

Homeowners' Association Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

LONG TITLE**General Description:**

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the Office of the Homeowners' Association Ombudsman;
- establishes the duties, jurisdiction, and functions of the Office of the Homeowners' Association Ombudsman;
- requires the Office of the Homeowners' Association Ombudsman to issue an advisory opinion under certain circumstances;
- provides the circumstances under which an advisory opinion of the Office of the Homeowners' Association Ombudsman is admissible in a subsequent proceeding;
- makes void and unenforceable a homeowners' association transfer fee;
- establishes requirements for a homeowners' association to impose a reinvestment fee;
- changes requirements for amending governing documents;
- sets limits on the amount a homeowners' association may charge as a late fee;
- requires that a homeowners' association provide, upon request, certain documents;
- prohibits a declarant from selling a part of a common area during the period of administrative control; and
- prohibits a homeowners' association from charging any costs associated with producing certain documents.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

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

- 32 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519
 33 **57-8-17**, as last amended by Laws of Utah 2022, Chapter 439
 34 **57-8-32**, as last amended by Laws of Utah 2024, Chapter 519
 35 **57-8-39**, as last amended by Laws of Utah 2017, Chapter 324
 36 **57-8a-104**, as last amended by Laws of Utah 2015, Chapters 34, 325 and 387
 37 **57-8a-201**, as enacted by Laws of Utah 2004, Chapter 153
 38 **57-8a-227**, as last amended by Laws of Utah 2022, Chapter 439
 39 **57-8a-232**, as enacted by Laws of Utah 2024, Chapter 519

40 ENACTS:

- 41 **13-75-101**, Utah Code Annotated 1953
 42 **13-75-102**, Utah Code Annotated 1953
 43 **13-75-103**, Utah Code Annotated 1953
 44 **13-75-104**, Utah Code Annotated 1953

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

47 Section 1. Section **13-75-101** is enacted to read:

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

49 **13-75-101 . Definitions.**

50 As used in this part:

- 51 (1) "Association of lot owners" means an association as that term is defined in Section
 52 57-8a-102.
 53 (2) "Association of unit owners" means the same as that term is defined in Section 57-8-3.
 54 (3) "Department" means the Department of Commerce created in Section 13-1-2.
 55 (4) "Governing documents of an association of lot owners" means the same as governing
 56 documents as that term is defined in Section 57-8a-102.
 57 (5) "Governing documents of an association of unit owners" means the same as governing
 58 documents as that term is defined in Section 57-8-3.
 59 (6) "Lot owner" means the same as that term is defined in Section 57-8a-102.
 60 (7) "Office" means the Office of the Homeowners' Association Ombudsman created in
 61 Subsection 13-75-102(1).
 62 (8) "Unit owner" means the same as that term is defined in Section 57-8-3.

63 Section 2. Section **13-75-102** is enacted to read:

64 **13-75-102 . Creation of Office of the Homeowners' Association Ombudsman.**

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

66 department.

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

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

70 Section 3. Section **13-75-103** is enacted to read:

71 **13-75-103 . Duties and jurisdiction of office.**

72 (1) The attorneys of the office shall:

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

75 (b) upon request:

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

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

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

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

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

89 (4) The office:

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

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

97 Section 4. Section **13-75-104** is enacted to read:

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

99 (1) A lot owner, a unit owner, an association of lot owners, or an association of unit owners

- 100 may request a written advisory opinion:
- 101 (a) from the office to determine compliance with:
- 102 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a,
- 103 Community Association Act; or
- 104 (ii) other applicable laws of this state; and
- 105 (b) at any time before a court with jurisdiction issues a final decision regarding the issue
- 106 of the requested opinion.
- 107 (2) A person making a request for an advisory opinion described in Subsection (1) shall:
- 108 (a) file the request with the office; and
- 109 (b) pay a filing fee of \$150.
- 110 (3) The office may establish policies providing for partial fee waivers for a person who is
- 111 financially unable to pay the entire fee described in Subsection (2)(b).
- 112 (4)(a) The office may not issue an advisory opinion unless the person requesting an
- 113 advisory opinion exhausts all existing remedies provided in:
- 114 (i) the governing documents of an association of lot owners, if the dispute involves a
- 115 lot owner; or
- 116 (ii) the governing documents of an association of unit owners, if the dispute involves
- 117 a unit owner.
- 118 (b) A person requesting an advisory opinion shall include in the person's complaint a
- 119 description of how that person exhausted all existing remedies provided in the
- 120 applicable governing documents.
- 121 (5) Upon receipt of a request for an advisory opinion, the office shall:
- 122 (a) inquire of all parties if there are other necessary parties to the dispute; and
- 123 (b) deliver notice of the request to the opposing parties indicated in the request and any
- 124 other necessary party identified in accordance with Subsection (5)(a).
- 125 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:
- 126 (a) issue a written advisory opinion addressing the issues described in the request for an
- 127 advisory opinion;
- 128 (b) include in the advisory opinion a statement of the facts and law supporting the
- 129 opinion's conclusions; and
- 130 (c) deliver copies of the advisory opinion to all necessary parties identified in
- 131 accordance with Subsection (5)(a).
- 132 (7)(a) The office shall issue a written statement declining to issue an advisory opinion
- 133 when, in the opinion of the office:

- 134 (i) the issues are not ripe for review; or
135 (ii) the issues raised are beyond the scope of the office's statutory duty to review.
- 136 **(b) Notwithstanding Subsection (7)(a), the office is not required to issue a written**
137 statement, and may decline to review a request, if the request deals solely with a
138 contractual dispute.
- 139 **(8) The party that requests the advisory opinion shall pay the filing fee described in**
140 Subsection (2)(b), unless the office issues an advisory opinion in favor of the party that
141 requests the advisory opinion, in which case all necessary parties shall share the cost of
142 the filing fee equally.
- 143 **(9) An advisory opinion issued as described in Subsection (6) is neither binding on any**
144 party to, nor admissible as evidence in, a dispute involving an association of lot owners
145 or an association of unit owners, except as provided in Subsection (10).
- 146 **(10)(a) As used in this Subsection (10), "qualifying conditions" means the office issues**
147 an advisory opinion described in this section, the same issue that is the subject of the
148 advisory opinion is subsequently litigated in court, and the court rules in favor of the
149 same party as the advisory opinion in a final judgment.
- 150 **(b) If the qualifying conditions are met, the court may award the substantially prevailing**
151 party:
- 152 **(i) reasonable attorney fees and court costs relating to the development of the cause**
153 of action from the date the office delivers the advisory opinion to the date of the
154 court's resolution; and
- 155 **(ii) if the court finds that the opposing party knowingly and intentionally violated the**
156 law governing the cause of action, a civil penalty of \$250 for each day described
157 in Subsection (11).
- 158 **(11) The civil penalty described in Subsection (10)(b):**
- 159 **(a) begins to accrue on the later of:**
- 160 **(i) 30 days after the day on which the office delivers the advisory opinion; or**
161 **(ii) the day on which the substantially prevailing party or opposing party filed the**
162 action in court; and
- 163 **(b) ends the day on which the court enters a final judgment.**
- 164 Section 5. Section **57-1-46** is amended to read:
- 165 **57-1-46 . Transfer fee and reinvestment fee covenants.**
- 166 **(1) As used in this section:**
- 167 **(a) "Association expenses" means expenses incurred by a common interest association**

- 168 for:
- 169 (i) the administration of the common interest association;
- 170 (ii) the purchase, ownership, leasing, construction, operation, use, administration,
171 maintenance, improvement, repair, or replacement of association facilities,
172 including expenses for taxes, insurance, operating reserves, capital reserves, and
173 emergency funds;
- 174 (iii) providing, establishing, creating, or managing a facility, activity, service, or
175 program for the benefit of property owners, tenants, common areas, the burdened
176 property, or property governed by the common interest association; or
- 177 (iv) other facilities, activities, services, or programs that are required or permitted
178 under the common interest association's organizational documents.
- 179 (b) "Association facilities" means any real property, improvements on real property, or
180 personal property owned, leased, constructed, developed, managed, or used by a
181 common interest association, including common areas.
- 182 (c) "Association transfer fee" means a fee, charge, or payment that is:
- 183 (i) related to the sale of real property; and
- 184 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
- 185 (A) a common interest association; or
- 186 (B) a person acting on behalf of the common interest association.
- 187 [(e)] (d) "Burdened property" means the real property that is subject to a reinvestment fee
188 covenant or transfer fee covenant.
- 189 [(d)] (e) "Common areas" means areas described within:
- 190 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 191 (ii) the definition of "common areas" under Section 57-8a-102.
- 192 [(e)] (f)(i) "Common interest association" means:
- 193 [(i) means:]
- 194 (A) an association, as defined in Section 57-8a-102;
- 195 (B) an association of unit owners, as defined in Section 57-8-3; or
- 196 (C) a nonprofit association~~[; and]~~ .
- 197 (ii) "Common interest association" includes a person authorized by an association,
198 association of unit owners, or nonprofit association~~[; as the case may be]~~.
- 199 [(f)] (g) "Large master planned development" means an approved development:
- 200 (i) of at least 500 acres or 500 units; and
- 201 (ii) that includes a commitment to fund, construct, develop, or maintain:

- 202 (A) common infrastructure;
 203 (B) association facilities;
 204 (C) community programming;
 205 (D) resort facilities;
 206 (E) open space; or
 207 (F) recreation amenities.

208 ~~[(g)]~~ (h) "Nonprofit association" means a nonprofit corporation organized under Title 16,
 209 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
 210 govern, manage, or maintain burdened property.

211 ~~[(h)]~~ (i) "Organizational documents" means:

212 (i) for an association, as defined in Section 57-8a-102, ~~[means-]~~governing documents
 213 as defined in Section 57-8a-102;

214 (ii) for an association of unit owners, as defined in Section 57-8-3, ~~[means-]~~a
 215 declaration as defined in Section 57-8-3; and

216 (iii) for a nonprofit association:

217 (A) ~~[means-]~~a written instrument by which the nonprofit association exercises
 218 powers or manages, maintains, or otherwise affects the property under the
 219 jurisdiction of the nonprofit association; and

220 (B) ~~[includes-]~~articles of incorporation, bylaws, plats, charters, the nonprofit
 221 association's rules, and declarations of covenants, conditions, and restrictions.

222 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest
 223 association:

224 (i) upon a buyer or seller of real property;

225 (ii) upon and as a result of a transfer of the real property; and

226 (iii) that is dedicated to benefiting the common areas, including payment for:

227 (A) common planning, facilities, and infrastructure;

228 (B) obligations arising from an environmental covenant;

229 (C) resort facilities;

230 (D) open space; or

231 (E) recreation amenities.

232 ~~[(i)]~~ (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

233 (i) affects real property; and

234 (ii) obligates a future buyer or seller of the real property to pay to a common interest
 235 association, upon and as a result of a transfer of the real property, a fee that is

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

- 270 (5) A reinvestment fee covenant recorded on or after March 16, 2010 may not obligate the
271 payment of a fee that exceeds .5% of the value of the burdened property, unless the
272 burdened property is part of a large master planned development.
- 273 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010 is void and
274 unenforceable unless a notice of reinvestment fee covenant, separate from the
275 reinvestment fee covenant, is recorded in the office of the recorder of each county in
276 which any of the burdened property is located.
- 277 (b) A notice under Subsection (6)(a) shall:
- 278 (i) state the name and address of the common interest association to which the fee
279 under the reinvestment fee covenant is required to be paid;
- 280 (ii) include the notarized signature of the common interest association's authorized
281 representative;
- 282 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
283 land and to bind successors in interest and assigns;
- 284 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
285 of an additional reinvestment fee covenant on the burdened property;
- 286 (v) state the duration of the reinvestment fee covenant;
- 287 (vi) state the purpose of the fee required to be paid under the reinvestment fee
288 covenant; and
- 289 (vii) state that the fee required to be paid under the reinvestment fee covenant is
290 required to benefit the burdened property.
- 291 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
292 requirements of Subsection (6)(b) is valid and effective.
- 293 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
294 2010 is not enforceable after May 31, 2010, unless:
- 295 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
296 the office of the recorder of each county in which any of the burdened property is
297 located; or
- 298 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
299 Subsection (7)(b), is recorded in the office of the recorder of each county in which
300 any of the burdened property is located.
- 301 (b) A notice under Subsection (7)(a)(ii) shall:
- 302 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
303 or transfer fee covenant, or the beneficiary's authorized representative;

