

# HB0217S03 compared with HB0217S02

~~{Omitted text}~~ shows text that was in HB0217S02 but was omitted in HB0217S03

inserted text shows text that was not in HB0217S02 but was inserted into HB0217S03

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## Homeowners' Association Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Neil Walter**

Senate Sponsor:

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### 3 LONG TITLE

#### 4 General Description:

5 This bill amends provisions relating to homeowners' associations.

#### 6 Highlighted Provisions:

7 This bill:

8 ▶ defines terms;

9 ▶ establishes the Office of the Homeowners' Association Ombudsman;

10 ▶ establishes the duties, jurisdiction, and functions of the Office of the Homeowners' Association Ombudsman;

12 ▶ requires the Office of the Homeowners' Association Ombudsman to issue an advisory opinion under certain circumstances;

14 ▶ provides the circumstances under which an advisory opinion of the Office of the Homeowners' Association Ombudsman is admissible in a subsequent proceeding;

16 ▶ makes void and unenforceable a homeowners' association transfer fee under certain conditions;

18 ▶ **provides the requirements that a homeowners' association shall meet before imposing a fee or charge;**

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- 18       ▸ establishes requirements for a homeowners' association to impose a reinvestment fee;
- 19       ▸ changes requirements for amending governing documents;
- 20       ▸ authorizes the Department of Commerce to set and impose an annual registration fee on a  
homeowners' association;
- 22       ▸ requires a homeowners' association to renew the association's registration annually;
- 23       ▸ sets limits on the amount a homeowners' association may charge as a late fee;
- 24       ▸ requires that a homeowners' association provide, upon request, certain documents;
- 25       ▸ prohibits a declarant from selling a part of a common area during the period of administrative  
control under certain circumstances; { and }
- 27       ▸ prohibits a homeowners' association from charging any costs associated with producing certain  
documents{ - } ; and
- 31       ▸ **provides a repeal date for the Office of the Homeowners' Association Ombudsman and  
requires legislative review before the repeal.**

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### AMENDS:

- 57-1-46** , as last amended by Laws of Utah 2024, Chapter 431 , as last amended by Laws of Utah  
2024, Chapter 431
- 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
- 57-8-13.1** , as last amended by Laws of Utah 2020, Chapter 75 , as last amended by Laws of Utah  
2020, Chapter 75
- 57-8-17** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah  
2022, Chapter 439
- 57-8-32** , as last amended by Laws of Utah 2024, Chapter 519 , as last amended by Laws of Utah  
2024, Chapter 519
- 57-8-39** , as last amended by Laws of Utah 2017, Chapter 324 , as last amended by Laws of Utah  
2017, Chapter 324

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

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

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

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

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

**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**

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ENACTS:

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

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

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

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

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

Section 1. Section 1 is enacted to read:

### **CHAPTER 75. Office of the Homeowners' Association Ombudsman**

#### **Part 1. Office of the Homeowners' Association Ombudsman**

##### **13-75-101. Definitions.**

As used in this part:

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

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

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

(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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(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.

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

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

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

Section 2. Section 2 is enacted to read:

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

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

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

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

Section 3. Section 3 is enacted to read:

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

(1) The attorneys of the office shall:

(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

(b) upon request:

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

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

(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.

(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.

(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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- 95 (4) The office:
- 96 (a) shall analyze a complaint and issue an advisory opinion only for issues relating to a violation of {the  
law} a state statute; and
- 98 (b) may not provide any service that requires interpreting the governing documents of an association  
of lot owners or the governing documents of an association of unit owners, including determining  
whether a provision of the governing documents is reasonable.
- 110 Section 4. Section 4 is enacted to read:
- 111 **13-75-104. Advisory opinion -- Process of advisory opinions.**
- 103 (1) A lot owner, a unit owner, an association of lot owners, or an association of unit owners may request  
a written advisory opinion:
- 105 (a) from the office to determine compliance with:
- 106 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a, Community  
Association Act; or
- 108 (ii) other applicable {laws} statutes of this state; and
- 109 (b) at any time before the commencement of {an action in a court with jurisdiction.} :
- 119 (i) an action in a court with jurisdiction; or
- 120 (ii) binding arbitration.
- 121 (2)
- 110 {(2)} (a) A person making a request for an advisory opinion described in Subsection (1) shall:
- 111 {(a)} (i) file the request with the office; {and}
- 112 {(b)} (ii) pay a filing fee of \$150{.} ; and
- 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.
- 113 (3) The office may establish policies providing for partial fee waivers for a person who is financially  
unable to pay the entire fee described in Subsection {(2)(b)} (2)(a)(ii).

