

HB0217S05 compared with HB0217S02

~~{Omitted text}~~ shows text that was in HB0217S02 but was omitted in HB0217S05
inserted text shows text that was not in HB0217S02 but was inserted into HB0217S05

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1 **Homeowners' Association Amendments**
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: R. Neil Walter
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 ▶ defines terms;
- 9 ▶ establishes the Office of the Homeowners' Association Ombudsman;
- 10 ▶ establishes the duties, jurisdiction, and functions of the Office of the Homeowners' Association Ombudsman;
- 12 ▶ requires ~~{the-}~~ that Office of the Homeowners' Association Ombudsman ~~{to-}~~ issue an advisory opinion under certain circumstances;
- 14 ▶ provides the circumstances under which an advisory opinion of the Office of the Homeowners' Association Ombudsman is admissible in a subsequent proceeding;
- 16 ▶ makes void and unenforceable a homeowners' association transfer fee under certain conditions;
- 18 ▶ provides the requirements that a homeowners' association shall meet before imposing a fee or charge;

HB0217S02

HB0217S02 compared with HB0217S05

- 18 ▶ establishes requirements for a homeowners' association to impose a reinvestment fee;
- 19 ▶ ~~{ changes requirements for amending governing documents; }~~
- 21 ▶ requires that a homeowners' association notify an owner in writing of a denied unit or lot plan;
- 23 ▶ restricts a homeowners' association from making certain rules;
- 20 ▶ authorizes the Department of Commerce to set and impose an annual registration fee on a homeowners' association;
- 22 ▶ requires a homeowners' association to renew the homeowners' association's registration with the Department of Commerce annually;
- 23 ▶ sets limits on the amount a homeowners' association may charge as a late fee;
- 24 ▶ requires that a homeowners' association provide, upon request, certain documents;
- 30 ▶ increases the monetary amount a homeowners' association may charge an owner when producing certain documents;
- 25 ▶ prohibits a declarant from selling a part of a common area during the period of administrative control under certain circumstances; ~~{ and }~~
- 34 ▶ provides new requirements to amend a homeowners' association's governing documents;
- 35 ▶ 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;
- 37 ▶ prohibits a homeowners' association from restricting, denying, or delaying a plan due to the plan's inclusion of a fire-resistant material in an area with a heightened risk of wildfire;
- 27 ▶ prohibits a homeowners' association from charging any costs associated with ~~{ producing }~~ the electronic transmission of certain documents~~{-}~~ ;
- 42 ▶ increases the monetary amount an owner may request from a homeowners' association if the homeowners' association fails to make documents available to the owner under certain conditions;
- 45 ▶ amends the conditions for the termination of a period of administrative control for an association of lot owners;
- 47 ▶ provides requirements for a declarant of an association of lot owners during the period of administrative control; and
- 49 ▶ provides a repeal date for the Office of the Homeowners' Association Ombudsman and requires legislative review before the repeal.

HB0217S02 compared with HB0217S05

51 **Money Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 None

55 AMENDS:

56 **57-1-46** , as last amended by Laws of Utah 2024, Chapter 431 , as last amended by Laws of Utah
57 2024, Chapter 431

58 **57-8-6.7 , as enacted by Laws of Utah 2013, Chapter 152 , as enacted by Laws of Utah 2013,
Chapter 152**

59 **57-8-8.1** , as last amended by Laws of Utah 2024, Chapters 115, 519 , as last amended by Laws of
60 Utah 2024, Chapters 115, 519

61 **57-8-13.1** , as last amended by Laws of Utah 2020, Chapter 75 , as last amended by Laws of Utah
62 2020, Chapter 75

63 **57-8-17** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah
64 2022, Chapter 439

65 **57-8-32** , as last amended by Laws of Utah 2024, Chapter 519 , as last amended by Laws of Utah
66 2024, Chapter 519

67 **57-8-39** , as last amended by Laws of Utah 2017, Chapter 324 , as last amended by Laws of Utah
68 2017, Chapter 324

69 **57-8-58 , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah 2017,
Chapter 284**

70 **57-8a-102 , as last amended by Laws of Utah 2024, Chapter 519 , as last amended by Laws of
71 Utah 2024, Chapter 519**

72 **57-8a-104** , as last amended by Laws of Utah 2015, Chapters 34, 325 and 387 , as last amended by
73 Laws of Utah 2015, Chapters 34, 325 and 387

74 **57-8a-105** , as last amended by Laws of Utah 2023, Chapter 503 , as last amended by Laws of Utah
75 2023, Chapter 503

76 **57-8a-109 , as enacted by Laws of Utah 2013, Chapter 152 , as enacted by Laws of Utah
77 2013, Chapter 152**

78 **57-8a-201** , as enacted by Laws of Utah 2004, Chapter 153 , as enacted by Laws of Utah 2004,
79 Chapter 153

HB0217S02 compared with HB0217S05

70 **57-8a-218 , as last amended by Laws of Utah 2024, Chapters 115, 519 , as last amended by**
71 **Laws of Utah 2024, Chapters 115, 519**

71 **57-8a-227 , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah**
72 **2022, Chapter 439**

72 **57-8a-229 , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah**
73 **2017, Chapter 284**

73 **57-8a-231 , as last amended by Laws of Utah 2024, Chapters 56, 519 , as last amended by**
74 **Laws of Utah 2024, Chapters 56, 519**

74 **57-8a-232 , as enacted by Laws of Utah 2024, Chapter 519 , as enacted by Laws of Utah 2024,**
75 **Chapter 519**

75 **57-8a-502 , as last amended by Laws of Utah 2016, Chapter 210 , as last amended by Laws of**
76 **Utah 2016, Chapter 210**

76 **63I-1-213 , as last amended by Laws of Utah 2024, Chapters 385, 507 , as last amended by**
77 **Laws of Utah 2024, Chapters 385, 507**

77 ENACTS:

78 **13-75-101 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

79 **13-75-102 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

80 **13-75-103 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

81 **13-75-104 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

82

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

84 Section 1. Section 1 is enacted to read:

87 **13-75-101. Definitions.**

75. Office of the Homeowners' Association Ombudsman

1. Office of the Homeowners' Association Ombudsman

As used in this part:

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

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

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

61 (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.

HB0217S02 compared with HB0217S05

63 (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.

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

66 (7) "Office" means the Office of the Homeowners' Association Ombudsman created in {[Subsection](#)
[13-75-102\(1\)](#)} [Section 13-75-102](#).

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

101 Section 2. Section 2 is enacted to read:

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

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

73 (2) The executive director of the department shall appoint attorneys with background or expertise in
{[real estate](#)} [community association](#) law to fill legal positions within the office in the department.

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

109 Section 3. Section 3 is enacted to read:

110 **13-75-103. Duties and jurisdiction of office.**

78 (1) The attorneys of the office shall:

79 (a) develop and maintain expertise in and understanding of issues [and statutes](#) impacting unit owners,
lot owners, associations of lot owners, and associations of unit owners; and

81 (b) upon request:

82 (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

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

86 (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.

89 (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.

92 (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 [or arbitration](#).

HB0217S02 compared with HB0217S05

- 95 (4) The office:
96 (a) shall analyze a complaint and issue an advisory opinion only for issues relating to a violation of {the
law} a state statute; and
98 (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, including determining
whether a provision of the governing documents is reasonable.

136 Section 4. Section 4 is enacted to read:

137 **13-75-104. Advisory opinion -- Process of advisory opinions.**

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

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

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

108 (ii) other applicable {laws} statutes of this state; and

109 (b) at any time before the commencement of {an action in a court with jurisdiction.} :

145 (i) an action in a court with jurisdiction; or

146 (ii) binding arbitration.

147 (2)

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

111 {(a)} (i) file the request with the office; {and}

112 {(b)} (ii) pay a filing fee of \$150{:} ; and

151 (iii)

(A) file the request no later than one year after the day on which the person making the request knew or
should have known about the alleged act that is the subject of the advisory opinion; and

154 (B) include in the request facts that demonstrate that the person submits the request no later than a year
after the day on which the person making the request knew or should have known about the alleged
act that is the subject of the advisory opinion.

158 (b) A person making a request under this Subsection (2) may allege actual damages as a result of the
alleged act that is the subject of the advisory opinion.

113 (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)} (2)(a)(ii).

