

SB0201S01 compared with SB0201

{Omitted text} shows text that was in SB0201 but was omitted in SB0201S01

inserted text shows text that was not in SB0201 but was inserted into SB0201S01

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Real Estate Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions related to real estate.

Highlighted Provisions:

This bill:

- ▶ authorizes an association to establish by rule a minimum lease term of six months or less;
- ▶ provides that a homeowners' association fee for rentals does not apply to certain exempt persons;
- ▶ provides that a homeowners' association may only charge a fee to an owner that owns a rental within the homeowners' association once every 12 months;
- ▶ requires that a homeowners' association hold a meeting and approve a fee before imposing a fee on an owner that owns a rental within the homeowners' association;
- ▶ provides a remedy by which an owner may contest a fee a homeowners' association imposes for a rental;
- ▶ authorizes a representative of a homeowners' association to act as attorney-in-fact for the owners in a homeowners' association for any disposition of common areas;

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modifies the circumstances under which a homeowners' association can prohibit or restrict the conversion of a grass park strip to water-efficient landscaping;

- 21 ▶ authorizes a homeowner to designate an individual other than the homeowner as the primary contact for the homeowner;
- 21 ▶ defines terms;
- 22 ▶ requires that a condominium owner provide the developer notice and an opportunity to repair any alleged design or construction defect before filing a lawsuit; and
- 24 ▶ makes technical and conforming changes.

27 Money Appropriated in this Bill:

28 None

29 None

32 AMENDS:

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

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

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

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

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

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

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

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

41

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

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

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- 44 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**
- 43 (1)
- . (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.
- 45 (b) Notwithstanding Subsection (1)(a), a rule may:
- 46 (i) vary according to the level and type of service that the association of unit owners provides to unit
 owners;
- 48 (ii) differ between residential and nonresidential uses; or
- 49 (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.
- 52 (2)
- . (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners'
 governing documents and any rule that the association of unit owners adopts under Subsection
 ~~[(5)]~~ (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.
- 56 (b) Notwithstanding Subsection (2)(a), a rule may:
- 57 (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;
- 59 (ii) if the rental unit owner retains the right to use the association of unit owners' common areas and
 facilities, even occasionally:
- 61 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 62 (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
- 65 (iii) include a provision in the association of unit owners' governing documents that:
- 66 (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
- 68 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision
 of the governing documents.
- 70 (3)
- . (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit
 owner's household.
- 72 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:

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- 73 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
75 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the
residential dwelling's:
- 77 (A) size and facilities; and
78 (B) fair use of the common areas and facilities.
- 79 [~~(4) Unless contrary to a declaration, a rule may require a minimum lease term.~~]
80 [(5)] (4) Unless otherwise provided in the declaration, an association of unit owners may by rule:
82 (a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;
84 (b) impose and receive any payment, fee, or charge for:
85 (i) the use, rental, or operation of the common areas, except limited common areas and facilities; and
87 (ii) a service provided to a unit owner;
88 (c) impose a charge for a late payment of an assessment; or
89 (d) 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.
- 92 [(6)] (5)
. (a) Except as provided in Subsection [(6)(b)] (5)(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.
- 95 (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.
- 97 [(7)] (6)
. (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.
- 99 (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.
- 101 [(8)] (7)
. (a) A rule may not:
102 (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
104 (A) a for-sale sign; or
105 (B) a political sign;
106 (ii) regulate the content of a political sign; or

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(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

141 ~~[(12)]~~ (11) A rule shall be reasonable.

142 ~~[(13)]~~ (12) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

144 ~~[(14)]~~ (13) This section applies to an association of unit owners regardless of when the association of unit owners is created.

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

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

148 (1)

. (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

149 (i) create restrictions on the number and term of rentals in a condominium project; or

150 (ii) prohibit rentals in the condominium project.