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

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- 166 (8)  
(a)
- (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.
- 170 (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.
- 142 ~~{(8)}~~ (9) The party that requests the advisory opinion shall pay the filing fee described in Subsection  
~~{(2)(b)}~~ (2)(a)(ii), unless the office issues an advisory opinion in favor of the party that requests the  
advisory opinion, in which case all necessary parties shall share the cost of the filing fee equally.
- 146 ~~{(9)}~~ (10) An advisory opinion issued {as described in Subsection (6)} under this section is neither  
binding on any party to, nor admissible as evidence in, a dispute involving an association of lot  
owners or an association of unit owners, except as provided in Subsection ~~{(10)}~~ (11).
- 149 ~~{(10)}~~ (11)
- (a) As used in this Subsection (11), "qualifying conditions" means:
- 194 (i) the office issues an advisory opinion described in this section;

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- 195 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated in court; and  
153 ~~{(a)} (iii) {As used in this Subsection (10), "qualifying conditions" means the office issues an advisory~~  
155 ~~opinion described in this section, the same issue that is the subject of the advisory opinion is~~  
158 ~~subsequently litigated in court, and }~~ the court rules in favor of the same party as the advisory  
opinion in a final judgment.
- 153 (b) If the qualifying conditions are met, the court may award the substantially prevailing party:  
155 (i) reasonable attorney fees and court costs relating to the development of the cause of action from the  
date the office delivers the advisory opinion to the date of the court's resolution; and  
158 (ii) if the court finds that the opposing party knowingly and intentionally violated the law governing the  
cause of action, a civil penalty of \$250 for each day described in Subsection {(11)} (12).  
161 ~~{(11)} (12)~~ The civil penalty described in Subsection ~~{(10)(b)}~~ (11)(b):  
162 (a) begins to accrue on the later of:  
163 (i) 30 days after the day on which the office delivers the advisory opinion; or  
164 (ii) the day on which the substantially prevailing party or opposing party filed the action in court; and  
166 (b) ends the day on which the court enters a final judgment.
- 213 Section 5. Section **57-1-46** is amended to read:  
214 **57-1-46. Transfer fee and reinvestment fee covenants.**
- 169 (1) As used in this section:  
170 (a) "Association expenses" means expenses incurred by a common interest association for:  
172 ~~[(i) the administration of the common interest association;]~~  
173 ~~[(ii)]~~ (i) the purchase, ownership, leasing, construction, operation, use, administration, maintenance,  
improvement, repair, or replacement of association facilities, including expenses for taxes,  
insurance, operating reserves, capital reserves, and emergency funds;  
177 ~~[(iii)]~~ (ii) providing, establishing, creating, or managing a facility, activity, service, or program for the  
benefit of property owners, tenants, common areas, the burdened property, or property governed by  
the common interest association; or  
180 ~~[(iv)]~~ (iii) other facilities, activities, services, or programs that are required or permitted under the  
common interest association's organizational documents.
- 182 (b) "Association facilities" means any real property, improvements on real property, or personal  
property owned, leased, constructed, developed, managed, or used by a common interest  
association, including common areas.