HB0217S02 compared with HB0217S05

- 115 (4)
- (a) The office may not issue an advisory opinion unless the person requesting an advisory opinion exhausts all existing {remedies} procedures provided in:
- 117 (i) the governing documents of an association of lot owners, if the dispute involves a lot owner; or
- 119 (ii) the governing documents of an association of unit owners, if the dispute involves a unit owner.
- 121 (b) A person requesting an advisory opinion shall include in the person's complaint a description of how that person exhausted all existing {remedies} procedures provided in the applicable governing documents.
- 124 (5) Upon receipt of a request for an advisory opinion, the office shall:
- 125 (a) inquire of all parties if there are other necessary parties to the dispute; {and}
- 173 (b) determine whether the person bringing the request has exhausted all existing procedures provided in the applicable governing documents; and
- 126 {(b)} (c) 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).
- 128 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:
- 129 (a) issue a written advisory opinion addressing the issues described in the request for an advisory opinion;
- 131 (b) include in the advisory opinion a statement of the facts and law supporting the opinion's conclusions; and
- 133 (c) deliver copies of the advisory opinion to all necessary parties identified in accordance with Subsection (5)(a).
- 135 (7)
- (a) The office shall issue a written statement declining to issue an advisory opinion when, in the opinion of the office:
- 137 (i) the issues are not ripe for review; {or}
- 187 (ii) the person bringing the request has not exhausted all existing procedures provided in the applicable governing documents; or
- 138 {(ii)} (iii) the issues raised are beyond the scope of the office's statutory duty to review.
- 139 (b) Notwithstanding Subsection (7)(a), the office {is not required to} shall issue a written statement{; and may decline} declining to review a request, if the request deals solely with a contractual dispute.

HB0217S02 compared with HB0217S05

- 192 (8)
193 (a)
- 196 (i) If in the process of issuing an advisory opinion, the office determines that a person knowingly filed a false or fraudulent request for an advisory opinion, the office shall prohibit that person from filing a complaint with the office for two years after the day on which the office makes the determination.
- 199 (ii) The office may impose a civil penalty of up to \$1,000 against a person if the office determines under this Subsection (8)(a) that the person filed a false or fraudulent request for an advisory opinion.
- 201 (b)
- 203 (i) The office may designate a person as a vexatious filer if the person has filed a request for three or more advisory opinions and for each request the office:
- 204 (A) determines that the person requesting the advisory opinion has not exhausted all existing procedures, as described in Subsection (4)(a);
- 206 (B) declines to issue an advisory opinion, as described in Subsection (7)(a); or
- 208 (C) determines that the request deals solely with a contractual dispute, as described in Subsection (7)(b).
- 210 (ii) If the office designates a person as a vexatious filer under this Subsection (8)(b), the office may not accept a request by the person unless:
- 212 (A) the person submits a written copy of the request to the executive director of the department; and
- 214 (B) the executive director of the department authorizes the person to file the request for the advisory opinion with the office.
- 142 ~~{(8)}~~ (9) The party that requests the advisory opinion shall pay the filing fee described in Subsection ~~{(2)(b)}~~ (2)(a)(ii), 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.
- 146 ~~{(9)}~~ (10) An advisory opinion issued ~~{as described in Subsection (6)}~~ under this section 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)}~~ (11).
- 149 ~~{(10)}~~ (11)
- 220 (a) As used in this Subsection (11), "qualifying conditions" means:
- (i) the office issues an advisory opinion described in this section;

HB0217S02 compared with HB0217S05

- 221 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated in court; and
153 ~~{(a)}~~ (iii) {As used in this Subsection (10), "qualifying conditions" means the office issues an advisory
155 opinion described in this section, the same issue that is the subject of the advisory opinion is
158 subsequently litigated in court, and } the court rules in favor of the same party as the advisory
opinion in a final judgment.
- (b) If the qualifying conditions are met, the court may award the substantially prevailing party:
- 155 (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
- 158 (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 ~~{(H)}~~ (12).
- 161 ~~{(H)}~~ (12) The civil penalty described in Subsection ~~{(10)(b)}~~ (11)(b):
- 162 (a) begins to accrue on the later of:
- 163 (i) 30 days after the day on which the office delivers the advisory opinion; or
- 164 (ii) the day on which the substantially prevailing party or opposing party filed the action in court; and
- 166 (b) ends the day on which the court enters a final judgment.
- 239 Section 5. Section **57-1-46** is amended to read:
- 240 **57-1-46. Transfer fee and reinvestment fee covenants.**
- 169 (1) As used in this section:
- 170 (a) "Association expenses" means expenses incurred by a common interest association for:
- 172 ~~[(i) the administration of the common interest association;]~~
- 173 ~~[(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;
- 177 ~~[(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
- 180 ~~[(iv)]~~ (iii) other facilities, activities, services, or programs that are required or permitted under the
common interest association's organizational documents.
- 182 (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.

HB0217S02 compared with HB0217S05

- 185 (c) "Association transfer fee" means a fee, charge, or payment that is:
- 186 (i) related to the sale of real property; and
- 187 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
- 188 (A) a common interest association; or
- 189 (B) a person acting on behalf of the common interest association.
- 190 [(e)] (d) "Burdened property" means the real property that is subject to a reinvestment fee covenant or
transfer fee covenant.
- 192 [(d)] (e) "Common areas" means areas described within:
- 193 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 194 (ii) the definition of "common areas" under Section 57-8a-102.
- 195 [(e)] (f)
- (i) "Common interest association" means:
- 196 [(f)] means:
- 197 (A) an association, as defined in Section 57-8a-102;
- 198 (B) an association of unit owners, as defined in Section 57-8-3; or
- 199 (C) a nonprofit association~~;~~ ~~and~~ .
- 200 (ii) "Common interest association" includes a person authorized by an association, association of unit
owners, or nonprofit association~~;~~ ~~as the case may be~~].
- 202 [(f)] (g) "Large master planned development" means an approved development:
- 203 (i) of at least 500 acres or 500 units; and
- 204 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 205 (A) common infrastructure;
- 206 (B) association facilities;
- 207 (C) community programming;
- 208 (D) resort facilities;
- 209 (E) open space; or
- 210 (F) recreation amenities.
- 211 [(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.
- 214 [(h)] (i) "Organizational documents" means:

HB0217S02 compared with HB0217S05

- 215 (i) for an association, as defined in Section 57-8a-102, ~~[means-]~~governing documents as defined in
Section 57-8a-102;
- 217 (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
- 219 (iii) for a nonprofit association:
- 220 (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
- 223 (B) ~~[includes-]~~articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and
declarations of covenants, conditions, and restrictions.
- 225 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:
- 227 (i) upon a buyer or seller of real property;
- 228 (ii) upon and as a result of a transfer of the real property; and
- 229 (iii) that is dedicated to benefiting the common areas, including payment for:
- 230 (A) common planning, facilities, and infrastructure;
- 231 (B) obligations arising from an environmental covenant;
- 232 (C) community programming;
- 233 (D) resort facilities;
- 234 (E) open space;
- 235 (F) recreation amenities;
- 236 (G) charitable purposes; or
- 237 (H) association expenses.
- 238 ~~[(i)]~~ (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 239 (i) affects real property; and
- 240 (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 benefiting the burdened
property, including payment for:
- 243 (A) common planning, facilities, and infrastructure;
- 244 (B) obligations arising from an environmental covenant;
- 245 (C) community programming;
- 246 (D) resort facilities;
- 247 (E) open space;

HB0217S02 compared with HB0217S05

- 248 (F) recreation amenities;
- 249 (G) charitable purposes; or
- 250 (H) association expenses.
- 251 ~~[(j)]~~ (I) "Transfer fee covenant":
- 252 (i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other
instrument or document:
- 254 (A) that affects real property;
- 255 (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
- 258 (C) to pay a fee upon and as a result of a transfer of the real property; and
- 259 (ii) does not include:
- 260 (A) an obligation imposed by a court judgment, order, or decree;
- 261 (B) an obligation imposed by the federal government or a state or local government entity; or
- 263 (C) a reinvestment fee covenant.
- 264 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 265 (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.
- 268 (b) A common interest association may assign or pledge to a lender the right to receive payment under a
reinvestment fee covenant if:
- 270 (i) the assignment or pledge is as collateral for a credit facility; and
- 271 (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.
- 273 (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.
- 276 (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.
- 279 (6)

HB0217S02 compared with HB0217S05

- 283 (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.
- 286 (b) A notice under Subsection (6)(a) shall:
- 284 (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;
- 286 (ii) include the notarized signature of the common interest association's authorized representative;
- 288 (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;
- 290 (iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional
reinvestment fee covenant on the burdened property;
- 292 (v) state the duration of the reinvestment fee covenant;
- 293 (vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and
- 295 (vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the
burdened property.
- 297 (c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of
Subsection (6)(b) is valid and effective.
- 299 (7)
- (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not
enforceable after May 31, 2010, unless:
- 301 (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
- 304 (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.
- 307 (b) A notice under Subsection (7)(a)(ii) shall:
- 308 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee
covenant, or the beneficiary's authorized representative;
- 310 (ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer
fee covenant;

312

HB0217S02 compared with HB0217S05

- (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
- 314 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 315 (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.
- 318 (d) A notice under Subsection (7)(b):
- 319 (i) that is recorded after May 31, 2010, is not enforceable; and
- 320 (ii) shall comply with the requirements of Section 57-1-47.
- 321 (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.
- 324 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:
- 326 (a) an involuntary transfer;
- 327 (b) a transfer that results from a court order;
- 328 (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;
- 330 (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or
- 332 (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.
- 336 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable unless the association uses the fee only to pay expenses related to the transfer.
- 338 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
- 339 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant; { or }
and
- 341 (b) a majority of voting interests in the association, or a higher percentage if required in the organizational documents, approves the reinvestment fee.
- 343 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an association may set the amount of a reinvestment fee only:
- 345 {(a) {if a reinvestment fee covenant or the declaration permits;}}
- 346

HB0217S02 compared with HB0217S05

{(b)} (a) in accordance with the terms of the declaration or a reinvestment fee covenant {or the
declaration}; and

347 {(e)} (b) upon providing notice in accordance with Section 57-8a-214.