151 (b) ~~[An]~~ Except as provided in Subsection (1)(c), an association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

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

156 (2) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals~~;~~ the restrictions shall include: or charges a fee described in Subsection (9)(c), the association of unit owners shall:

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

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

162 (i) a unit owner in the military for the period of the unit owner's deployment;

163 (ii) a unit occupied by a unit owner's parent, child, or sibling;

164 (iii) a unit owner whose employer has relocated the unit owner for two years or less;

165 (iv) a unit owned by an entity that is occupied by an individual who:

166 (A) has voting rights under the entity's organizing documents; and

167 (B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

169 (v) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

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- 171 (A) a current resident of the unit; or
- 172 (B) the parent, child, or sibling of the current resident of the unit;
- 173 (b) ~~[a provision that allows]~~ allow a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting without a fee described in Subsection (9)(c) until:
- 177 (i) the unit owner occupies the unit;
- 178 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; or
- 181 (iii) the unit is transferred; and
- 182 (c) ~~[a requirement that the association of unit owners]~~ create, by rule or resolution, procedures to:
- 184 (i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (2)(a) and (b); and
- 186 (ii) ensure consistent administration and enforcement of ~~[the rental restrictions]~~ any rental prohibition, restriction, or fee.
- 188 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:
- 190 (a) the conveyance, sale, or other transfer of a unit by deed;
- 191 (b) the granting of a life estate in the unit; or
- 192 (c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.
- 195 (4) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.
- 198 (5) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).
- 201 (6)
- . (a) Subsections (1) through (5) do not apply to:
- 202 (i) a condominium project that contains a time period unit as defined in Section 57-8-3;
- 204 (ii) any other form of timeshare interest as defined in Section 57-19-2; or

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- 205 (iii) subject to Subsection (6)(b), a condominium project in which the initial declaration is recorded
before May 12, 2009, unless, on or after May 12, 2015, the association of unit owners:
- 208 (A) adopts a rental restriction or prohibition; or
- 209 (B) amends an existing rental restriction or prohibition.
- 210 (b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition
before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).
- 213 (7) Notwithstanding this section, an association of unit owners may restrict or prohibit rentals without
an exception described in Subsection (2) if:
- 215 (a) the restriction or prohibition receives unanimous approval by all unit owners; and
- 216 (b) when the restriction or prohibition requires an amendment to the association of unit owners'
declaration, the association of unit owners fulfills all other requirements for amending the
declaration described in the association of unit owners' governing documents.
- 220 (8) Except as provided in Subsection (9), an association of unit owners may not require a unit owner
who owns a rental unit to:
- 222 (a) obtain the association of unit owners' approval of a prospective renter;
- 223 (b) give the association of unit owners:
- 224 (i) a copy of a rental application;
- 225 (ii) a copy of a renter's or prospective renter's credit information or credit report;
- 226 (iii) a copy of a renter's or prospective renter's background check; or
- 227 (iv) documentation to verify the renter's age;
- 228 (c) pay an additional assessment, fine, or fee because the unit is a rental unit;
- 229 (d) use a lease agreement provided by the association; or
- 230 (e) obtain the association's approval of a lease agreement.
- 231 (9)
- . (a) A unit owner who owns a rental unit shall give an association of unit owners the documents
described in Subsection (8)(b) if the unit owner is required to provide the documents by court order
or as part of discovery under the Utah Rules of Civil Procedure.
- 235 (b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by
a certain class of individuals, the association of unit owners may require a unit owner who owns a
rental unit to give the association of unit owners the information described in Subsection (8)(b), if:
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- (i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and
- 242 (ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.
- 245 (c) ~~[An]~~ Subject to Subsection (9)(d), an association that permits at least 35% of the units in the association to be rental units may charge a unit owner who owns a rental unit ~~[an annual]~~ a fee of up to \$200 once every 12 months to defray the association's additional administrative expenses directly related to a unit that is a rental unit, as detailed in ~~[an accounting provided to the unit owner]~~ a notice provided to the unit owner.
- 251 (d) Before an association may charge a fee described in Subsection (9)(c), an association shall:
- 253 (i) provide notice to each unit owner in the association of a management committee meeting described in Subsection (9)(d)(ii) ~~{30}~~ 15 days before the day on which the association holds the management committee meeting;
- 256 (ii) hold a management committee meeting to discuss and allow unit members to publicly comment on:
- 258 (A) the new administrative expenses that the association intends to cover using the funds from the fee;
and
- 260 (B) the circumstances that required the association to impose or increase the fee; and
- 262 (iii) ensure that during the management committee meeting described in Subsection (9)(d)(ii), the management committee approves the fee by a majority vote.
- 264 ~~[(d)]~~ (e) An association may require a unit owner who owns a rental unit and the renter of the unit owner's rental unit to sign an addendum to a lease agreement provided by the association.
- 267 (10) The provisions of Subsections (8) and (9) apply to an association of unit owners regardless of when the association of unit owners is created.
- 269 (11) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c), an association shall provide to each unit owner impacted by the fee a notice describing:
- 272 (a) the new administrative expenses that the association intends to cover using the funds from the fee;
and
- 274 (b) the circumstances that required the association to impose or increase the fee.
- 275 (12)
- . (a) A unit owner may contest a fee described in Subsection (9)(c) by providing to the association a written request that the association waive the fee if:

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- 277 (i) the association fails to provide the notice described in Subsection (11) within 30 days after the
279 day on which the association imposes the fee; or
- (ii) the notice the association provides to the unit owner does not contain the information required
281 in Subsection (11).
- (b) If a unit owner contests a fee under this Subsection (12) by submitting a written request, an
283 association shall waive the fee if:
- (i) the association does not provide the notice described in Subsection (11) to the unit owner; or
285 (ii) a notice provided by the association does not contain the information required in Subsection (11).
- 289 (13)
- (a) A unit owner of a rental unit may designate, in a written notice to the association, a primary contact
individual who is not the unit owner with whom the association may communicate as though the
primary contact individual is the unit owner.
- 292 (b) If a unit owner designates a primary contact individual under this Subsection (13), the association
shall provide the unit owner a written notice that confirms the association has changed the
association's records to identify the primary contact individual designated by the unit owner.
- 296 Section 3. Section **57-8-32** is amended to read:
- 297 **57-8-32. Sale of property and common areas and facilities.**
- 289 (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.
- 294 (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.
- 298 (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:
- 302 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the
common areas and facilities, comply with:
- 304 (i) the provisions of this section; and
- 305 (ii) Section 10-9a-606 or 17-27a-606; and

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- 306 (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.
- 309 (4) This section applies to an association of unit owners regardless of when the association of unit
owners is created.
- 311 (5) Unless otherwise prohibited by the association's declaration or bylaws, an authorized representative
of the association may act as attorney-in-fact for the association's unit owners in executing a
sale, conveyance, transfer, or other disposition of the common areas and facilities following an
affirmative vote described in Subsection (1).
- 324 Section 4. Section **57-8a-209** is amended to read:
325 **57-8a-209. Rental restrictions.**
- 317 ~~[(4)]~~
. (1)
. (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
318 (i) create restrictions on the number and term of rentals in an association; or
319 (ii) prohibit rentals in the association.
- 320 (b) ~~[An]~~ Except as provided in Subsection (1)(c), an association that creates a rental restriction or
prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition
in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded
declaration of covenants, conditions, and restrictions.
- 325 (c) An association may establish, by rule, a minimum lease term of six months or less.
- 326 (2) If an association prohibits or imposes ~~[restrictions]~~ a restriction on the number and term of rentals~~;~~
~~the restrictions shall include:]~~ or charges a fee described in Subsection (9)(c), the association shall:
- 329 (a) ~~[a provision that requires the association to exempt from the rental restrictions the following lot
owner and the lot owner's lot]~~ exempt the following from the prohibition, restriction, or fee:
- 332 (i) a lot owner in the military for the period of the lot owner's deployment;
333 (ii) a lot occupied by a lot owner's parent, child, or sibling;
334 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
335 (iv) a lot owned by an entity that is occupied by an individual who:
336 (A) has voting rights under the entity's organizing documents; and
337 (B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

