

HB0217S04 compared with HB0217S05

- 20 ▶ establishes requirements for a homeowners' association to impose a reinvestment fee;
- 21 ▶ { ~~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;
- 22 ▶ authorizes the Department of Commerce to set and impose an annual registration fee on a homeowners' association;
- 24 ▶ requires a homeowners' association to renew the homeowners' association's registration with the Department of Commerce annually;
- 25 ▶ sets limits on the amount a homeowners' association may charge as a late fee;
- 26 ▶ 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;
- 27 ▶ prohibits a declarant from selling a part of a common area during the period of administrative control under certain circumstances;
- 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;
- 29 ▶ prohibits a homeowners' association from charging any costs associated with { ~~producing~~ } the electronic transmission of certain documents; { ~~and~~ }
- 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
- 31 ▶ provides a repeal date for the Office of the Homeowners' Association Ombudsman and requires legislative review before the repeal.

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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

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- 70 **57-8a-218 , as last amended by Laws of Utah 2024, Chapters 115, 519 , as last amended by**
Laws of Utah 2024, Chapters 115, 519
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- 71 **57-8a-227** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah
2022, Chapter 439
- 72 **57-8a-229 , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah**
2017, Chapter 284
-
- 73 **57-8a-231 , as last amended by Laws of Utah 2024, Chapters 56, 519 , as last amended by**
Laws of Utah 2024, Chapters 56, 519
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- 74 **57-8a-232** , as enacted by Laws of Utah 2024, Chapter 519 , as enacted by Laws of Utah 2024,
Chapter 519
- 75 **57-8a-502 , as last amended by Laws of Utah 2016, Chapter 210 , as last amended by Laws of**
Utah 2016, Chapter 210
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- 76 **63I-1-213** , as last amended by Laws of Utah 2024, Chapters 385, 507 , as last amended by 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:

- 63 (1) "Association of lot owners" means an association as that term is defined in Section 57-8a-102.
- 65 (2) "Association of unit owners" means the same as that term is defined in Section 57-8-3.
- 66 (3) "Department" means the Department of Commerce created in Section 13-1-2.
- 67 (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.

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69 (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.

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

72 (7) "Office" means the Office of the Homeowners' Association Ombudsman created in Section
13-75-102.

74 (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.**

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

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

82 (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.**

85 (1) The attorneys of the office shall:

86 (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

89 (b) upon request:

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

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

94 (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.

97 (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.

100 (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.

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- 103 (4) The office:
- 104 (a) shall analyze a complaint and issue an advisory opinion only for issues relating to a violation of a
state statute; and
- 106 (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.**
- 112 (1) A lot owner, a unit owner, an association of lot owners, or an association of unit owners may request
a written advisory opinion:
- 114 (a) from the office to determine compliance with:
- 115 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a, Community
Association Act; or
- 117 (ii) other applicable statutes of this state; and
- 118 (b) at any time before the commencement of:
- 119 (i) an action in a court with jurisdiction; or
- 120 (ii) binding arbitration.
- 121 (2)
- (a) A person making a request for an advisory opinion described in Subsection (1) shall:
- 123 (i) file the request with the office;
- 124 (ii) pay a filing fee of \$150; and
- 125 (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
- 128 (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.
- 132 (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.
- 134 (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)(a)(ii).

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- 136 (4)
- (a) The office may not issue an advisory opinion unless the person requesting an advisory opinion exhausts all existing procedures provided in:
- 138 (i) the governing documents of an association of lot owners, if the dispute involves a lot owner; or
- 140 (ii) the governing documents of an association of unit owners, if the dispute involves a unit owner.
- 142 (b) A person requesting an advisory opinion shall include in the person's complaint a description of how that person exhausted all existing procedures provided in the applicable governing documents.
- 145 (5) Upon receipt of a request for an advisory opinion, the office shall:
- 146 (a) inquire of all parties if there are other necessary parties to the dispute;
- 147 (b) determine whether the person bringing the request has exhausted all existing procedures provided in the applicable governing documents; and
- 149 (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).
- 151 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:
- 152 (a) issue a written advisory opinion addressing the issues described in the request for an advisory opinion;
- 154 (b) include in the advisory opinion a statement of the facts and law supporting the opinion's conclusions; and
- 156 (c) deliver copies of the advisory opinion to all necessary parties identified in accordance with Subsection (5)(a).
- 158 (7)
- (a) The office shall issue a written statement declining to issue an advisory opinion when, in the opinion of the office:
- 160 (i) the issues are not ripe for review;
- 161 (ii) the person bringing the request has not exhausted all existing procedures provided in the applicable governing documents; or
- 163 (iii) the issues raised are beyond the scope of the office's statutory duty to review.
- 164 (b) Notwithstanding Subsection (7)(a), the office shall issue a written statement declining to review a request, if the request deals solely with a contractual dispute.
- 166 (8)
- (a)