348 (12) Members of the association may remove or amend a reinvestment fee by holding a vote at a special
meeting:

350 (a) called by the members for the purpose of removing or amending the reinvestment fee; and

352 (b) at which:

353 (i) at least 51% of the voting interests attend and vote; and

354 (ii) a majority of the voting interests that attend vote to remove or amend the reinvestment fee.

427 Section 6. Section 57-8-6.7 is amended to read:

428 **57-8-6.7. Approval of plans.**

429 (1) As used in this section:

430 (a) "Plan fee" means a fee that an association of unit owners charges for review and approval of unit
plans.

432 (b) "Unit plans" means plans:

433 (i) for the construction or improvement of a unit; and

434 (ii) that are required to be approved by the association of unit owners before the unit construction or
improvement may occur.

436 (2) An association of unit owners may not charge a plan fee that exceeds the actual cost of reviewing
and approving the unit plans.

438 (3) If the association denies a unit plan, the association shall provide written notice to the unit owner
specifying:

440 (a) each governing document provision on which the association relied when denying the plan; and

442 (b) the specific aspect of the proposed plan that does not conform to the specified governing document
provision.

444 Section 7. Section 57-8-8.1 is amended to read:

445 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

358 (1)

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

360 (b) ~~Notwithstanding Subsection (1)(a), a~~ A rule may:

361

HB0217S02 compared with HB0217S05

- (i) vary according to the level and type of service that the association of unit owners provides to unit owners;
- 363 (ii) differ between residential and nonresidential uses; or
- 364 (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.
- 367 (2)
- (a) ~~[If]~~ Except as provided in Subsection (2)(b), 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.
- 371 (b) ~~[Notwithstanding Subsection (2)(a), a]~~ A rule may:
- 372 (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;
- 374 (ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:
- 376 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 377 (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
- 380 (iii) include a provision in the association of unit owners' governing documents that:
- 381 (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
- 383 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.
- 385 (3)
- (a) ~~[A]~~ Except as provided in Subsection (3)(b), a rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.
- 387 (b) ~~[Notwithstanding Subsection (3)(a), an]~~ An association of unit owners may:
- 388 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 390 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

HB0217S02 compared with HB0217S05

- 392 (A) size and facilities; and
- 393 (B) fair use of the common areas and facilities.
- 394 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 395 (5) [~~Unless otherwise provided in the declaration, an~~] {~~An~~} Subject to Subsection (15), an association
of unit owners may by rule:
- 397 (a) unless otherwise provided in the declaration:
- 398 (i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;
and
- 400 [(b)] (ii) impose and receive any payment, fee, or charge for:
- 401 [(i)] (A) the use, rental, or operation of the common areas, except limited common areas and facilities;
~~[and]~~ or
- 403 [(ii)] (B) a service provided to a unit owner;
- 404 [(e)] (b) impose~~[a charge]~~ , for a late payment of an assessment:
- 405 (i) a late fee, not to exceed the greater of:
- 406 (A) 10% of the assessment amount; or
- 407 (B) \$50; and
- 408 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 409 [(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.
- 412 (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.
- 415 (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.
- 417 (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.
- 419 (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.
- 421 (8)

HB0217S02 compared with HB0217S05

- (a) A rule may not:
- 422 (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
- 424 (A) a for-sale sign;~~[or]~~
- 425 (B) a political sign;
- 426 (ii) or
- 514 (C) a flag; or
- 515 (ii) except as provided Subsection (8)(b), regulate the content or establish specific design criteria
for the content of a political sign~~;~~ or
- 427 (iii) flag.
- 517 [~~(iii) establish design criteria for a political sign.~~]
- 518 (b) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.
- 428 [(b)] (c) [Notwithstanding Subsection (8)(a), a] A rule may reasonably regulate the size and time,
place, and manner of posting a for-sale sign,~~[or]~~ a political sign, or a flag.
- 430 (9) For any area for which one or more unit owners are responsible for landscape maintenance, the
association of unit owners:
- 432 (a) shall adopt rules supporting water wise landscaping, including:
- 433 (i) low water use requirements on lawns during drought conditions;
- 434 (ii) design criterion for water wise landscaping; and
- 435 (iii) limiting permissible plant material to specific water wise plant material;
- 436 (b) may not prohibit low water use on lawns during drought conditions; and
- 437 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.
- 439 (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).
- 442 (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.
- 444 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 445 (i) a local land use ordinance;
- 446 (ii) a building code;
- 447 (iii) a health code; or
- 448 (iv) a fire code.

HB0217S02 compared with HB0217S05

- 449 (c) A rule governing the placement or external appearance of modifications may apply to modifications
for radon mitigation unless the rule would:
- 451 (i) unreasonably interfere with the modifications' functionality; or
- 452 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 454 (d) A rule may require that a unit owner making modifications related to radon mitigation:
- 456 (i) demonstrate or provide proof of radon contamination; and
- 457 (ii) provide proof that the modifications and any related construction will be performed by a licensed
person.
- 551 (12)
- (a) Except as provided in Subsection (12)(b), a rule may not restrict an individual from parking an
operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:
- 554 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 555 (ii) a motor home, as that term is defined in Section 13-20-2; or
- 556 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2.
- 557 (b) A rule may require that an individual park in a garage appurtenant to a unit before parking
elsewhere.
- 559 (13)
- (a) Except as provided in Subsection (13)(b), a rule may not restrict an individual from operating a
vehicle that is not a commercial vehicle, as that term is defined in Section 72-9-102, in conformance
with state traffic laws.
- 562 (b) A rule may enforce a reduced speed limit on a private roadway.
- 563 (14) A rule may not:
- 564 (a) impose a requirement or restriction on the use of a public street, as that term is defined in Section
10-9a-103; or
- 566 (b) restrict an individual from:
- 567 (i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not
visible to an individual standing outside the unit;
- 569 (ii) hiring a contractor or worker solely because the contractor or worker:
- 570 (A) is not on the association's preferred vendor list; or
- 571 (B) does not have a professional or occupational license, unless the license is required by law.
- 459 [~~(12)~~] (15) A rule shall be reasonable.

HB0217S02 compared with HB0217S05

- 460 ~~[(13)]~~ (16) A declaration, or an amendment to a declaration, may vary any of the requirements of
Subsections (1) through (5), except Subsection (1)(b)(ii).
- 462 ~~[(14)]~~ (17) This section applies to an association of unit owners regardless of when the association of
unit owners is created.
- 578 (18) Before imposing a fee under Subsection (5), an association of unit owners shall:
- 579 (a) adopt a fee schedule by rule that describes the amount of each fee the association of unit owners
shall impose; and
- 581 (b) provide a copy of the fee schedule to each unit owner.
- 582 Section 8. Section **57-8-13.1** is amended to read:
- 583 **57-8-13.1. Registration with Department of Commerce -- Department publication of**
educational materials.
- 467 (1) As used in this section, "department" means the Department of Commerce created in Section
13-1-2.
- 469 (2) No later than 90 days after the recording of a declaration, an association of unit owners shall register
with the department in the manner established by the department.
- 471 (3) The department shall require an association of unit owners registering as required in this section to
provide with each registration:
- 473 (a) the name and address of the association of unit owners;
- 474 (b) the name, address, telephone number, and, if applicable, email address of the president of the
association of unit owners;
- 476 (c) the name and address of each manager or management committee member;
- 477 (d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile
transmission for communicating payoff information, the email address or facsimile number, as
applicable, of a primary contact person who has association payoff information that a closing agent
needs in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's
unit; and
- 482 (e) a registration fee [~~not to exceed \$37~~] set by the department in accordance with Section 63J-1-504.
- 484 (4)
- (a) An association of unit owners shall annually renew the registration of the association of unit owners
described in Subsection (2).