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- 339 (v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate
planning entity was created for:
- 341 (A) the estate of a current resident of the lot; or
- 342 (B) the parent, child, or sibling of the current resident of the lot;
- 343 (b) [~~a provision that allows~~] allow a lot owner who has a rental in the association before the time the
rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county
in which the association is located to continue renting without a fee described in Subsection (9)(c)
until:
- 347 (i) the lot owner occupies the lot;
- 348 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of
ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot;
or
- 351 (iii) the lot is transferred; and
- 352 (c) [~~a requirement that the association~~] create, by rule or resolution, procedures to:
- 353 (i) determine and track the number of rentals and lots in the association subject to the provisions
described in Subsections (2)(a) and (b); and
- 355 (ii) ensure consistent administration and enforcement of [~~the rental restrictions~~] any rental prohibition,
restriction, or fee.
- 357 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:
- 359 (a) the conveyance, sale, or other transfer of a lot by deed;
- 360 (b) the granting of a life estate in the lot; or
- 361 (c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity,
the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or
partnership interests in a 12-month period.
- 364 (4) This section does not limit or affect residency age requirements for an association that complies
with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.
- 367 (5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of
covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial
declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and
procedures required under Subsection (2).
- 371 (6)

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- . (a) Subsections (1) through (5) do not apply to:
- 372 (i) an association that contains a time period unit as defined in Section 57-8-3;
- 373 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
- 374 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or
after May 12, 2015, the association:
- 376 (A) adopts a rental restriction or prohibition; or
- 377 (B) amends an existing rental restriction or prohibition.
- 378 (b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition
before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).
- 381 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception
described in Subsection (2) if:
- 383 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
- 384 (b) when the restriction or prohibition requires an amendment to the association's recorded declaration
of covenants, conditions, and restrictions, the association fulfills all other requirements for
amending the recorded declaration of covenants, conditions, and restrictions described in the
association's governing documents.
- 388 (8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental
lot to:
- 390 (a) obtain the association's approval of a prospective renter;
- 391 (b) give the association:
- 392 (i) a copy of a rental application;
- 393 (ii) a copy of a renter's or prospective renter's credit information or credit report;
- 394 (iii) a copy of a renter's or prospective renter's background check; or
- 395 (iv) documentation to verify the renter's age;
- 396 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;
- 397 (d) use a lease agreement provided by the association; or
- 398 (e) obtain the association's approval of a lease agreement.
- 399 (9)
- . (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection
(8)(b) if the lot owner is required to provide the documents by court order or as part of discovery
under the Utah Rules of Civil Procedure.

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- 402 (b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or
restricts occupancy of the lots by a certain class of individuals, the association may require a lot
owner who owns a rental lot to give the association the information described in Subsection (8)(b),
if:
- 406 (i) the information helps the association determine whether the renter's occupancy of the lot complies
with the association's declaration of covenants, conditions, and restrictions; and
- 409 (ii) the association uses the information to determine whether the renter's occupancy of the lot complies
with the association's declaration of covenants, conditions, and restrictions.
- 412 (c) An association that permits at least 35% of the lots in the association to be rental lots may charge
a lot owner who owns a rental lot [~~an annual~~] a fee of up to \$200 once every 12 months to defray
the association's additional administrative expenses directly related to a lot that is a rental lot, as
detailed in [~~an accounting provided to the lot owner~~] a notice described in Subsection (12).
- 417 (d) An association may require a lot owner who owns a rental lot and the renter of the lot owner's rental
lot to sign an addendum to a lease agreement provided by the association.
- 420 (e) Before an association may charge a fee described in Subsection (9)(c), an association shall:
- 422 (i) provide notice to each lot owner in the association of a board meeting described in Subsection (9)(e)
(ii) {30} 15 days before the day on which the association holds the board meeting;
- 425 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
- 426 (A) the new administrative expenses that the association intends to cover using the funds from the fee;
and
- 428 (B) the circumstances that require the association to impose or increase the fee; and
- 430 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board approves the fee
by a majority vote.
- 432 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an
internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, constructed within
a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:
- 436 (a) land use ordinances;
- 437 (b) building codes;
- 438 (c) health codes; and
- 439 (d) fire codes.