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- 170 (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.
- 173 (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.
- 173 (b)
- (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:
- 175 (A) determines that the person requesting the advisory opinion has not exhausted all existing procedures, as described in Subsection (4)(a);
- 177 (B) declines to issue an advisory opinion, as described in Subsection (7)(a); or
- 178 (C) determines that the request deals solely with a contractual dispute, as described in Subsection (7)(b).
- 180 (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:
- 182 (A) the person submits a written copy of the request to the executive director of the department; and
- 184 (B) the executive director of the department authorizes the person to file the request for the advisory opinion with the office.
- 186 (9) The party that requests the advisory opinion shall pay the filing fee described in Subsection (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.
- 190 (10) An advisory opinion issued 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 (11).
- 193 (11)
- (a) As used in this Subsection (11), "qualifying conditions" means:
- 194 (i) the office issues an advisory opinion described in this section;
- 195 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated in court; and
- 197 (iii) the court rules in favor of the same party as the advisory opinion in a final judgment.

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- 199 (b) If the qualifying conditions are met, the court may award the substantially prevailing party:
201 (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
204 (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 (12).
- 207 (12) The civil penalty described in Subsection (11)(b):
208 (a) begins to accrue on the later of:
209 (i) 30 days after the day on which the office delivers the advisory opinion; or
210 (ii) the day on which the substantially prevailing party or opposing party filed the action in court; and
212 (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.**
- 215 (1) As used in this section:
216 (a) "Association expenses" means expenses incurred by a common interest association for:
218 [~~(i) the administration of the common interest association;~~]
219 [(~~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;
223 [(~~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
226 [(~~iv~~) (iii) other facilities, activities, services, or programs that are required or permitted under the
common interest association's organizational documents.
- 228 (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.
- 231 (c) "Association transfer fee" means a fee, charge, or payment that is:
232 (i) related to the sale of real property; and
233 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
234 (A) a common interest association; or
235 (B) a person acting on behalf of the common interest association.

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- 236 [(e)] (d) "Burdened property" means the real property that is subject to a reinvestment fee covenant or
transfer fee covenant.
- 238 [(d)] (e) "Common areas" means areas described within:
- 239 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 240 (ii) the definition of "common areas" under Section 57-8a-102.
- 241 [(e)] (f)
- (i) "Common interest association" means:
- 242 [(f)] means:
- 243 (A) an association, as defined in Section 57-8a-102;
- 244 (B) an association of unit owners, as defined in Section 57-8-3; or
- 245 (C) a nonprofit association~~;~~ and .
- 246 (ii) "Common interest association" includes a person authorized by an association, association of unit
owners, or nonprofit association~~;~~ as the case may be.
- 248 [(f)] (g) "Large master planned development" means an approved development:
- 249 (i) of at least 500 acres or 500 units; and
- 250 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 251 (A) common infrastructure;
- 252 (B) association facilities;
- 253 (C) community programming;
- 254 (D) resort facilities;
- 255 (E) open space; or
- 256 (F) recreation amenities.
- 257 [(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.
- 260 [(h)] (i) "Organizational documents" means:
- 261 (i) for an association, as defined in Section 57-8a-102, ~~means~~ governing documents as defined in
Section 57-8a-102;
- 263 (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
- 265 (iii) for a nonprofit association:

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- 266 (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
- 269 (B) [~~includes~~] articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and
declarations of covenants, conditions, and restrictions.
- 271 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:
- 273 (i) upon a buyer or seller of real property;
- 274 (ii) upon and as a result of a transfer of the real property; and
- 275 (iii) that is dedicated to benefiting the common areas, including payment for:
- 276 (A) common planning, facilities, and infrastructure;
- 277 (B) obligations arising from an environmental covenant;
- 278 (C) community programming;
- 279 (D) resort facilities;
- 280 (E) open space;
- 281 (F) recreation amenities;
- 282 (G) charitable purposes; or
- 283 (H) association expenses.
- 284 [(†)] (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 285 (i) affects real property; and
- 286 (ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon
and as a result of a transfer of the real property, a fee that is dedicated to benefitting the burdened
property, including payment for:
- 289 (A) common planning, facilities, and infrastructure;
- 290 (B) obligations arising from an environmental covenant;
- 291 (C) community programming;
- 292 (D) resort facilities;
- 293 (E) open space;
- 294 (F) recreation amenities;
- 295 (G) charitable purposes; or
- 296 (H) association expenses.
- 297 [(†)] (l) "Transfer fee covenant":
- 298

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- (i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other instrument or document:
- 300 (A) that affects real property;
- 301 (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
- 304 (C) to pay a fee upon and as a result of a transfer of the real property; and
- 305 (ii) does not include:
- 306 (A) an obligation imposed by a court judgment, order, or decree;
- 307 (B) an obligation imposed by the federal government or a state or local government entity; or
- 309 (C) a reinvestment fee covenant.
- 310 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 311 (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.
- 314 (b) A common interest association may assign or pledge to a lender the right to receive payment under a reinvestment fee covenant if:
- 316 (i) the assignment or pledge is as collateral for a credit facility; and
- 317 (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.
- 319 (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.
- 322 (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.
- 325 (6)
- (a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment fee covenant, is recorded in the office of the recorder of each county in which any of the burdened property is located.
- 329 (b) A notice under Subsection (6)(a) shall:

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- 330 (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;
- 332 (ii) include the notarized signature of the common interest association's authorized representative;
- 334 (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;
- 336 (iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional
reinvestment fee covenant on the burdened property;
- 338 (v) state the duration of the reinvestment fee covenant;
- 339 (vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and
- 341 (vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the
burdened property.
- 343 (c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of
Subsection (6)(b) is valid and effective.
- 345 (7)
- (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not
enforceable after May 31, 2010, unless:
- 347 (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
- 350 (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.
- 353 (b) A notice under Subsection (7)(a)(ii) shall:
- 354 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee
covenant, or the beneficiary's authorized representative;
- 356 (ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer
fee covenant;
- 358 (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
- 360 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 361 (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.

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- 364 (d) A notice under Subsection (7)(b):
365 (i) that is recorded after May 31, 2010, is not enforceable; and
366 (ii) shall comply with the requirements of Section 57-1-47.
- 367 (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.
- 370 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:
372 (a) an involuntary transfer;
373 (b) a transfer that results from a court order;
374 (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;
376 (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of
distribution; or
378 (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.
- 382 (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.
- 384 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
385 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant; and
387 (b) a majority of voting interests in the association, or a higher percentage if required in the
organizational documents, approves the reinvestment fee.
- 389 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an association may set
the amount of a reinvestment fee only:
391 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
392 (b) upon providing notice in accordance with Section 57-8a-214.
- 393 (12) Members of the association may remove or amend a reinvestment fee by holding a vote at a special
meeting:
395 (a) called by the members for the purpose of removing or amending the reinvestment fee; and
397 (b) at which:
398 (i) at least 51% of the voting interests attend and vote; and
399 (ii) a majority of the voting interests that attend vote to remove or amend the reinvestment fee.

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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.**

403 (1)

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

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

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

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

409 (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.