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- 185 (c) "Association transfer fee" means a fee, charge, or payment that is:  
186 (i) related to the sale of real property; and  
187 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:  
188 (A) a common interest association; or  
189 (B) a person acting on behalf of the common interest association.  
190 [(e)] (d) "Burdened property" means the real property that is subject to a reinvestment fee covenant or  
transfer fee covenant.  
192 [(d)] (e) "Common areas" means areas described within:  
193 (i) the definition of "common areas and facilities" under Section 57-8-3; and  
194 (ii) the definition of "common areas" under Section 57-8a-102.  
195 [(e)] (f)  
(i) "Common interest association" means:  
196 [(i) means:]  
197 (A) an association, as defined in Section 57-8a-102;  
198 (B) an association of unit owners, as defined in Section 57-8-3; or  
199 (C) a nonprofit association~~[-and]~~ .  
200 (ii) "Common interest association" includes a person authorized by an association, association of unit  
owners, or nonprofit association~~[-as the case may be]~~.  
202 [(f)] (g) "Large master planned development" means an approved development:  
203 (i) of at least 500 acres or 500 units; and  
204 (ii) that includes a commitment to fund, construct, develop, or maintain:  
205 (A) common infrastructure;  
206 (B) association facilities;  
207 (C) community programming;  
208 (D) resort facilities;  
209 (E) open space; or  
210 (F) recreation amenities.  
211 [(g)] (h) "Nonprofit association" means a nonprofit corporation organized under Title 16, Chapter 6a,  
Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern, manage, or maintain  
burdened property.  
214 [(h)] (i) "Organizational documents" means:

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- 215 (i) for an association, as defined in Section 57-8a-102, ~~[means]~~governing documents as defined in  
Section 57-8a-102;
- 217 (ii) for an association of unit owners, as defined in Section 57-8-3, ~~[means]~~a declaration as defined in  
Section 57-8-3; and
- 219 (iii) for a nonprofit association:
- 220 (A) ~~[means]~~a written instrument by which the nonprofit association exercises powers or manages,  
maintains, or otherwise affects the property under the jurisdiction of the nonprofit association; and
- 223 (B) ~~[includes]~~articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and  
declarations of covenants, conditions, and restrictions.
- 225 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:
- 227 (i) upon a buyer or seller of real property;
- 228 (ii) upon and as a result of a transfer of the real property; and
- 229 (iii) that is dedicated to benefiting the common areas, including payment for:
- 230 (A) common planning, facilities, and infrastructure;
- 231 (B) obligations arising from an environmental covenant;
- 232 (C) community programming;
- 233 (D) resort facilities;
- 234 (E) open space;
- 235 (F) recreation amenities;
- 236 (G) charitable purposes; or
- 237 (H) association expenses.
- 238 ~~[(+)]~~ (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 239 (i) affects real property; and
- 240 (ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon  
and as a result of a transfer of the real property, a fee that is dedicated to benefiting the burdened  
property, including payment for:
- 243 (A) common planning, facilities, and infrastructure;
- 244 (B) obligations arising from an environmental covenant;
- 245 (C) community programming;
- 246 (D) resort facilities;
- 247 (E) open space;

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- 248 (F) recreation amenities;  
249 (G) charitable purposes; or  
250 (H) association expenses.  
251 ~~[(j)]~~ (I) "Transfer fee covenant":  
252 (i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other  
instrument or document:  
254 (A) that affects real property;  
255 (B) that is imposed on a future buyer or seller of real property, other than a person who is a party to the  
covenant, restriction, agreement, or other instrument or document; and  
258 (C) to pay a fee upon and as a result of a transfer of the real property; and  
259 (ii) does not include:  
260 (A) an obligation imposed by a court judgment, order, or decree;  
261 (B) an obligation imposed by the federal government or a state or local government entity; or  
263 (C) a reinvestment fee covenant.  
264 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.  
265 (3)  
(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be sold, assigned, or  
conveyed unless the sale, assignment, or conveyance is to a common interest association that was  
formed to benefit the burdened property.  
268 (b) A common interest association may assign or pledge to a lender the right to receive payment under a  
reinvestment fee covenant if:  
270 (i) the assignment or pledge is as collateral for a credit facility; and  
271 (ii) the lender releases the collateral interest upon payment in full of all amounts that the common  
interest association owes to the lender under the credit facility.  
273 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if the  
reinvestment fee covenant is intended to affect property that is the subject of a previously recorded  
transfer fee covenant or reinvestment fee covenant.  
276 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the payment of  
a fee that exceeds .5% of the value of the burdened property, unless the burdened property is part of  
a large master planned development.  
279 (6)

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(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.

283 (b) A notice under Subsection (6)(a) shall:

284 (i) state the name and address of the common interest association to which the fee under the reinvestment fee covenant is required to be paid;

286 (ii) include the notarized signature of the common interest association's authorized representative;

288 (iii) state that the burden of the reinvestment fee covenant is intended to run with the land and to bind successors in interest and assigns;

290 (iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property;

292 (v) state the duration of the reinvestment fee covenant;

293 (vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and

295 (vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the burdened property.