486

HB0217S02 compared with HB0217S05

(b) The department may impose and set the amount of a renewal registration fee in accordance with Section 63J-1-504.

488 [(4)] (5) An association of unit owners that has registered under Subsection (2) shall submit to
the department an [~~updated registration~~] update to the association of unit owners' registration
information, in the manner established by the department, within 90 days after a change in any of
the information provided under Subsection (3).

492 [(5)] (6)

(a) During any period of noncompliance with the registration requirement described in Subsection (2)
or the requirement for an updated registration described in Subsection [(4)] (5):

495 (i) a lien may not arise under Section 57-8-44; and

496 (ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.

498 (b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated
registration requirement of Subsection [(4)] (5) does not begin until after the expiration of the 90-
day period specified in Subsection (2) or [(4)] (5), respectively.

502 (c) An association of unit owners that is not in compliance with the registration requirement described
in Subsection (2) may end the period of noncompliance by registering with the department in the
manner established by the department under Subsection (2).

506 (d) An association of unit owners that is not in compliance with the updated registration requirement
described in Subsection [(4)] (5) may end the period of noncompliance by submitting to the
department an updated registration in the manner established by the department under Subsection
[(4)] (5).

510 (e) Except as described in Subsection [(5)(f)] (6)(f), beginning on the date an association of unit owners
ends a period of noncompliance:

512 (i) a lien may arise under Section 57-8-44 for any event that:

513 (A) occurred during the period of noncompliance; and

514 (B) would have given rise to a lien under Section 57-8-44 had the association of unit owners been in
compliance with the registration requirements described in this section; and

517 (ii) an association of unit owners may enforce a lien described in Subsection [(5)(e)] (6)(c) or a lien that
existed before the period of noncompliance.

519 (f) If an owner's unit is conveyed to an independent third party during a period of noncompliance
described in this Subsection [(5)] (6):

HB0217S02 compared with HB0217S05

- 521 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became final is
extinguished when the conveyance of the unit becomes final; and
- 523 (ii) an event that occurred before the conveyance of the unit became final, and that would have given
rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with
the registration requirements of this section, may not give rise to a lien under Section 57-8-44 if
the conveyance of the unit becomes final before the association of unit owners ends the period of
noncompliance.
- 528 ~~[(6)]~~ (7) The department shall publish educational materials on the department's website providing, in
simple and easy to understand language, a brief overview of state law governing associations of unit
owners, including:
- 531 (a) a description of the rights and responsibilities provided in this chapter to any party under the
jurisdiction of an association of unit owners; and
- 533 (b) instructions regarding how an association of unit owners may be organized and dismantled in
accordance with this chapter.
- 653 Section 9. Section **57-8-17** is amended to read:
- 654 **57-8-17. Records -- Availability for examination.**
- 537 (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:
- 541 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance with 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 }~~
- 544 (ii) a copy of the association's:
- 545 (A) governing documents;
- 546 (B) most recent approved minutes;
- 547 (C) most recent annual budget and financial statement;
- 548 (D) most recent reserve analysis; ~~and~~
- 549 (E) certificate of insurance for each insurance policy the association of unit owners holds[-] ;
- 551 (F) management committee meeting minutes from the previous three calendar years;
- 553 (G) a profit and loss statement for the previous three fiscal years; and

HB0217S02 compared with HB0217S05

- 554 (H) a balance sheet for the previous three fiscal years~~{; and}~~ .
- 673 ~~(b) { a copy of each service contract to which the association is currently a party. }~~
- 556 ~~{(b)}~~ An association of unit owners may redact the following information from any document the
association of unit owners produces for inspection or copying:
- 558 (i) a Social Security number;
- 559 (ii) a bank account number; or
- 560 (iii) any communication subject to attorney-client privilege.
- 561 (2)
- (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:
- 563 (i) make documents available to unit owners in accordance with the association of unit owners'
governing documents; and
- 565 (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
- 568 (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.
- 573 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 574 (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.
- 576 (3) In a written request to inspect or copy documents:
- 577 (a) a unit owner shall include:
- 578 (i) the association of unit owners' name;
- 579 (ii) the unit owner's name;
- 580 (iii) the unit owner's property address;
- 581 (iv) the unit owner's email address;
- 582 (v) a description of the documents requested; and
- 583 (vi) any election or request described in Subsection (3)(b); and
- 584 (b) a unit owner may:

HB0217S02 compared with HB0217S05

- 585 (i) elect whether to inspect or copy the documents;
- 586 (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 588 (iii) subject to Subsection (4), request that:
- 589 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 591 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 593 (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
- 596 (D) the association of unit owners email the requested documents to an email address provided in the request.
- 598 (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.
- 601 (b) If an association of unit owners produces the copies or electronic scans:
- 602 (i) the copies or electronic scans shall be legible and accurate; ~~and~~
- 603 (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:
- 606 (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
- 608 (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~~[-]~~ ; and
- 610 (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).
- 613 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 615 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 617 (ii) the unit owner shall pay the duplicating service directly.
- 618

HB0217S02 compared with HB0217S05

- (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.
- 621 (e) An association may comply with a request described in Subsection (3) by posting the documents
624 described in Subsection (3) to the association's website or online owner portal.
- 627 (5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners
628 fails to comply with a provision of this section, the association of unit owners shall pay:
- 631 (a) the reasonable costs of inspecting and copying the requested documents;
- 633 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner who made the
636 request for each day the request continues unfulfilled, beginning the sixth day after the day on which
639 the unit owner made the request; and
- (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies
641 of the requested documents.
- (6)
- (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise
642 provided by law, a unit owner may file an action in court under this section if:
- 643 (i) subject to Subsection (9), an association of unit owners fails to make documents available to the
645 unit owner in accordance with this section, the association of unit owners' governing documents,
646 or as otherwise provided by law; and
- 647 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)
650 (d).
- (b) In an action described in Subsection (6)(a):
- 642 (i) the unit owner may request:
- 643 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this
645 section;
- 646 (B) ~~[\$500]~~ \$1,000 or actual damage, whichever is greater; or
- 647 (C) any other relief provided by law; and
- (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.
- (c)

HB0217S02 compared with HB0217S05

- (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.
- 655 (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.
- 657 (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:
- 660 (i) the unit owner's name, address, telephone number, and email address;
- 661 (ii) each requirement of this section with which the association of unit owners has failed to comply;
- 663 (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
- 665 (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.
- 668 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.
- 670 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 672 (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.
- 674 (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.
- 794 Section 10. Section **57-8-32** is amended to read:
- 795 **57-8-32. Sale of property and common areas and facilities.**
- 679 (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.

684

HB0217S02 compared with HB0217S05

(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.

688 (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:

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

694 (i) the provisions of this section; and

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

696 (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.

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

701 (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.} :

820 (a) as allowed for convertible land or convertible space within a condominium project; or

821 (b) as provided in Section 10-9a-606 or 17-27a-606.

822 Section 11. Section **57-8-39** is amended to read:

823 **57-8-39. Limitation on requirements for amending governing documents -- Limitation on contracts.**

706 (1)

(a)

(i) To amend the governing documents, the governing documents may not require:

708 ~~{(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;}~~

710 ~~{(B){}} {(A)+}~~ the approval of any specific unit owner; or

711 ~~{(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.

HB0217S02 compared with HB0217S05

- 714 (ii) An amendment to the declaration after the period of administrative control may be adopted by a
majority vote of voters, or a greater percentage if required in the declaration, at a meeting where
at least 51% of the voting interests are present.
- 717 [(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.
- 720 (b) Subsection (1)(a) does not apply to an amendment affecting only:
- 721 (i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the
declaration;
- 723 (ii) unit boundaries; or
- 724 (iii) unit owners' voting rights.
- 725 (c) The management committee may not amend a declaration.
- 726 (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.
- 731 (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.
- 734 (3) Voting interests under Subsection (1) are calculated in the manner required by the governing
documents.
- 736 (4) Nothing in this section affects any other rights reserved by the declarant.
- 737 (5) This section applies to an association of unit owners regardless of when the association of unit
owners is created.
- 858 Section 12. Section 57-8-58 is amended to read:
- 859 **57-8-58. Liability of declarant or management committee -- Period of declarant control.**
- 861 (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:
- 865 (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:
- 868 (i) present; or

HB0217S02 compared with HB0217S05

- 869 (ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal
action at the meeting;
- 871 (b) the legal action is approved by vote in person or by proxy of owners of the lesser of:
- 872 (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
- 876 (ii) more than 51% in aggregate in interest of the undivided ownership of the common areas and
facilities;
- 878 (c) the association provides each unit owner with the items described in Subsection (2);
- 879 (d) the association establishes the trust described in Subsection (3); and
- 880 (e) the association first:
- 881 (i) notifies the person subject to the proposed action of the action and the basis of the association's
claim; and
- 883 (ii) gives the person subject to the proposed action a reasonable opportunity to resolve the dispute that is
the basis of the action.
- 885 (2) Before unit owners in an association may vote to approve an action described in Subsection (1), the
association shall provide each unit owner:
- 887 (a) a written notice that the association is contemplating legal action; and
- 888 (b) after the association consults with an attorney licensed to practice in the state, a written assessment
of:
- 890 (i) the likelihood that the legal action will succeed;
- 891 (ii) the likely amount in controversy in the legal action;
- 892 (iii) the likely cost of resolving the legal action to the association's satisfaction; and
- 893 (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.
- 895 (3) Before the association commences a legal action described in Subsection (1), the association shall:
- 897 (a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including
attorney fees; and
- 899 (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.