412 (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

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owners adopts under Subsection (5), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

- 416 (b) ~~Notwithstanding Subsection (2)(a), a~~ A rule may:
- 417 (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;
- 419 (ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:
- 421 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 422 (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
- 425 (iii) include a provision in the association of unit owners' governing documents that:
- 426 (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
- 428 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.
- 430 (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.
- 432 (b) ~~Notwithstanding Subsection (3)(a), an~~ An association of unit owners may:
- 433 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 435 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 437 (A) size and facilities; and
- 438 (B) fair use of the common areas and facilities.
- 439 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 440 (5) ~~Unless otherwise provided in the declaration, an~~ Subject to Subsection (15), an association of unit owners may by rule:
- 442 (a) unless otherwise provided in the declaration:
- 443 (i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities; and
- 445 ~~(b)~~ (ii) impose and receive any payment, fee, or charge for:

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- 446 [(†)] (A) the use, rental, or operation of the common areas, except limited common areas and facilities;
[and] or
- 448 [(†)] (B) a service provided to a unit owner;
- 449 [(e)] (b) impose~~[a charge]~~, for a late payment of an assessment:
- 450 (i) a late fee, not to exceed the greater of:
- 451 (A) 10% of the assessment amount; or
- 452 (B) \$50; and
- 453 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 454 [(‡)] (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.
- 457 (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.
- 460 (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.
- 462 (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.
- 464 (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.
- 466 (8)
- (a) A rule may not:
- 467 (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
- 469 (A) a for-sale sign;~~[or]~~
- 470 (B) a political sign;
- 471 (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
- 472 (iii) flag.

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- 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.
- 473 ~~[(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.
- 475 (9) For any area for which one or more unit owners are responsible for landscape maintenance, the
association of unit owners:
- 477 (a) shall adopt rules supporting water wise landscaping, including:
- 478 (i) low water use requirements on lawns during drought conditions;
- 479 (ii) design criterion for water wise landscaping; and
- 480 (iii) limiting permissible plant material to specific water wise plant material;
- 481 (b) may not prohibit low water use on lawns during drought conditions; and
- 482 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.
- 484 (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).
- 487 (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.
- 489 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 490 (i) a local land use ordinance;
- 491 (ii) a building code;
- 492 (iii) a health code; or
- 493 (iv) a fire code.
- 494 (c) A rule governing the placement or external appearance of modifications may apply to modifications
for radon mitigation unless the rule would:
- 496 (i) unreasonably interfere with the modifications' functionality; or
- 497 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 499 (d) A rule may require that a unit owner making modifications related to radon mitigation:
- 501 (i) demonstrate or provide proof of radon contamination; and
- 502 (ii) provide proof that the modifications and any related construction will be performed by a licensed
person.
- 551 (12)

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- 554 (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:
- 555 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
556 (ii) a motor home, as that term is defined in Section 13-20-2; or
557 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2.
- 559 (b) A rule may require that an individual park in a garage appurtenant to a unit before parking
elsewhere.
- (13)
- 562 (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.
- 563 (b) A rule may enforce a reduced speed limit on a private roadway.
- 564 (14) A rule may not:
- 565 (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.
- 504 ~~[(12)]~~ (15) A rule shall be reasonable.
- 505 ~~[(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).
- 507 ~~[(14)]~~ (17) This section applies to an association of unit owners regardless of when the association of
unit owners is created.
- 509 ~~{(15)}~~ (18) Before imposing a fee under Subsection (5), an association of unit owners shall:
- 510 (a) adopt a fee schedule by rule that describes the amount of each fee the association of unit owners
shall impose; and
- 512 (b) provide a copy of the fee schedule to each unit owner.
- 582 Section 8. Section **57-8-13.1** is amended to read:

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- 583 **57-8-13.1. Registration with Department of Commerce -- Department publication of**
584 **educational materials.**
- 516 (1) As used in this section, "department" means the Department of Commerce created in Section
517 13-1-2.
- 518 (2) No later than 90 days after the recording of a declaration, an association of unit owners shall register
519 with the department in the manner established by the department.
- 520 (3) The department shall require an association of unit owners registering as required in this section to
521 provide with each registration:
- 522 (a) the name and address of the association of unit owners;
- 523 (b) the name, address, telephone number, and, if applicable, email address of the president of the
524 association of unit owners;
- 525 (c) the name and address of each manager or management committee member;
- 526 (d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile
527 transmission for communicating payoff information, the email address or facsimile number, as
528 applicable, of a primary contact person who has association payoff information that a closing agent
529 needs in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's
530 unit; and
- 531 (e) a registration fee [~~not to exceed \$37~~] set by the department in accordance with Section 63J-1-504.
- 532 (4)
- 533 (a) An association of unit owners shall annually renew the registration of the association of unit owners
534 described in Subsection (2).
- 535 (b) The department may impose and set the amount of a renewal registration fee in accordance with
536 Section 63J-1-504.
- 537 ~~[(4)]~~ (5) An association of unit owners that has registered under Subsection (2) shall submit to
538 the department an [~~updated registration~~] update to the association of unit owners' registration
539 information, in the manner established by the department, within 90 days after a change in any of
540 the information provided under Subsection (3).
- 541 ~~[(5)]~~ (6)
- 542 (a) During any period of noncompliance with the registration requirement described in Subsection (2)
543 or the requirement for an updated registration described in Subsection ~~[(4)]~~ (5):
- 544 (i) a lien may not arise under Section 57-8-44; and