297 (c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of Subsection (6)(b) is valid and effective.

299 (7)

(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not enforceable after May 31, 2010, unless:

301 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in the office of the recorder of each county in which any of the burdened property is located; or

304 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in Subsection (7)(b), is recorded in the office of the recorder of each county in which any of the burdened property is located.

307 (b) A notice under Subsection (7)(a)(ii) shall:

308 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee covenant, or the beneficiary's authorized representative;

310 (ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer fee covenant;

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(iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is intended to run with the land and to bind successors in interest and assigns; and

314 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.

315 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that substantially complies with the requirements of Subsection (7)(b) is valid and effective.

318 (d) A notice under Subsection (7)(b):

319 (i) that is recorded after May 31, 2010, is not enforceable; and

320 (ii) shall comply with the requirements of Section 57-1-47.

321 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010, seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is not an enforceable amendment.

324 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:

326 (a) an involuntary transfer;

327 (b) a transfer that results from a court order;

328 (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity;

330 (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or

332 (e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest association's costs directly related to the transfer of the burdened property, not to exceed \$250.

336 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable unless the association uses the fee only to pay expenses related to the transfer.

338 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:

339 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant; {or} and

341 (b) a majority of voting interests in the association, or a higher percentage if required in the organizational documents, approves the reinvestment fee.

343 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an association may set the amount of a reinvestment fee only:

345 {~~(a) {if a reinvestment fee covenant or the declaration permits;}~~}

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

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

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

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

352 (b) at which:

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

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

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

402 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

358 (1)

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

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

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

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

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

367 (2)

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

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

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

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

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

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- (B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or
- 380 (iii) include a provision in the association of unit owners' governing documents that:
- 381 (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
- 383 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.
- 385 (3)
- (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.
- 387 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 388 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 390 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 392 (A) size and facilities; and
- 393 (B) fair use of the common areas and facilities.
- 394 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 395 (5) ~~[Unless otherwise provided in the declaration, an]~~ {An} Subject to Subsection (15), an association of unit owners may by rule:
- 397 (a) unless otherwise provided in the declaration:
- 398 (i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities; and
- 400 ~~[(b)]~~ (ii) impose and receive any payment, fee, or charge for:
- 401 ~~[(i)]~~ (A) the use, rental, or operation of the common areas, except limited common areas and facilities; [and] or
- 403 ~~[(ii)]~~ (B) a service provided to a unit owner;
- 404 ~~[(e)]~~ (b) impose~~[a charge]~~ , for a late payment of an assessment:
- 405 (i) a late fee, not to exceed the greater of:
- 406 (A) 10% of the assessment amount; or
- 407 (B) \$50; and
- 408 (ii) interest on the assessment and a late fee of up to 1.5% per month; or

## HB0217S02 compared with HB0217S03

- 409    ~~[(d)]~~ (c) provide for the indemnification of the association of unit owners' officers and management  
committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 412    (6)
- (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a  
personal security camera immediately adjacent to the entryway, window, or other outside entry  
point of the owner's condominium unit.
- 415    (b) A rule may prohibit a unit owner from installing a personal security camera in a common area not  
physically connected to the owner's unit.
- 417    (7)
- (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or  
decoration inside the owner's condominium unit.
- 419    (b) An association may adopt a reasonable time, place, and manner restriction with respect to a display  
that is visible from the exterior of a unit.
- 421    (8)
- (a) A rule may not:
- 422        (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
- 424        (A) a for-sale sign; or
- 425        (B) a political sign;
- 426        (ii) regulate the content of a political sign; or
- 427        (iii) establish design criteria for a political sign.
- 428    (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and  
manner of posting a for-sale sign or a political sign.
- 430    (9) For any area for which one or more unit owners are responsible for landscape maintenance, the  
association of unit owners:
- 432        (a) shall adopt rules supporting water wise landscaping, including:
- 433            (i) low water use requirements on lawns during drought conditions;
- 434            (ii) design criterion for water wise landscaping; and
- 435            (iii) limiting permissible plant material to specific water wise plant material;
- 436        (b) may not prohibit low water use on lawns during drought conditions; and
- 437        (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.
- 439



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(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).