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(11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.

442 (12) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c),
an association shall provide to each lot owner impacted by the fee a notice describing:

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

447 (b) the circumstances that require the association to impose or increase the fee.

448 (13)

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

450 (i) the association fails to provide the notice described in Subsection (12) within 30 days after the
day on which the association imposes the fee; or

452 (ii) the notice the association provides to the lot owner does not contain the information required in
Subsection (12).

454 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written request, an
association of lot owners shall waive the fee if:

456 (i) the association does not provide the notice described in Subsection (12) to the lot owner; or

458 (ii) a notice provided by the association does not contain the information required in Subsection (12).

469 (14)

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

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

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

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

463 (1)

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

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

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- 466 (i) vary according to the level and type of service that the association provides to lot owners;
468 (ii) differ between residential and nonresidential uses; and
469 (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.
- 472 (2)
- . (a) 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.
- 475 (b) Notwithstanding Subsection (2)(a), a rule may:
- 476 (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;
- 478 (ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:
- 480 (A) charge a rental lot owner a fee to use the common areas; or
481 (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
- 484 (iii) include a provision in the association's governing documents that:
- 485 (A) requires each tenant of a rental lot to abide by the terms of the governing documents; and
487 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of
the governing documents.
- 489 (3)
- . (a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign,
symbol, or decoration:
- 491 (i) inside a dwelling on a lot; or
492 (ii) outside a dwelling on:
- 493 (A) a lot;
494 (B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance,
repair, or replacement obligation for, the exterior; or
496 (C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance,
repair, or replacement obligation for, the yard.

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- 498 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner
restriction with respect to a display that is:
- 500 (i) outside a dwelling on:
- 501 (A) a lot;
- 502 (B) the exterior of the dwelling; or
- 503 (C) the front yard of the dwelling; and
- 504 (ii) visible from outside the lot.
- 505 (4)
- . (a) A rule may not prohibit a lot owner from displaying a political sign:
- 506 (i) inside a dwelling on a lot; or
- 507 (ii) outside a dwelling on:
- 508 (A) a lot;
- 509 (B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the
exterior; or
- 511 (C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the
yard.
- 513 (b) A rule may not regulate the content of a political sign.
- 514 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of
posting a political sign.
- 516 (d) An association design provision may not establish design criteria for a political sign.
- 517 (5)
- . (a) A rule may not prohibit a lot owner from displaying a for-sale sign:
- 518 (i) inside a dwelling on a lot; or
- 519 (ii) outside a dwelling on:
- 520 (A) a lot;
- 521 (B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the
exterior; or
- 523 (C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the
yard.
- 525 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of
posting a for-sale sign.

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- 527 (6)
- . (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.
- 529 (b) Notwithstanding Subsection (6)(a), an association may:
- 530 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 532 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 534 (A) size and facilities; and
- 535 (B) fair use of the common areas.
- 536 (7)
- . (a) 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.
- 540 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:
- 543 (i) is not normally associated with a project restricted to residential use; or
- 544 (ii)
- . (A) creates monetary costs for the association or other lot owners;
- 545 (B) creates a danger to the health or safety of occupants of other lots;
- 546 (C) generates excessive noise or traffic;
- 547 (D) creates unsightly conditions visible from outside the dwelling;
- 548 (E) creates an unreasonable source of annoyance to persons outside the lot; or
- 549 (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.
- 551 (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.
- 553 (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.
- 555 (b) Notwithstanding Subsection (7)(b), an association may:
- 556 (i) change the common areas available to a lot owner;