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- 545 (ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.
- 547 (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.
- 551 (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).
- 555 (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).
- 559 (e) Except as described in Subsection [~~(5)~~](~~f~~) (~~6~~)(~~f~~), beginning on the date an association of unit owners ends a period of noncompliance:
- 561 (i) a lien may arise under Section 57-8-44 for any event that:
- 562 (A) occurred during the period of noncompliance; and
- 563 (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
- 566 (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.
- 568 (f) If an owner's unit is conveyed to an independent third party during a period of noncompliance described in this Subsection [~~(5)~~] (~~6~~):
- 570 (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
- 572 (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.
- 577 [~~(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:

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- 580 (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
- 582 (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.**

586 (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:

590 (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

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

594 (A) governing documents;

595 (B) most recent approved minutes;

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

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

598 (E) certificate of insurance for each insurance policy the association of unit owners holds[-] ;

600 (F) management committee meeting minutes from the previous three calendar years;

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

603 (H) a balance sheet for the previous three fiscal years.

604 (b) An association of unit owners may redact the following information from any document the
association of unit owners produces for inspection or copying:

606 (i) a Social Security number;

607 (ii) a bank account number; or

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

609 (2)

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

611 (i) make documents available to unit owners in accordance with the association of unit owners'
governing documents; and

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- 613 (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
- 616 (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.
- 621 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 622 (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.
- 624 (3) In a written request to inspect or copy documents:
- 625 (a) a unit owner shall include:
- 626 (i) the association of unit owners' name;
- 627 (ii) the unit owner's name;
- 628 (iii) the unit owner's property address;
- 629 (iv) the unit owner's email address;
- 630 (v) a description of the documents requested; and
- 631 (vi) any election or request described in Subsection (3)(b); and
- 632 (b) a unit owner may:
- 633 (i) elect whether to inspect or copy the documents;
- 634 (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 636 (iii) subject to Subsection (4), request that:
- 637 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 639 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 641 (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
- 644 (D) the association of unit owners email the requested documents to an email address provided in the request.

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- 646 (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.
- 649 (b) If an association of unit owners produces the copies or electronic scans:
- 650 (i) the copies or electronic scans shall be legible and accurate;[-and]
- 651 (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:
- 654 (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
- 656 (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
- 658 (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).
- 661 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 663 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 665 (ii) the unit owner shall pay the duplicating service directly.
- 666 (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.
- 669 (e) An association may comply with a request described in Subsection (3) by posting the documents described in Subsection (3) to the association's website or online owner portal.
- 672 (5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:
- 675 (a) the reasonable costs of inspecting and copying the requested documents;
- 676 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the unit owner made the request; and
- 679 (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

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- 681 (6)
- (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:
- 684 (i) subject to Subsection (9), an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and
- 687 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).
- 689 (b) In an action described in Subsection (6)(a):
- 690 (i) the unit owner may request:
- 691 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;
- 693 (B) ~~[\$500]~~ \$1,000 or actual damage, whichever is greater; or
- 694 (C) any other relief provided by law; and
- 695 (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.
- 698 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the unit owner made in accordance with Subsection (6)(b), notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.
- 703 (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.
- 705 (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:
- 708 (i) the unit owner's name, address, telephone number, and email address;
- 709 (ii) each requirement of this section with which the association of unit owners has failed to comply;
- 711 (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
- 713

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(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.

716 (7)

(a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.

718 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

720 (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.

722 (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.**

727 (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.

732 (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.

736 (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:

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

742 (i) the provisions of this section; and

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

744 (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.