(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.

(b) Subsection (11)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a unit owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

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

(12) A rule shall be reasonable.

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

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

(15) Before imposing a fee under Subsection (5), an association of unit owners shall:

(a) adopt a fee schedule by rule that describes the amount of each fee the association of unit owners shall impose; and

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

Section 7. Section **57-8-13.1** is amended to read:

**57-8-13.1. Registration with Department of Commerce -- Department publication of educational materials.**

## HB0217S02 compared with HB0217S03

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

(2) No later than 90 days after the recording of a declaration, an association of unit owners shall register with the department in the manner established by the department.

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

(a) the name and address of the association of unit owners;

(b) the name, address, telephone number, and, if applicable, email address of the president of the association of unit owners;

(c) the name and address of each manager or management committee member;

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

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

(4)

(a) An association of unit owners shall annually renew the registration of the association of unit owners 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.

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

~~[(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):

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

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

## HB0217S02 compared with HB0217S03

- (b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection [~~(4)~~] (5) does not begin until after the expiration of the 90-day period specified in Subsection (2) or [~~(4)~~] (5), respectively.
- 502 (c) An association of unit owners that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).
- 506 (d) An association of unit owners that is not in compliance with the updated registration requirement described in Subsection [~~(4)~~] (5) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection [~~(4)~~] (5).
- 510 (e) Except as described in Subsection [~~(5)~~]~~(f)~~ (6)~~(f)~~, beginning on the date an association of unit owners ends a period of noncompliance:
- 512 (i) a lien may arise under Section 57-8-44 for any event that:
- 513 (A) occurred during the period of noncompliance; and
- 514 (B) would have given rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with the registration requirements described in this section; and
- 517 (ii) an association of unit owners may enforce a lien described in Subsection [~~(5)~~]~~(e)~~ (6)~~(c)~~ or a lien that existed before the period of noncompliance.
- 519 (f) If an owner's unit is conveyed to an independent third party during a period of noncompliance described in this Subsection [~~(5)~~] (6):
- 521 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became final is extinguished when the conveyance of the unit becomes final; and
- 523 (ii) an event that occurred before the conveyance of the unit became final, and that would have given rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes final before the association of unit owners ends the period of noncompliance.
- 528 [~~(6)~~] (7) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations of unit owners, including:

531

## HB0217S02 compared with HB0217S03

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

533 (b) instructions regarding how an association of unit owners may be organized and dismantled in accordance with this chapter.

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

585 **57-8-17. Records -- Availability for examination.**

537 (1)

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

541 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610;{ **and**}

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

545 (A) governing documents;

546 (B) most recent approved minutes;

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

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

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

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

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

554 (H) a balance sheet for the previous three fiscal years{~~;~~ **and**} .

604 (b) {~~a copy of each service contract to which the association is currently a party.~~}

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

558 (i) a Social Security number;

559 (ii) a bank account number; or

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

561 (2)

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

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

## HB0217S02 compared with HB0217S03

- 565 (ii)
- (A) if the association of unit owners has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website; or
- 568 (B) if the association of unit owners does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners during regular business hours at the association of unit owners' address registered with the Department of Commerce under Section 57-8-13.1.
- 573 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 574 (c) If a provision of an association of unit owners' governing documents conflicts with a provision of this section, the provision of this section governs.
- 576 (3) In a written request to inspect or copy documents:
- 577 (a) a unit owner shall include:
- 578 (i) the association of unit owners' name;
- 579 (ii) the unit owner's name;
- 580 (iii) the unit owner's property address;
- 581 (iv) the unit owner's email address;
- 582 (v) a description of the documents requested; and
- 583 (vi) any election or request described in Subsection (3)(b); and
- 584 (b) a unit owner may:
- 585 (i) elect whether to inspect or copy the documents;
- 586 (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 588 (iii) subject to Subsection (4), request that:
- 589 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 591 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 593 (C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 596 (D) the association of unit owners email the requested documents to an email address provided in the request.

