.
- 633 (b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.
- 636 (3) Voting interests under Subsection (1) are calculated in the manner required by the governing documents.
- 638 (4) Nothing in this section affects any other rights reserved by the declarant.
- 639 (5) This section applies to an association of unit owners regardless of when the association of unit owners is created.
- 649 Section 10. Section **57-8a-104** is amended to read:
- 650 **57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.**
- 644 (1)
- . (a)
- . (i) To amend the governing documents, the governing documents may not require:
- 646 [~~(A) for an amendment adopted after the period of administrative control, the vote or approval of lot owners with more than 67% of the voting interests;~~]
- 648 [~~(B)~~] (A) the approval of any specific lot owner; or
- 649 [~~(C)~~] (B) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.
- 652 (ii) To adopt an amendment after the period of administrative control, the governing documents shall require the vote or approval of lot owners with {at least 67% } a majority of the voting interests, or a higher percentage if required in the organizational documents.
- 655 [~~(ii)~~] (iii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.
- 658 (iv) The board may not amend the declaration.

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- 659 (b) Subsection (1)(a) does not apply to an amendment affecting only:
660 (i) lot boundaries; or
661 (ii) lot owner's voting rights.
662 (2)
. (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal
executed on behalf of the association during a period of administrative control is binding beyond
the period of administrative control unless terminated by the board of directors after the period of
administrative control ends.
- 666 (b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services,
and other similar services that require an investment of infrastructure or capital.
- 669 (3) Voting interests under Subsection (1) are calculated in the manner required by the governing
documents.
- 671 (4) Nothing in this section affects any other rights reserved by the person who filed the association's
original governing documents or a successor in interest.
- 673 (5) This section applies to an association regardless of when the association is created.
- 682 Section 11. Section **57-8a-201** is amended to read:
683 **57-8a-201. Payment of a common expense or assessment -- Late fees.**
- 676 (1) An owner shall pay the owner's proportionate share of:
677 (a) the common expenses; and
678 (b) any other assessments levied by the association.
- 679 (2) A payment described in Subsection (1) shall be in the amount and at the time determined by the
board of directors in accordance with the terms of the:
681 (a) declaration; or
682 (b) bylaws.
- 683 (3) An assessment levied against a lot is:
684 (a) a debt of the owner at the time the assessment is made; and
685 (b) collectible as a debt described in Subsection (3)(a).
- 686 (4) The board of directors may impose, for a late payment:
687 (a) a monthly penalty, {equal} ~~not to exceed~~ the lesser of:
688 (i) 5% of the assessment amount; or
689 (ii) \$50; and

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690 (b) interest on the penalty of up to 1.5% per month.

699 Section 12. Section **57-8a-227** is amended to read:

700 **57-8a-227. Records -- Availability for examination.**

693 (1)

. (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:

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

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

700 (A) governing documents;

701 (B) most recent approved minutes;

702 (C) most recent annual budget and financial statement;

703 (D) most recent reserve analysis;~~[-and]~~

704 (E) certificate of insurance for each insurance policy the association holds[-:] ;

705 (F) board meeting minutes from the previous three calendar years;

706 (G) a profit and loss statement for the previous three fiscal years; and

707 (H) a balance sheet for the previous three fiscal years; and

708 (iii) a copy of each service contract to which the association is currently a party.

709 (b) An association may redact the following information from any document the association produces for inspection or copying:

711 (i) a Social Security number;

712 (ii) a bank account number; or

713 (iii) any communication subject to attorney-client privilege.

714 (2)

. (a) In addition to the requirements described in Subsection (1), an association shall:

715 (i) make documents available to lot owners in accordance with the association's governing documents; and

717 (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

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- 720 (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.
- 724 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 725 (c) If a provision of an association's governing documents conflicts with a provision of this section, the
provision of this section governs.
- 727 (3) In a written request to inspect or copy documents:
- 728 (a) a lot owner shall include:
- 729 (i) the association's name;
- 730 (ii) the lot owner's name;
- 731 (iii) the lot owner's property address;
- 732 (iv) the lot owner's email address;
- 733 (v) a description of the documents requested; and
- 734 (vi) any election or request described in Subsection (3)(b); and
- 735 (b) a lot owner may:
- 736 (i) elect whether to inspect or copy the documents;
- 737 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the
documents; or
- 739 (iii) subject to Subsection (4), request that:
- 740 (A) the association make the copies or electronic scans of the requested documents;
- 742 (B) a recognized third party duplicating service make the copies or electronic scans of the requested
documents;
- 744 (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
- 747 (D) the association email the requested documents to an email address provided in the request.
- 749 (4)
- . (a) An association shall comply with a request described in Subsection (3) within two weeks after the
day on which the association receives the request.
- 751 (b) If an association produces the copies or electronic scans:
- 752 (i) the copies or electronic scans shall be legible and accurate;[-and]
- 753

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- (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:
- 756 (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 758 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time[-]; and
- 760 (iii) the association may not charge the lot owner for any costs associated with fulfilling a request for electronic transmission of the documents described in Subsection (3).
- 763 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
- 765 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 767 (ii) the lot owner shall pay the duplicating service directly.
- 768 (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.
- 770 (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:
- 773 (a) the reasonable costs of inspecting and copying the requested documents;
- 774 (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
- 777 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.
- 779 (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 under this section if:
- 781 (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
- 784 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 785 (b) In an action described in Subsection (6)(a):
- 786 (i) the lot owner may request:
- 787 (A) injunctive relief requiring the association to comply with the provisions of this section;

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- 789 (B) \$500 or actual damage, whichever is greater; or
790 (C) any other relief provided by law; and
791 (ii) the court shall 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.
- 794 (c)
. (i) In an action described in Subsection (6)(a), upon motion by the lot owner, 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.
- 798 (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.
- 800 (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:
- 803 (i) the lot owner's name, address, telephone number, and email address;
804 (ii) each requirement of this section with which the association has failed to comply;
805 (iii) a demand that the association comply with each requirement with which the association has failed
to comply; and
807 (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.
- 810 (7)
. (a) The provisions of Section 16-6a-1604 do not apply to an association.
- 811 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a,
Utah Revised Nonprofit Corporation Act.
- 813 (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.
- 815 (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.
- 825 Section 13. Section **57-8a-232** is amended to read:
826 **57-8a-232. Sale of common areas.**
819

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- 823 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the governing documents, an association may by an affirmative vote of at least 67% of the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.
- 827 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each lot owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the common areas.
- 831 (3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and lot owners through recorded governing documents is extinguished in any portion of the common areas and facilities the association sells, conveys, transfers, or otherwise disposes of, if:
- 833 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:
- 834 (i) the provisions of this section; and
- 835 (ii) Section 10-9a-606 or 17-27a-606; and
- 838 (b) the sale, conveyance, transfer, or other disposition of the portion of the common areas results in a person other than the association or a lot owner owning the portion of the common areas and facilities.
- 839 (4) This section applies to an association regardless of when the association is created.
- 849 (5) A declarant may not sell any part of the common areas during the period of administrative control, except as provided in Section 10-9a-606 or 17-27a-606.

Section 14. **Effective date.**

This bill takes effect on May 7, 2025.

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