901

HB0217S02 compared with HB0217S05

(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.

903 (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
association to pay for costs of the declarant's legal defense.

906 Section 13. Section 57-8a-102 is amended to read:

907 **57-8a-102. Definitions.**

As used in this chapter:

909 (1)

(a) "Assessment" means a charge imposed or levied:

910 (i) by the association;

911 (ii) on or against a lot or a lot owner; and

912 (iii) pursuant to a governing document recorded with the county recorder.

913 (b) "Assessment" includes:

914 (i) a common expense; and

915 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

916 (2)

(a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

918 (i) is an owner of a residential lot located within the jurisdiction of the association, as described in
the governing documents; and

920 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:

921 (A) real property taxes;

922 (B) insurance premiums;

923 (C) maintenance costs; or

924 (D) for improvement of real property not owned by the member.

925 (b) "Association" or "homeowner association" does not include an association created under Chapter 8,
Condominium Ownership Act.

927 (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.

929

HB0217S02 compared with HB0217S05

- (4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.
- 931 (5) "Common areas" means property that the association:
- 932 (a) owns;
- 933 (b) maintains;
- 934 (c) repairs; or
- 935 (d) administers.
- 936 (6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.
- 938 (7) "Declarant":
- 939 (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
- 942 (b) includes the person's successor and assign.
- 943 (8) "Development right" means any right or combination of rights a declarant reserves in the declaration to:
- 945 (a) add real estate to an association;
- 946 (b) create lots, common elements, or limited common elements within an association;
- 947 (c) subdivide lots or convert lots into common elements; or
- 948 (d) withdraw real estate from an association.
- 949 [~~8~~] (9) "Director" means a member of the board of directors.
- 950 [~~9~~] (10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 951 [~~10~~] (11) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 952 [~~11~~] (12)
- (a) "Governing documents" means a written instrument by which the association may:
- 954 (i) exercise powers; or
- 955 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.
- 957 (b) "Governing documents" includes:
- 958 (i) articles of incorporation;
- 959 (ii) bylaws;
- 960 (iii) a plat;
- 961 (iv) a declaration of covenants, conditions, and restrictions; and

HB0217S02 compared with HB0217S05

- 962 (v) rules of the association.
- 963 [~~(12)~~] (13) "Independent third party" means a person that:
- 964 (a) is not related to the owner of the residential lot;
- 965 (b) shares no pecuniary interests with the owner of the residential lot; and
- 966 (c) purchases the residential lot in good faith and without the intent to defraud a current or future
lienholder.
- 968 [~~(13)~~] (14) "Judicial foreclosure" means a foreclosure of a lot:
- 969 (a) for the nonpayment of an assessment;
- 970 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 971 (c) as provided in Part 3, Collection of Assessments.
- 972 [~~(14)~~] (15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 973 (a) by a person or persons other than the owner; and
- 974 (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or
emolument.
- 976 [~~(15)~~] (16) "Limited common areas" means common areas described in the declaration and allocated for
the exclusive use of one or more lot owners.
- 978 [~~(16)~~] (17) "Lot" means:
- 979 (a) a lot, parcel, plot, or other division of land:
- 980 (i) designated for separate ownership or occupancy; and
- 981 (ii)
- (A) shown on a recorded subdivision plat; or
- 982 (B) the boundaries of which are described in a recorded governing document; or
- 983 (b)
- (i) a unit in a condominium association if the condominium association is a part of a development; or
- 985 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.
- 987 [~~(17)~~] (18)
- (a) "Means of electronic communication" means an electronic system that allows individuals to
communicate orally in real time.
- 989 (b) "Means of electronic communication" includes:
- 990 (i) web conferencing;
- 991 (ii) video conferencing; and

HB0217S02 compared with HB0217S05

992 (iii) telephone conferencing.

993 [~~(18)~~] (19) "Mixed-use project" means a project under this chapter that has both residential and
commercial lots in the project.

995 [~~(19)~~] (20) "Nonjudicial foreclosure" means the sale of a lot:

996 (a) for the nonpayment of an assessment;

997 (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

999 (c) as provided in Part 3, Collection of Assessments.

1000 [~~(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:

1003 (a) appoint or remove members of the association's board of directors; or

1004 (b) exercise power or authority assigned to the association under the association's governing documents.

1006 [~~(21)~~] (22) "Political sign" means any sign or document that advocates:

1007 (a) the election or defeat of a candidate for public office; or

1008 (b) the approval or defeat of a ballot proposition.

1009 [~~(22)~~] (23) "Protected area" means the same as that term is defined in Section 77-27-21.7.

1010 [~~(23)~~] (24) "Rentals" or "rental lot" means:

1011 (a) a lot that:

1012 (i) is not owned by an entity or trust; and

1013 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary
residence;

1015 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or

1016 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.

1017 [~~(24)~~] (25) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to
primarily residential or recreational purposes.

1019 [~~(25)~~] (26)

(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

1021 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

1023 (ii) governs:

1024 (A) the conduct of persons; or

1025 (B) the use, quality, type, design, or appearance of real property or personal property.

1027 (b) "Rule" does not include the internal business operating procedures of a board.

HB0217S02 compared with HB0217S05

1028 [(26)] (27) "Sex offender" means the same as that term is defined in Section 77-27-21.7.

1029 [(27)] (28) "Solar energy system" means:

1030 (a) a system that is used to produce electric energy from sunlight; and

1031 (b) the components of the system described in Subsection [(27)(a)] (28)(a).

1032 Section 14. Section **57-8a-104** is amended to read:

1033 **57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.**

742 (1)

(a)

(i) To amend the governing documents, the governing documents may not require:

744 ~~{(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;}~~

746 ~~{(B)}~~ ~~{(A)}~~ the approval of any specific lot owner; or

747 ~~{(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.

750 (ii) An amendment to the declaration after the period of administrative control may be adopted by a majority vote of voters, or a greater percentage if required in the declaration, at a meeting where at least 51% of the voting interests are present.

753 ~~{(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.

756 (iv) The board may not amend the declaration.

757 (b) Subsection (1)(a) does not apply to an amendment affecting only:

758 (i) lot boundaries; or

759 (ii) lot owner's voting rights.

760 (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.

764 (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.

HB0217S02 compared with HB0217S05

767 (3) Voting interests under Subsection (1) are calculated in the manner required by the governing
documents.

769 (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.

771 (5) This section applies to an association regardless of when the association is created.

1065 Section 15. Section **57-8a-105** is amended to read:

1066 **57-8a-105. Registration with Department of Commerce -- Department publication of
educational materials.**

775 (1) As used in this section, "department" means the Department of Commerce created in Section
13-1-2.

777 (2)

(a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions
establishing an association, the association shall register with the department in the manner
established by the department.

780 (b) An association existing under a declaration of covenants, conditions, and restrictions recorded
before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner
established by the department.

783 (3) The department shall require an association registering as required in this section to provide with
each registration:

785 (a) the name and address of the association;

786 (b) the name, address, telephone number, and, if applicable, email address of the chair of the association
board;

788 (c) contact information for the manager;

789 (d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile
transmission for communicating payoff information, the email address or facsimile number, as
applicable, of a primary contact person who has association payoff information that a closing agent
needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's
lot; and

794 (e) a registration fee [~~not to exceed \$37~~] set by the department in accordance with Section 63J-1-504.

796 (4)

(a) An association shall annually renew the association's registration described in Subsection (2).