## HB0217S02 compared with HB0217S03

- 598 (4)
- (a) An association of unit owners shall comply with a request described in Subsection (3) within two weeks after the day on which the association of unit owners receives the request.
- 601 (b) If an association of unit owners produces the copies or electronic scans:
- 602 (i) the copies or electronic scans shall be legible and accurate;[-and]
- 603 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies [~~or electronic scans~~]and for time spent meeting with the unit owner, which may not exceed:
- 606 (A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 608 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans[-] ; and
- 610 (iii) the association may not charge the unit owner for any costs associated with fulfilling a request for the electronic transmission of the documents described in Subsection (3).
- 613 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 615 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 617 (ii) the unit owner shall pay the duplicating service directly.
- 618 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.
- 621 (e) An association may comply with a request described in Subsection (3) by posting the documents described in Subsection (3) to the association's website or online owner portal.
- 624 (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:
- 627 (a) the reasonable costs of inspecting and copying the requested documents;
- 628 (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
- 631 (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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633 (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:

636 (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

639 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6) (d).

641 (b) In an action described in Subsection (6)(a):

642 (i) the unit owner may request:

643 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;

645 (B) \$500 or actual damage, whichever is greater; or

646 (C) any other relief provided by law; and

647 (ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

650 (c)

(i) In an action described in Subsection (6)(a), upon motion by the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.

655 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

657 (d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

660 (i) the unit owner's name, address, telephone number, and email address;

661 (ii) each requirement of this section with which the association of unit owners has failed to comply;

663 (iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

665

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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.

668 (7)

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

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

672 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.

674 (9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.

725 Section 9. Section **57-8-32** is amended to read:

726 **57-8-32. Sale of property and common areas and facilities.**

679 (1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

684 (2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.

688 (3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

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

694 (i) the provisions of this section; and

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

696 (b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities results in a person other than the association or a unit owner owning the portion of the common areas and facilities.

699



## HB0217S02 compared with HB0217S03

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

701 (5) A declarant may not sell any part of the common areas and facilities during the period of  
administrative control, except { as provided in Section 10-9a-606 or 17-27a-606. } ;

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.

753 Section 10. Section **57-8-39** is amended to read:

754 **57-8-39. Limitation on requirements for amending governing documents -- Limitation on**  
**contracts.**

706 (1)

(a)

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

708 { ~~(A)~~ for an amendment adopted after the period of administrative control, the vote or approval  
of unit owners with more than 67% of the voting interests; }

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

711 { ~~(C)~~ } { ~~(B)~~ } the vote or approval of lien holders holding more than 67% of the first  
position security interests secured by a mortgage or trust deed in the association of unit  
owners.

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

717 [(ii)] (iii) Any provision in the governing documents that prohibits a vote or approval to amend any  
part of the governing documents during a particular time period is invalid.

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

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

723 (ii) unit boundaries; or

724 (iii) unit owners' voting rights.

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

726 (2)

## HB0217S02 compared with HB0217S03

(a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association of unit owners during a period of administrative control is binding beyond the period of administrative control unless terminated by the management committee after the period of administrative control ends.

731 (b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

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

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

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

789 Section 11. Section **57-8a-104** is amended to read:

790 **57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.**

742 (1)

(a)

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

744 ~~{(A) for an amendment adopted after the period of administrative control, the vote or approval of lot owners with more than 67% of the voting interests;}~~

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

747 ~~{(C){} {(B)-}}~~ the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.

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

753 ~~[(ii)]~~ (iii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

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

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

758 (i) lot boundaries; or

759 (ii) lot owner's voting rights.

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760 (2)

(a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.

764 (b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

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

769 (4) Nothing in this section affects any other rights reserved by the person who filed the association's original governing documents or a successor in interest.