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- 557 (ii) adopt generally applicable rules for the use of common areas; or
558 (iii) deny use privileges to a lot owner who:
559 (A) is delinquent in paying assessments;
560 (B) abuses the common areas; or
561 (C) violates the governing documents.
562 (c) This Subsection (8) does not permit a rule that:
563 (i) alters the method of levying assessments; or
564 (ii) increases the amount of assessments as provided in the declaration.
565 (9)
. ~~§~~ → [(a){ ~~←§~~ } Subject to Subsection (9)(b), a-] A rule may not:
566 ~~§~~ → [(i){ (a) } ~~←§~~] (a) prohibit the transfer of a lot; or
567 ~~§~~ → [(ii){ (b) } ~~←§~~] (b) require the consent of the association or board to transfer a lot.
568 [~~(b) Unless contrary to a declaration, a rule may require a minimum lease term.~~]
569 (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.
572 (b) The exemption in Subsection (10)(a):
573 (i) applies during the period of the lot owner's ownership of the lot; and
574 (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).
576 (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:
579 (a) the project; or
580 (b) other properties in the vicinity of the project.
581 (12) A rule or association or board action may not interfere with:
582 (a) the use or operation of an amenity that the association does not own or control; or
583 (b) the exercise of a right associated with an easement.
584 (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

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terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

- 588 (14) Unless otherwise provided in the declaration, an association may by rule:
589 (a) regulate the use, maintenance, repair, replacement, and modification of common areas;
591 (b) impose and receive any payment, fee, or charge for:
592 (i) the use, rental, or operation of the common areas, except limited common areas; and
594 (ii) a service provided to a lot owner;
595 (c) impose a charge for a late payment of an assessment; or
596 (d) provide for the indemnification of the association's officers and board consistent with Title 16,
Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 598 (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.
- 601 (16)
- . (a) For any area for which one or more lot owners, but not the association, 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:
605 (i) low water use requirements on lawns during drought conditions;
606 (ii) design criterion for water wise landscaping; and
607 (iii) limiting permissible plant material to specific water wise plant material.
- 608 (b) A rule may not:
609 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in
Section 57-8a-231; or
611 (ii) prohibit low water use on lawns during drought conditions.
- 612 (17)
- . (a) Except as provided in Subsection (17)(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.
- 615 (b) Subsection (17)(a) does not apply if the construction would violate:
616 (i) a local land use ordinance;
617 (ii) a building code;
618 (iii) a health code; or

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- 619 (iv) a fire code.
- 620 (18)
- . (a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.
- 623 (b) Subsection (18)(a) does not apply if the modifications would violate:
- 624 (i) a local land use ordinance;
- 625 (ii) a building code;
- 626 (iii) a health code; or
- 627 (iv) a fire code.
- 628 (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:
- 630 (i) unreasonably interfere with the modifications' functionality; or
- 631 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 633 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 634 (i) demonstrate or provide proof of radon contamination; and
- 635 (ii) provide proof that the modifications and any related construction will be performed by a licensed person.
- 637 (19) 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).
- 640 (20) A rule shall be reasonable.
- 641 (21) 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).
- 643 (22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.
- 645 (23) This section applies to an association regardless of when the association is created.
- 662 Section 6. Section **57-8a-231** is amended to read:
- 663 **57-8a-231. Water wise landscaping.**
- 648 (1) As used in this section:
- 649 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.
- 651 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

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- 653 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.
- 655 (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.
- 657 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.
- 659 (e) "Water wise landscaping" means any or all of the following:
- 660 (i) installation of plant materials suited to the microclimate and soil conditions that can:
- 662 (A) remain healthy with minimal irrigation once established; or
- 663 (B) be maintained without the use of overhead spray irrigation;
- 664 (ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or
- 666 (iii) the use of other landscape design features that:
- 667 (A) minimize the need of the landscape for supplemental water from irrigation;
- 668 (B) reduce the landscape area dedicated to lawn or turf; or
- 669 (C) encourage vegetative coverage.
- 670 (f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.
- 672 (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.
- 675 (3)
- . (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:
- 677 (i) comply with a site plan review or other review process before installing water wise landscaping;
- 679 (ii) maintain plant material in a healthy condition; and
- 680 (iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:
- 682 (A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and
- 684 (B) restricts or prohibits the use of specific plant materials other than water wise plant materials.
- 686

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(b) ~~[An]~~ Except where reasonably necessary for erosion control, an association may not require a lot owner to install or keep in place lawn or turf in an area less than eight feet wide.