747

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

749 (5) A declarant may not sell any part of the common areas and facilities during the period of
administrative control, except:

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

752 (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.

756 (1)

(a)

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

758 (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;

760 (B) the approval of any specific unit owner; or

761 (C) 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.

764 (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.

767 [(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.

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

771 (i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the
declaration;

773 (ii) unit boundaries; or

774 (iii) unit owners' voting rights.

775 (c) The management committee may not amend a declaration.

776 (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

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is binding beyond the period of administrative control unless terminated by the management committee after the period of administrative control ends.

781 (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.

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

786 (4) Nothing in this section affects any other rights reserved by the declarant.

787 (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

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

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(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 (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:

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- 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 (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:

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- 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
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

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~~[(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

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.

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- 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)
- 1021 (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:
- 1022 (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.
- 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.**
- 792 (1)
- 793 (a)
- 794 (i) To amend the governing documents, the governing documents may not require:
- 795 (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;
- 796 (B) the approval of any specific lot owner; or
- 797

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(C) 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.

800 (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.

803 [(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.

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

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

808 (i) lot boundaries; or

809 (ii) lot owner's voting rights.

810 (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.

814 (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.

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

819 (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.

821 (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.

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

827 (2)

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- (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.
- 830 (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.
- 833 (3) The department shall require an association registering as required in this section to provide with each registration:
- 835 (a) the name and address of the association;
- 836 (b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;
- 838 (c) contact information for the manager;
- 839 (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
- 844 (e) a registration fee [~~not to exceed \$37~~] set by the department in accordance with Section 63J-1-504.
- 846 (4)
- 848 (a) An association shall annually renew the association's registration described in Subsection (2).
- (b) The department may impose and set the amount of a renewal registration fee in accordance with Section 63J-1-504.
- 850 [~~(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).
- 854 [~~(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):
- 857 (i) a lien may not arise under Section 57-8a-301; and
- 858 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

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- 859 (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.
- 863 (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).
- 866 (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).
- 870 (e) Except as described in Subsection [~~(5)~~]~~(f)~~ (6)~~(f)~~, beginning on the date an association ends a period
of noncompliance:
- 872 (i) a lien may arise under Section 57-8a-301 for any event that:
- 873 (A) occurred during the period of noncompliance; and
- 874 (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
- 877 (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.
- 879 (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):
- 881 (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
- 884 (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.
- 890 [~~(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:
- 893 (a) a description of the rights and responsibilities provided in this chapter to any party under the
jurisdiction of an association; and

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

897 [~~(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.

900 (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 (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:

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

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

904 (a) the common expenses; and

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

906 (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:

908 (a) declaration; or

909 (b) bylaws.

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

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

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

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

914 (a) a late fee, not to exceed the greater of:

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

916 (ii) \$50; and

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

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

919 (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

921 (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.

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- 1203 (2)
- 1207 (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.
- 1208 (b) ~~[Notwithstanding Subsection (2)(a), a]~~ A rule may:
- 1210 (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;
- 1212 (ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:
- 1213 (A) charge a rental lot owner a fee to use the common areas; or
- 1216 (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
- 1217 (iii) include a provision in the association's governing documents that:
- 1219 (A) requires each tenant of a rental lot to abide by the terms of the governing documents; and
- 1221 (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)
- 1223 (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:
- 1224 ~~[(i) inside a dwelling on a lot; or]~~
- 1225 ~~[(ii) outside a dwelling on:]~~
- 1226 ~~[(A)]~~ (i) a lot;
- 1228 ~~[(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
- 1230 ~~[(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.
- 1232 (b) ~~[Notwithstanding Subsection (3)(a), the]~~ The association may adopt a reasonable time, place, and manner restriction with respect to a display that is:
- 1233 (i) outside a dwelling on:
- 1234 (A) a lot;
- (B) the exterior of the dwelling; or

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- 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.
- 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.

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- 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;
- 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:

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- 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
- 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.

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- 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.
- 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)

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- (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 [~~(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)

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- 1391 (a) Except as provided in Subsection (20)(b), a rule may not restrict an individual from parking an
1392 operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:
1393 (i) a commercial vehicle, as defined in Section 72-9-102;
1394 (ii) a motor home, as defined in Section 13-20-2; or
1396 (iii) a recreational vehicle trailer, as defined in Section 13-20-2.
(b) A rule may require that an individual park in a garage appurtenant to a dwelling before parking
elsewhere.
(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:
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.