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

822 Section 12. Section **57-8a-105** is amended to read:

823 **57-8a-105. Registration with Department of Commerce -- Department publication of educational materials.**

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

777 (2)

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

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

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

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

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

788 (c) contact information for the manager;

789

## HB0217S02 compared with HB0217S03

- (d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's lot; and
- 794 (e) a registration fee [~~not to exceed \$37~~] set by the department in accordance with Section 63J-1-504.  
796 (4)
- (a) An association shall annually renew the association's registration described in Subsection (2).
- 798 (b) The department may impose and set the amount of a renewal registration fee in accordance with Section 63J-1-504.
- 800 [~~(4)~~] (5) An association that has registered under Subsection (2) shall submit to the department an [~~updated registration~~] update to the association's registration information, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).
- 804 [~~(5)~~] (6)
- (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection [~~(4)~~] (5):
- 807 (i) a lien may not arise under Section 57-8a-301; and
- 808 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 809 (b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection [~~(4)~~] (5) does not begin until after the expiration of the 90-day period specified in Subsection (2) or [~~(4)~~] (5), respectively.
- 813 (c) An association that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).
- 816 (d) An association that is not in compliance with the updated registration requirement described in Subsection [~~(4)~~] (5) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection [~~(4)~~] (5).
- 820 (e) Except as described in Subsection [~~(5)(f)~~] (6)(f), beginning on the date an association ends a period of noncompliance:
- 822 (i) a lien may arise under Section 57-8a-301 for any event that:

## HB0217S02 compared with HB0217S03

- 823 (A) occurred during the period of noncompliance; and
- 824 (B) would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements described in this section; and
- 827 (ii) an association may enforce a lien described in this Subsection [~~(5)(e)~~] (6)(e) or a lien that existed before the period of noncompliance.
- 829 (f) If an owner's residential lot is conveyed to an independent third party during a period of noncompliance described in this Subsection [~~(5)~~] (6):
- 831 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential lot became final is extinguished when the conveyance of the residential lot becomes final; and
- 834 (ii) an event that occurred before the conveyance of the residential lot became final, and that would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8a-301 if the conveyance of the residential lot becomes final before the association ends the period of noncompliance.
- 840 [~~(6)~~] (7) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations, including:
- 843 (a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association; and
- 845 (b) instructions regarding how an association may be organized and dismantled in accordance with this chapter.
- 847 [~~(7)~~] (8)
- (a) Unless otherwise expressly exempted, this chapter applies to an association that registers, or renews or updates the association's registration, with the department under this section.
- 850 (b) This section applies to an association regardless of when the association is created.
- 901 Section 13. Section **57-8a-201** is amended to read:
- 902 **57-8a-201. Payment of a common expense or assessment -- Late fees.**
- 853 (1) An owner shall pay the owner's proportionate share of:
- 854 (a) the common expenses; and
- 855 (b) any other assessments levied by the association.
- 856

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(2) A payment described in Subsection (1) shall be in the amount and at the time determined by the board of directors in accordance with the terms of the:

858 (a) declaration; or

859 (b) bylaws.

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

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

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

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

864 (a) a late fee, not to exceed the lesser of:

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

866 (ii) \$50; and

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

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.

922 Section 14. Section **57-8a-227** is amended to read:

923 **57-8a-227. Records -- Availability for examination.**

870 (1)

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

873 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610;{ **and**}

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

877 (A) governing documents;

878 (B) most recent approved minutes;

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

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

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

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

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- 883 (G) a profit and loss statement for the previous three fiscal years; and  
884 (H) a balance sheet for the previous three fiscal years; {and}  
939 (b) {a copy of each service contract to which the association is currently a party.}  
886 ~~{(b)}~~ An association may redact the following information from any document the association produces  
for inspection or copying:  
888 (i) a Social Security number;  
889 (ii) a bank account number; or  
890 (iii) any communication subject to attorney-client privilege.  
891 (2)  
(a) In addition to the requirements described in Subsection (1), an association shall:  
892 (i) make documents available to lot owners in accordance with the association's governing  
documents; and  
894 (ii)  
(A) if the association has an active website, make the documents described in Subsections (1)(a)(ii)(A)  
through (C) available to lot owners, free of charge, through the website; or  
897 (B) if the association does not have an active website, make physical copies of the documents described  
in Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the  
association's address registered with the Department of Commerce under Section 57-8a-105.  
901 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.  
902 (c) If a provision of an association's governing documents conflicts with a provision of this section, the  
provision of this section governs.  
904 (3) In a written request to inspect or copy documents:  
905 (a) a lot owner shall include:  
906 (i) the association's name;  
907 (ii) the lot owner's name;  
908 (iii) the lot owner's property address;  
909 (iv) the lot owner's email address;  
910 (v) a description of the documents requested; and  
911 (vi) any election or request described in Subsection (3)(b); and  
912 (b) a lot owner may:  
913 (i) elect whether to inspect or copy the documents;