HB0217S02 compared with HB0217S05

- 798 (b) The department may impose and set the amount of a renewal registration fee in accordance with
800 Section 63J-1-504.
- 804 [(4)] (5) An association that has registered under Subsection (2) shall submit to the department
an ~~[updated registration]~~ update to the association's registration information, in the manner
established by the department, within 90 days after a change in any of the information provided
under Subsection (3).
- 804 [(5)] (6)
- (a) During any period of noncompliance with the registration requirement described in Subsection (2)
or the requirement for an updated registration described in Subsection [(4)] (5):
- 807 (i) a lien may not arise under Section 57-8a-301; and
- 808 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 809 (b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated
registration requirement of Subsection [(4)] (5) does not begin until after the expiration of the 90-
day period specified in Subsection (2) or [(4)] (5), respectively.
- 813 (c) An association that is not in compliance with the registration requirement described in Subsection
(2) may end the period of noncompliance by registering with the department in the manner
established by the department under Subsection (2).
- 816 (d) An association that is not in compliance with the updated registration requirement described in
Subsection [(4)] (5) may end the period of noncompliance by submitting to the department an
updated registration in the manner established by the department under Subsection [(4)] (5).
- 820 (e) Except as described in Subsection [(5)(f)] (6)(f), beginning on the date an association ends a period
of noncompliance:
- 822 (i) a lien may arise under Section 57-8a-301 for any event that:
- 823 (A) occurred during the period of noncompliance; and
- 824 (B) would have given rise to a lien under Section 57-8a-301 had the association been in compliance
with the registration requirements described in this section; and
- 827 (ii) an association may enforce a lien described in this Subsection [(5)(e)] (6)(e) or a lien that existed
before the period of noncompliance.
- 829 (f) If an owner's residential lot is conveyed to an independent third party during a period of
noncompliance described in this Subsection [(5)] (6):

831

HB0217S02 compared with HB0217S05

(i) a lien that arose under Section 57-8a-301 before the conveyance of the residential lot became final is extinguished when the conveyance of the residential lot becomes final; and

834 (ii) an event that occurred before the conveyance of the residential lot became final, and that would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8a-301 if the conveyance of the residential lot becomes final before the association ends the period of noncompliance.

840 [~~(6)~~] (7) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations, including:

843 (a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association; and

845 (b) instructions regarding how an association may be organized and dismantled in accordance with this chapter.

847 [~~(7)~~] (8)

(a) Unless otherwise expressly exempted, this chapter applies to an association that registers, or renews or updates the association's registration, with the department under this section.

850 (b) This section applies to an association regardless of when the association is created.

1144 Section 16. Section 57-8a-109 is amended to read:

1145 **57-8a-109. Approval of plans.**

1146 (1) As used in this section:

1147 (a) "Fire-resistant material" means a material designed and tested to resist ignition, slow the spread of fire, or withstand high temperatures, including:

1149 (i) Class A roofing;

1150 (ii) non-combustible siding;

1151 (iii) a fiber cement product;

1152 (iv) metal roofing; or

1153 (v) fire-rated gypsum board.

1154 [~~(a)~~] (b) "Lot plans" means plans:

1155 (i) for the construction or improvement of a lot; and

1156

HB0217S02 compared with HB0217S05

(ii) that are required to be approved by the association before the lot construction or improvement may occur.

1158 ~~[(b)]~~ (c) "Plan fee" means a fee that an association charges for review and approval of lot plans.

1160 (2) An association may not charge a plan fee that exceeds the actual cost of reviewing and approving the lot plans.

1162 (3) An association may not prohibit, unreasonably restrict, deny, or delay a plan due to the plan's inclusion of a fire-resistant material in an area with heightened risk of wildfire.

1164 (4) If the association denies a lot plan, the association shall provide written notice to the lot owner specifying:

1166 (a) each governing document provision on which the association relied when denying the plan; and

1168 (b) the specific aspect of the proposed plan that does not conform to the specified governing document provision.

1170 Section 17. Section **57-8a-201** is amended to read:

1171 **57-8a-201. Payment of a common expense or assessment -- Late fees.**

853 (1) An owner shall pay the owner's proportionate share of:

854 (a) the common expenses; and

855 (b) any other assessments levied by the association.

856 (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:

858 (a) declaration; or

859 (b) bylaws.

860 (3) An assessment levied against a lot is:

861 (a) a debt of the owner at the time the assessment is made; and

862 (b) collectible as a debt described in Subsection (3)(a).

863 (4) The board of directors may impose, for a late payment:

864 (a) a late fee, not to exceed the {~~lesser~~} greater of:

865 (i) 10% of the assessment amount; or

866 (ii) \$50; and

867 (b) interest on the assessment and late fee of up to 1.5% per month.

1187 (5) Before imposing a fee under this section, the board of directors shall:

1188

HB0217S02 compared with HB0217S05

(a) adopt a fee schedule by rule in accordance with Section 57-8a-217 that describes the amount of fee the board shall impose; and

1190 (b) provide a copy of the fee schedule to each lot owner.

1191 Section 18. Section 57-8a-218 is amended to read:

1192 **57-8a-218. Equal treatment by rules required -- Limits on association rules and design**
criteria.

1194 (1)

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

1196 (b) [~~Notwithstanding Subsection (1)(a), a~~] A rule may:

1197 (i) vary according to the level and type of service that the association provides to lot owners;

1199 (ii) differ between residential and nonresidential uses; and

1200 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

1203 (2)

(a) [~~H~~] Except as provided in Subsection (2)(b), if a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

1207 (b) [~~Notwithstanding Subsection (2)(a), a~~] A rule may:

1208 (i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

1210 (ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

1212 (A) charge a rental lot owner a fee to use the common areas; or

1213 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

1216 (iii) include a provision in the association's governing documents that:

1217 (A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

1219 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

1221 (3)

HB0217S02 compared with HB0217S05

(a) ~~[A] Except as provided in Subsection (3)(b), a rule [criterion-] may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration on:~~

1223 ~~[(i) inside a dwelling on a lot; or]~~

1224 ~~[(ii) outside a dwelling on:]~~

1225 ~~[(A)] (i) a lot;~~

1226 ~~[(B)] (ii) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or~~

1228 ~~[(C)] (iii) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.~~

1230 (b) ~~[Notwithstanding Subsection (3)(a), the]~~ The association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

1232 (i) outside a dwelling on:

1233 (A) a lot;

1234 (B) the exterior of the dwelling; or

1235 (C) the front yard of the dwelling; and

1236 (ii) visible from outside the lot.

1237 (4)

(a) A rule may not prohibit a lot owner from displaying a political sign or flag on:

1238 ~~[(i) inside a dwelling on a lot; or]~~

1239 ~~[(ii) outside a dwelling on:]~~

1240 ~~[(A)] (i) a lot;~~

1241 ~~[(B)] (ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or~~

1243 ~~[(C)] (iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.~~

1245 (b) ~~[A] Except as provided in Subsection (4)(c), a rule may not regulate the content of a political sign or flag.~~

1247 (c) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.

1249 ~~[(e)] (d) [Notwithstanding Subsection (4)(a), a]~~ A rule may reasonably regulate the time, place, and manner of posting a political sign or flag.

1251 ~~[(d)] (e)~~ An association design provision may not establish design criteria for a political sign or flag.

HB0217S02 compared with HB0217S05

- 1253 (5)
- (a) A rule may not prohibit a lot owner from displaying a for-sale sign on:
- 1254 [(i) ~~inside a dwelling on a lot; or~~]
- 1255 [(ii) ~~outside a dwelling on:~~]
- 1256 [(A)] (i) a lot;
- 1257 [(B)] (ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or
- 1259 [(C)] (iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.
- 1261 (b) [~~Notwithstanding Subsection (5)(a), a~~] A rule may reasonably regulate the time, place, and manner of posting a for-sale sign.
- 1263 (6)
- (a) [A] Except as provided in Subsection (6)(b), a rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.
- 1265 (b) [~~Notwithstanding Subsection (6)(a), an~~] An association may:
- 1266 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 1268 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 1270 (A) size and facilities; and
- 1271 (B) fair use of the common areas.
- 1272 (7)
- (a) [A] Except as provided in Subsection (7)(b), a rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.
- 1276 (b) [~~Notwithstanding Subsection (7)(a), a~~] A rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:
- 1279 (i) is not normally associated with a project restricted to residential use; or
- 1280 (ii)
- (A) creates monetary costs for the association or other lot owners;
- 1281 (B) creates a danger to the health or safety of occupants of other lots;