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- 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.**
- 924 (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:
- 927 (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
- 930 (ii) a copy of the association's:
- 931 (A) governing documents;
- 932 (B) most recent approved minutes;
- 933 (C) most recent annual budget and financial statement;
- 934 (D) most recent reserve analysis;~~[-and]~~
- 935 (E) certificate of insurance for each insurance policy the association holds~~[-]~~ ;
- 936 (F) board meeting minutes from the previous three calendar years;
- 937 (G) a profit and loss statement for the previous three fiscal years; and
- 938 (H) a balance sheet for the previous three fiscal years;
- 939 (b) An association may redact the following information from any document the association produces
for inspection or copying:
- 941 (i) a Social Security number;
- 942 (ii) a bank account number; or
- 943 (iii) any communication subject to attorney-client privilege.
- 944 (2)
- (a) In addition to the requirements described in Subsection (1), an association shall:
- 945

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- (i) make documents available to lot owners in accordance with the association's governing documents; and
- 947 (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
- 950 (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.
- 954 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 955 (c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.
- 957 (3) In a written request to inspect or copy documents:
- 958 (a) a lot owner shall include:
- 959 (i) the association's name;
- 960 (ii) the lot owner's name;
- 961 (iii) the lot owner's property address;
- 962 (iv) the lot owner's email address;
- 963 (v) a description of the documents requested; and
- 964 (vi) any election or request described in Subsection (3)(b); and
- 965 (b) a lot owner may:
- 966 (i) elect whether to inspect or copy the documents;
- 967 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 969 (iii) subject to Subsection (4), request that:
- 970 (A) the association make the copies or electronic scans of the requested documents;
- 972 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 974 (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
- 977 (D) the association email the requested documents to an email address provided in the request.
- 979 (4)

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- (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.
- 981 (b) If an association produces the copies or electronic scans:
- 982 (i) the copies or electronic scans shall be legible and accurate;[-and]
- 983 (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:
- 986 (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 988 (B) 10 cents per page and ~~[\$15]~~ \$20 per hour for the employee's, manager's, or other agent's time[-:] ;
and
- 990 (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).
- 993 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
- 995 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 997 (ii) the lot owner shall pay the duplicating service directly.
- 998 (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.
- 1000 (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.
- 1003 (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:
- 1006 (a) the reasonable costs of inspecting and copying the requested documents;
- 1007 (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
- 1010 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.
- 1012 (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:

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- 1014 (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
- 1017 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 1018 (b) In an action described in Subsection (6)(a):
- 1019 (i) the lot owner may request:
- 1020 (A) injunctive relief requiring the association to comply with the provisions of this section;
- 1022 (B) ~~[\$500]~~ \$1,000 or actual damage, whichever is greater; or
- 1023 (C) any other relief provided by law; and
- 1024 (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.
- 1027 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the lot owner made in accordance with
Subsection (6)(b), notice to the association, and a hearing in which the court finds a likelihood that
the association failed to comply with a provision of this section, the court shall order the association
to immediately comply with the provision.
- 1031 (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.
- 1033 (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:
- 1036 (i) the lot owner's name, address, telephone number, and email address;
- 1037 (ii) each requirement of this section with which the association has failed to comply;
- 1038 (iii) a demand that the association comply with each requirement with which the association has failed
to comply; and
- 1040 (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.
- 1043 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association.
- 1044 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a,
Utah Revised Nonprofit Corporation Act.

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1046 (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.

1048 (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:

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;

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- 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:

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

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- (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
- 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

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(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.**

1052 (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.

1056 (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.

1060 (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:

1064 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:

1066 (i) the provisions of this section; and

1067 (ii) Section 10-9a-606 or 17-27a-606; and

1068 (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.

1071 (4) This section applies to an association regardless of when the association is created.

1072 (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.**

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- 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.
- 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:

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- 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.**

1076 (1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

1077 (2) Section 13-43-202, Land Use and Eminent Domain Advisory Board -- Appointment --
Compensation -- Duties, is repealed July 1, 2026.

1079 (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