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- 914 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the  
documents; or
- 916 (iii) subject to Subsection (4), request that:
- 917 (A) the association make the copies or electronic scans of the requested documents;
- 919 (B) a recognized third party duplicating service make the copies or electronic scans of the requested  
documents;
- 921 (C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and  
make copies or electronic scans of the documents while inspecting the documents; or
- 924 (D) the association email the requested documents to an email address provided in the request.
- 926 (4)
- (a) An association shall comply with a request described in Subsection (3) within two weeks after the  
day on which the association receives the request.
- 928 (b) If an association produces the copies or electronic scans:
- 929 (i) the copies or electronic scans shall be legible and accurate; ~~and~~
- 930 (ii) the lot owner shall pay the association the reasonable cost of the copies ~~[or electronic scans]~~ and for  
time spent meeting with the lot owner, which may not exceed:
- 933 (A) the actual cost that the association paid to a recognized third party duplicating service to make the  
copies or electronic scans; or
- 935 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time[:]; and
- 937 (iii) the association may not charge the lot owner for any costs associated with fulfilling a request for  
electronic transmission of the documents described in Subsection (3).
- 940 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic  
scans:
- 942 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 944 (ii) the lot owner shall pay the duplicating service directly.
- 945 (d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide  
the necessary space, light, and power for the imaging equipment.
- 947 (e) An association may fulfill the request described in Subsection (3) by posting the documents  
described in Subsection (3) to the association's website or online owner portal.
- 950 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an  
association fails to comply with a provision of this section, the association shall pay:



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- 953 (a) the reasonable costs of inspecting and copying the requested documents;
- 954 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the lot owner made the request; and
- 957 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.
- 959 (6)
- (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court under this section if:
- 961 (i) subject to Subsection (9), an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and
- 964 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 965 (b) In an action described in Subsection (6)(a):
- 966 (i) the lot owner may request:
- 967 (A) injunctive relief requiring the association to comply with the provisions of this section;
- 969 (B) \$500 or actual damage, whichever is greater; or
- 970 (C) any other relief provided by law; and
- 971 (ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.
- 974 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.
- 978 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.
- 980 (d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:
- 983 (i) the lot owner's name, address, telephone number, and email address;

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- 984 (ii) each requirement of this section with which the association has failed to comply;  
985 (iii) a demand that the association comply with each requirement with which the association has failed  
to comply; and  
987 (iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days  
after the day on which the lot owner delivers the notice to the association.
- 990 (7)  
(a) The provisions of Section 16-6a-1604 do not apply to an association.  
991 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a,  
Utah Revised Nonprofit Corporation Act.
- 993 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has  
under this section.
- 995 (9) An association is not liable for identifying or providing a document in error, if the association  
identified or provided the erroneous document in good faith.
- 1050 Section 15. Section **57-8a-232** is amended to read:  
1051 **57-8a-232. Sale of common areas.**
- 999 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the governing  
documents, an association may by an affirmative vote of at least 67% of the voting interests of the  
association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.
- 1003 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each lot owner  
shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the  
sale, conveyance, transfer, or other disposition of the common areas.
- 1007 (3) The general easement of ingress, egress, and use of the common areas and facilities granted to an  
association and lot owners through recorded governing documents is extinguished in any portion of  
the common areas and facilities the association sells, conveys, transfers, or otherwise disposes of, if:  
1011 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the  
common areas, comply with:  
1013 (i) the provisions of this section; and  
1014 (ii) Section 10-9a-606 or 17-27a-606; and  
1015 (b) the sale, conveyance, transfer, or other disposition of the portion of the common areas results in  
a person other than the association or a lot owner owning the portion of the common areas and  
facilities.

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- 1018 (4) This section applies to an association regardless of when the association is created.
- 1019 (5) A declarant may not sell any part of the common areas during the period of administrative control,  
except as provided in Section 10-9a-606 or 17-27a-606.

1074 Section 16. Section **63I-1-213** is amended to read:

1075 **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.

1081 Section 17. **Effective date.**

This bill takes effect on May 7, 2025.

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