HB0217S02 compared with HB0217S05

- 1282 (C) generates excessive noise or traffic;
- 1283 (D) creates unsightly conditions visible [~~from~~] to an individual standing outside the dwelling;
- 1285 (E) creates an unreasonable source of annoyance to persons outside the lot; or
- 1286 (F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.
- 1288 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.
- 1290 (8)
- (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.
- 1292 (b) [~~Notwithstanding Subsection (7)(b), an~~] An association may:
- 1293 (i) change the common areas available to a lot owner;
- 1294 (ii) adopt generally applicable rules for the use of common areas; or
- 1295 (iii) deny use privileges to a lot owner who:
- 1296 (A) is delinquent in paying assessments;
- 1297 (B) abuses the common areas; or
- 1298 (C) violates the governing documents.
- 1299 (c) This Subsection (8) does not permit a rule that:
- 1300 (i) alters the method of levying assessments; or
- 1301 (ii) increases the amount of assessments as provided in the declaration.
- 1302 (9)
- (a) Subject to Subsection (9)(b), a rule may not:
- 1303 (i) prohibit the transfer of a lot; or
- 1304 (ii) require the consent of the association or board to transfer a lot.
- 1305 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 1306 (10)
- (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.
- 1309 (b) The exemption in Subsection (10)(a):
- 1310 (i) applies during the period of the lot owner's ownership of the lot; and

HB0217S02 compared with HB0217S05

- 1311 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule
described in Subsection (10)(a).
- 1313 (11) A rule or action by the association or action by the board may not unreasonably impede a
declarant's ability to satisfy existing development financing for community improvements and right
to develop:
- 1316 (a) the project; or
- 1317 (b) other properties in the vicinity of the project.
- 1318 (12) A rule or association or board action may not interfere with:
- 1319 (a) the use or operation of an amenity that the association does not own or control; or
- 1320 (b) the exercise of a right associated with an easement.
- 1321 (13) A rule may not divest a lot owner of the right to proceed in accordance with a completed
application for design review, or to proceed in accordance with another approval process, under the
terms of the governing documents in existence at the time the completed application was submitted
by the owner for review.
- 1325 (14) Unless otherwise provided in the declaration, an association may by rule:
- 1326 (a) regulate the use, maintenance, repair, replacement, and modification of common areas;
- 1328 (b) impose and receive any payment, fee, or charge for:
- 1329 (i) the use, rental, or operation of the common areas, except limited common areas; and
- 1331 (ii) a service provided to a lot owner;
- 1332 (c) impose a charge for a late payment of an assessment; or
- 1333 (d) provide for the indemnification of the association's officers and board consistent with Title 16,
Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 1335 [~~(15) A rule may not prohibit a lot owner from installing a personal security camera immediately
adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.~~]
- 1338 [~~(16)~~] (15)
- (a) For any area for which one or more lot owners are responsible for landscape maintenance of
any landscaping within the lot owner's lot or the common areas, the association shall adopt rules
supporting water wise landscaping as defined in Section 57-8a-231 including:
- 1342 (i) low water use requirements on lawns during drought conditions;
- 1343 (ii) design criterion for water wise landscaping; and
- 1344 (iii) limiting permissible plant material to specific water wise plant material.

HB0217S02 compared with HB0217S05

- 1345 (b) A rule may not:
- 1346 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in
Section 57-8a-231; or
- 1348 (ii) prohibit low water use on lawns during drought conditions.
- 1349 [~~17~~] (16)
- (a) Except as provided in Subsection [~~(17)(b)~~] (16)(b), a rule may not prohibit the owner of a residential
lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530 or
17-27a-526, within the owner's residential lot.
- 1352 (b) Subsection [~~(17)(a)~~] (16)(a) does not apply if the construction would violate:
- 1353 (i) a local land use ordinance;
- 1354 (ii) a building code;
- 1355 (iii) a health code; or
- 1356 (iv) a fire code.
- 1357 [~~18~~] (17)
- (a) Except as provided in Subsection [~~(18)(b)~~] (17)(b), a rule may not prohibit the owner of a residential
lot from making modifications, consistent with industry standards, for radon mitigation.
- 1360 (b) Subsection [~~(18)(a)~~] (17)(a) does not apply if the modifications would violate:
- 1361 (i) a local land use ordinance;
- 1362 (ii) a building code;
- 1363 (iii) a health code; or
- 1364 (iv) a fire code.
- 1365 (c) A rule governing the placement or external appearance of modifications for radon mitigation does
not apply to a lot owner's modifications if the rule would:
- 1367 (i) unreasonably interfere with the modifications' functionality; or
- 1368 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 1370 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 1371 (i) demonstrate or provide proof of radon contamination; and
- 1372 (ii) provide proof that the modifications and any related construction will be performed by a licensed
person.
- 1374

HB0217S02 compared with HB0217S05

[(19)] (18) 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).

1377 (19)

(a) As used in this Subsection (19), "vegetable garden" means a plot of ground or elevated soil bed where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

1380 (b) A rule may not prohibit a vegetable garden on the rear yard of a lot on which the association does not have an ownership interest or a maintenance responsibility.

1382 (c) A rule may:

1383 (i) impose reasonable regulations that do not significantly increase the cost of cultivating a vegetable garden or significantly decrease the efficiency of cultivating a vegetable garden, including reasonable regulations on plant height, water use, fertilizer use, and weed maintenance; and

1387 (ii) prohibit the cultivation of invasive or unlawful species.

1388 (20)

(a) Except as provided in Subsection (20)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:

1391 (i) a commercial vehicle, as defined in Section 72-9-102;

1392 (ii) a motor home, as defined in Section 13-20-2; or

1393 (iii) a recreational vehicle trailer, as defined in Section 13-20-2.

1394 (b) A rule may require that an individual park in a garage appurtenant to a dwelling before parking elsewhere.

1396 (21)

(a) Except as provided in Subsection (21)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as defined in Section 72-9-102, in conformance with state traffic laws.

1399 (b) A rule may enforce a reduced speed limit on a private roadway.

1400 (22) A rule may not:

1401 (a) prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit;

1403 (b) impose a requirement or restriction on:

HB0217S02 compared with HB0217S05

- 1404 (i) a dwelling's interior, except as reasonably necessary for the safety of adjacent lots and the occupants
of those lots; or
- 1406 (ii) the use of a public street, as defined in Section 10-9a-103;
- 1407 (c) restrict an individual from:
- 1408 (i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not
visible to an individual standing outside the lot;
- 1410 (ii) installing or keeping a properly maintained basketball standard on the individual's driveway or
property if the driveway or property where the basketball standard is located is:
- 1413 (A) privately owned and maintained; and
- 1414 (B) abutting a public street; or
- 1415 (iii) hiring a contractor or worker solely because the contractor or worker:
- 1416 (A) is not on the association's preferred vendor list; or
- 1417 (B) does not have a professional or occupational license, unless the license is required by law; or
- 1419 (d) be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.
- 1421 ~~[(20)]~~ (23) A rule shall be reasonable.
- 1422 ~~[(21)]~~ (24) A declaration, or an amendment to a declaration, may vary any of the requirements of
Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 1425 ~~[(22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles~~
~~of incorporation.]~~
- 1427 ~~[(23)]~~ (25) This section applies to an association regardless of when the association is created.
- 1429 Section 19. Section **57-8a-227** is amended to read:
- 1430 **57-8a-227. Records -- Availability for examination.**
- 870 (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:
- 873 (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 }~~
- 876 (ii) a copy of the association's:
- 877 (A) governing documents;

HB0217S02 compared with HB0217S05

- 878 (B) most recent approved minutes;
- 879 (C) most recent annual budget and financial statement;
- 880 (D) most recent reserve analysis;[-and]
- 881 (E) certificate of insurance for each insurance policy the association holds[-] ;
- 882 (F) board meeting minutes from the previous three calendar years;
- 883 (G) a profit and loss statement for the previous three fiscal years; and
- 884 (H) a balance sheet for the previous three fiscal years; {and}
- 1446 (b) {a copy of each service contract to which the association is currently a party.}
- 886 ~~{(b)}~~ An association may redact the following information from any document the association produces for inspection or copying:
- 888 (i) a Social Security number;
- 889 (ii) a bank account number; or
- 890 (iii) any communication subject to attorney-client privilege.
- 891 (2)
- (a) In addition to the requirements described in Subsection (1), an association shall:
- 892 (i) make documents available to lot owners in accordance with the association's governing documents; and
- 894 (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
- 897 (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.
- 901 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 902 (c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.
- 904 (3) In a written request to inspect or copy documents:
- 905 (a) a lot owner shall include:
- 906 (i) the association's name;
- 907 (ii) the lot owner's name;
- 908 (iii) the lot owner's property address;

HB0217S02 compared with HB0217S05

- 909 (iv) the lot owner's email address;
- 910 (v) a description of the documents requested; and
- 911 (vi) any election or request described in Subsection (3)(b); and
- 912 (b) a lot owner may:
- 913 (i) elect whether to inspect or copy the documents;
- 914 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the
documents; or
- 916 (iii) subject to Subsection (4), request that:
- 917 (A) the association make the copies or electronic scans of the requested documents;
- 919 (B) a recognized third party duplicating service make the copies or electronic scans of the requested
documents;
- 921 (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
- 924 (D) the association email the requested documents to an email address provided in the request.
- 926 (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.
- 928 (b) If an association produces the copies or electronic scans:
- 929 (i) the copies or electronic scans shall be legible and accurate;[-and]
- 930 (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:
- 933 (A) the actual cost that the association paid to a recognized third party duplicating service to make the
copies or electronic scans; or
- 935 (B) 10 cents per page and ~~[\$15]~~ \$20 per hour for the employee's, manager's, or other agent's time[-:] ;
and
- 937 (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).
- 940 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic
scans:
- 942 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 944 (ii) the lot owner shall pay the duplicating service directly.