689 (4)

(a) Subject to Subsection (4)(b), if an association does not adopt rules as required by Subsection 57-8a-218(16) 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:

692 (i) injunctive relief requiring the association to comply with the requirements of Subsection 57-8a-218(16);

694 (ii) \$500, or the lot owner's actual damages, whichever is greater;

695 (iii) any other remedy provided by law; and

696 (iv) reasonable costs and attorney fees.

697 (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.

700 (c) The lot owner shall include in a notice described in Subsection (4)(b):

701 (i) the requirements in Subsection 57-8a-218(16) for adopting water wise landscaping rules with which the association has failed to comply;

703 (ii) a demand that the association come into compliance with the requirements; and

704 (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.

706 { ~~§~~ → ~~{(5)}~~ } ~~{An association shall adopt rules supporting water wise landscaping for any area which }~~
~~{the association is responsible for landscape maintenance.}~~ { } { } ← ~~§~~ }

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

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

710 (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.

714 (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.

718 (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

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the common areas~~[-and facilities]~~ the association sells, conveys, transfers, or otherwise disposes of, if:

- 722 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the
common areas, comply with:
- 724 (i) the provisions of this section; and
- 725 (ii) Section 10-9a-606 or 17-27a-606; and
- 726 (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]~~.
- 729 (4) This section applies to an association regardless of when the association is created.
- 730 (5) Unless otherwise prohibited by the association's governing documents, an authorized representative
of the association may act as attorney-in-fact for the association's lot owners in executing a sale,
conveyance, transfer, or other disposition of the common areas following an affirmative vote
described in Subsection (1).

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

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

736 (1) As used in this section:

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

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

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

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

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

743 (iv) sells the condominium to a consumer.

744 ~~[(1)]~~ (2) Except as provided in Subsection ~~[(2)]~~ (3), an action for defective design or construction is
limited to breach of the contract, whether written or otherwise, including both express and implied
warranties.

747 ~~[(2)]~~ (3) An action for defective design or construction may include damage to other property or
physical personal injury if the damage or injury is caused by the defective design or construction.

750 ~~[(3)]~~ (4) For purposes of Subsection ~~[(2)]~~ (3), property damage does not include:

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

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- 752 (b) diminution of the value of the constructed property because of the defective design or construction.
754 ~~[(4)]~~ (5) Except as provided in Subsections ~~[(2)]~~ (3) and ~~[(6)]~~ (7), only a person in privity of contract with the original contractor, architect, engineer, or the real estate developer may bring an action for defective design or construction~~[may be brought only by a person in privity of contract with the original contractor, architect, engineer, or the real estate developer].~~
- 759 ~~[(5)]~~ (6) If a person in privity of contract sues for defective design or construction under this section, nothing in this section precludes the person from bringing, in the same suit, another cause of action to which the person is entitled based on an intentional or willful breach of a duty existing in law.
- 763 ~~[(6)]~~ (7) Nothing in this section precludes a person from assigning a right under a contract to another person, including to a subsequent owner or a homeowners association.
- 765 (8)
- . (a) Before bringing an action against a condominium developer for defective design or construction, a condominium owner shall provide written notice:
- 767 (i) describing the defective design or construction; and
768 (ii) requesting that the condominium developer make all necessary repairs to fix the defective design or construction.
- 770 (b) A condominium developer, upon receiving a notice described in Subsection (8)(a), shall make all reasonable repairs requested in the notice.
- 772 (c) If the condominium developer does not complete the repairs described in the notice in Subsection (8)(b) within nine months after the day on which the condominium owner provides the notice described in Subsection (8)(a), the condominium owner may bring an action against the condominium developer for defective design or construction.
- 777 (9) A condominium owner may not bring an action against the condominium's developer for defective design or construction before the condominium owner provides the notice described in Subsection (8)(a) and the developer fails to comply with Subsection (8)(c).

794 Section 9. **Effective date.**

This bill takes effect on May 7, 2025.

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