HB0217S02 compared with HB0217S05

- 945 (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.
- 947 (e) An association may fulfill the request described in Subsection (3) by posting the documents
described in Subsection (3) to the association's website or online owner portal.
- 950 (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:
- 953 (a) the reasonable costs of inspecting and copying the requested documents;
- 954 (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
- 957 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies
of the requested documents.
- 959 (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:
- 961 (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
- 964 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 965 (b) In an action described in Subsection (6)(a):
- 966 (i) the lot owner may request:
- 967 (A) injunctive relief requiring the association to comply with the provisions of this section;
- 969 (B) [\$500] \$1,000 or actual damage, whichever is greater; or
- 970 (C) any other relief provided by law; and
- 971 (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.
- 974 (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

HB0217S02 compared with HB0217S05

the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.

- 978 (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.
- 980 (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:
- 983 (i) the lot owner's name, address, telephone number, and email address;
- 984 (ii) each requirement of this section with which the association has failed to comply;
- 985 (iii) a demand that the association comply with each requirement with which the association has failed
to comply; and
- 987 (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.
- 990 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association.
- 991 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a,
Utah Revised Nonprofit Corporation Act.
- 993 (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.
- 995 (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.

1559 Section 20. Section 57-8a-229 is amended to read:

1560 **57-8a-229. Liability of declarant or board of directors -- Period of administrative control.**

- 1562 (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:
- 1566 (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:
- 1568 (i) present; or
- 1569 (ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal
action at the meeting;
- 1571 (b) the legal action is approved by vote in person or by proxy of owners of the lesser of:

HB0217S02 compared with HB0217S05

- 1572 (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
- 1574 (ii) more than 51% of the allocated voting interests of the lot owners in the association;
- 1576 (c) the association provides each lot owner with the items described in Subsection (2);
- 1577 (d) the association establishes the trust described in Subsection (3); and
- 1578 (e) the association first:
- 1579 (i) notifies the person subject to the proposed legal action of the legal action and basis of the
association's claim; and
- 1581 (ii) gives the person subject to the claim a reasonable opportunity to resolve the dispute that is the basis
of the proposed legal action.
- 1583 (2) Before lot owners in an association may vote to approve an action described in Subsection (1), the
association shall provide each lot owner:
- 1585 (a) a written notice that the association is contemplating legal action; and
- 1586 (b) after the association consults with an attorney licensed to practice in the state, a written assessment
of:
- 1588 (i) the likelihood that the legal action will succeed;
- 1589 (ii) the likely amount in controversy in the legal action;
- 1590 (iii) the likely cost of resolving the legal action to the association's satisfaction; and
- 1591 (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.
- 1593 (3) Before the association commences a legal action described in Subsection (1), the association shall:
- 1595 (a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including
attorney fees; and
- 1597 (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.
- 1599 (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.
- 1601 (5) In a legal action brought by one or more lot owners solely against the declarant before the end of the
period of declarant control, a declarant may not use any funds paid by a lot owner to the association
to pay for costs of the declarant's legal defense.

1604 Section 21. Section 57-8a-231 is amended to read:

HB0217S02 compared with HB0217S05

- 1605 **57-8a-231. Water wise landscaping.**
- 1606 (1) As used in this section:
- 1607 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.
- 1609 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.
- 1611 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.
- 1613 (d)
- (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.
- 1615 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.
- 1617 (e) "Water wise landscaping" means any or all of the following:
- 1618 (i) installation of plant materials suited to the microclimate and soil conditions that can:
- 1620 (A) remain healthy with minimal irrigation once established; or
- 1621 (B) be maintained without the use of overhead spray irrigation;
- 1622 (ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or
- 1624 (iii) the use of other landscape design features that:
- 1625 (A) minimize the need of the landscape for supplemental water from irrigation;
- 1626 (B) reduce the landscape area dedicated to lawn or turf; or
- 1627 (C) encourage vegetative coverage.
- 1628 (f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.
- 1630 (2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the lot owner's lot.
- 1633 (3)
- (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:
- 1635 (i) comply with a site plan review or other review process before installing water wise landscaping;
- 1637 (ii) maintain plant material in a healthy condition; and

HB0217S02 compared with HB0217S05

- 1638 (iii) follow specific water wise landscaping design requirements adopted by the association
including a requirement that:
- 1640 (A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and
1642 (B) restricts or prohibits the use of specific plant materials other than water wise plant materials.
- 1644 (b) An association may not require a lot owner to install or keep in place lawn or turf in an area.
1646 (4)
- (a) Subject to Subsection (4)(b), if an association does not adopt rules as required by Subsection
[57-8a-218(16)] 57-8a-218(15) and fails to remedy the noncompliance within the time specified in
Subsection (4)(c), a lot owner may file an action in state court for:
- 1650 (i) injunctive relief requiring the association to comply with the requirements of Subsection
[57-8a-218(16)] 57-8a-218(15);
- 1652 (ii) \$500, or the lot owner's actual damages, whichever is greater;
- 1653 (iii) any other remedy provided by law; and
1654 (iv) reasonable costs and attorney fees.
- 1655 (b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (4)
(a), the lot owner shall deliver written notice described in Subsection (4)(c) to the association.
- 1658 (c) The lot owner shall include in a notice described in Subsection (4)(b):
1659 (i) the requirements in Subsection [57-8a-218(16)] 57-8a-218(15) for adopting water wise landscaping
rules with which the association has failed to comply;
- 1661 (ii) a demand that the association come into compliance with the requirements; and
1662 (iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the
association must remedy the association's noncompliance.
- 1664 Section 22. Section **57-8a-232** is amended to read:
1665 **57-8a-232. Sale of common areas.**
- 999 (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.
- 1003 (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.

1007

HB0217S02 compared with HB0217S05

- (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:
- 1011 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:
- 1013 (i) the provisions of this section; and
- 1014 (ii) Section 10-9a-606 or 17-27a-606; and
- 1015 (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.
- 1018 (4) This section applies to an association regardless of when the association is created.
- 1019 (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.

1688 Section 23. Section 57-8a-502 is amended to read:

1689 **57-8a-502. Period of administrative control.**

- 1690 (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.
- 1694 [~~(a) 60 days after 75% of the lots that may be created are conveyed to lot owners other than a declarant;~~]
- 1696 [~~(b) seven years after all declarants have ceased to offer lots for sale in the ordinary course of business; or~~]
- 1698 [~~(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.~~]
- 1700 (2) Notwithstanding Subsection (1), the period of administrative control terminates no later than the earlier of:
- 1702 (a) the day on which the declarant no longer owns any lot and no longer possess any development right;
or
- 1704 (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.

HB0217S02 compared with HB0217S05

- 1706 [~~(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).
- 1709 (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.
- 1713 (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.
- 1716 [~~(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.
- 1719 (b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.
- 1721 (c) The board members and officers shall take office upon election or appointment.
- 1722 (5) During the period of administrative control, the declarant shall:
- 1723 (a) use reasonable care and prudence in managing and maintaining the common areas;
- 1724 (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;
- 1727 (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;
- 1729 (d) maintain records and account for the financial affairs of the association from the association's inception;
- 1731 (e) comply with and enforce the terms of the declaration, including design controls, land-use restrictions, and the payment of assessments; and
- 1733 (f) disclose to the lot owners all material facts and circumstances affecting:
- 1734 (i) the condition of the property that the association is responsible for maintaining; and
- 1736 (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.
- 1739 Section 24. Section 63I-1-213 is amended to read:
- 1740 **63I-1-213. Repeal dates: Title 13.**
- 1741 (1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

HB0217S02 compared with HB0217S05

1742 (2) Section 13-43-202, Land Use and Eminent Domain Advisory Board -- Appointment --
Compensation -- Duties, is repealed July 1, 2026.

1744 (3) Title 13, Chapter 75, Office of the Homeowners' Association Ombudsman, is repealed July 1, 2030.

1746 Section 25. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

3-7-25 9:37 AM