- 304 (ii) state the name and current address of the beneficiary under the reinvestment fee
305 covenant or transfer fee covenant;
- 306 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
307 intended to run with the land and to bind successors in interest and assigns; and
308 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 309 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
310 substantially complies with the requirements of Subsection (7)(b) is valid and
311 effective.
- 312 (d) A notice under Subsection (7)(b):
313 (i) that is recorded after May 31, 2010, is not enforceable; and
314 (ii) shall comply with the requirements of Section 57-1-47.
- 315 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
316 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
317 not an enforceable amendment.
- 318 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
319 upon:
- 320 (a) an involuntary transfer;
321 (b) a transfer that results from a court order;
322 (c) a bona fide transfer to a family member of the seller within three degrees of
323 consanguinity who, before the transfer, provides adequate proof of consanguinity;
324 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
325 decree of distribution; or
326 (e) the transfer of burdened property by a financial institution, except to the extent that
327 the reinvestment fee covenant requires the payment of a common interest
328 association's costs directly related to the transfer of the burdened property, not to
329 exceed \$250.
- 330 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable.
- 331 (10) An association may not impose or set the amount of a reinvestment fee unless at least
332 67% of voting interests in the association, or a higher percentage if required in the
333 organizational documents, approves the reinvestment fee.
- 334 Section 6. Section **57-8-8.1** is amended to read:
- 335 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**
- 336 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
337 owners similarly.

- 338 (b) Notwithstanding Subsection (1)(a), a rule may:
- 339 (i) vary according to the level and type of service that the association of unit owners
- 340 provides to unit owners;
- 341 (ii) differ between residential and nonresidential uses; or
- 342 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
- 343 reasonable limit on the number of individuals that may use the common areas and
- 344 facilities as the rental unit tenant's guest or as the unit owner's guest.
- 345 (2)(a) If a unit owner owns a rental unit and is in compliance with the association of
- 346 unit owners' governing documents and any rule that the association of unit owners
- 347 adopts under Subsection (5), a rule may not treat the unit owner differently because
- 348 the unit owner owns a rental unit.
- 349 (b) Notwithstanding Subsection (2)(a), a rule may:
- 350 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
- 351 purposes other than attending an association meeting or managing the rental unit;
- 352 (ii) if the rental unit owner retains the right to use the association of unit owners'
- 353 common areas and facilities, even occasionally:
- 354 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 355 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
- 356 reasonable limit on the number of individuals that may use the common areas
- 357 and facilities as the rental unit tenant's guest or as the unit owner's guest; or
- 358 (iii) include a provision in the association of unit owners' governing documents that:
- 359 (A) requires each tenant of a rental unit to abide by the terms of the governing
- 360 documents; and
- 361 (B) holds the tenant and the rental unit owner jointly and severally liable for a
- 362 violation of a provision of the governing documents.
- 363 (3)(a) A rule may not interfere with the freedom of a unit owner to determine the
- 364 composition of the unit owner's household.
- 365 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 366 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
- 367 or
- 368 (ii) limit the total number of occupants permitted in each residential dwelling on the
- 369 basis of the residential dwelling's:
- 370 (A) size and facilities; and
- 371 (B) fair use of the common areas and facilities.

- 372 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 373 (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:
- 374 (a) regulate the use, maintenance, repair, replacement, and modification of common
- 375 areas and facilities;
- 376 (b) impose and receive any payment, fee, or charge for:
- 377 (i) the use, rental, or operation of the common areas, except limited common areas
- 378 and facilities; and
- 379 (ii) a service provided to a unit owner;
- 380 (c) impose~~[-a charge]~~, for a late payment of an assessment:
- 381 (i) a monthly penalty, equal to the lesser of:
- 382 (A) 5% of the assessment amount; or
- 383 (B) \$50; and
- 384 (ii) interest on the penalty of up to 1.5% per month; or
- 385 (d) provide for the indemnification of the association of unit owners' officers and
- 386 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
- 387 Corporation Act.
- 388 (6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner
- 389 from installing a personal security camera immediately adjacent to the entryway,
- 390 window, or other outside entry point of the owner's condominium unit.
- 391 (b) A rule may prohibit a unit owner from installing a personal security camera in a
- 392 common area not physically connected to the owner's unit.
- 393 (7)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
- 394 sign, symbol, or decoration inside the owner's condominium unit.
- 395 (b) An association may adopt a reasonable time, place, and manner restriction with
- 396 respect to a display that is visible from the exterior of a unit.
- 397 (8)(a) A rule may not:
- 398 (i) prohibit a unit owner from displaying in a window of the owner's condominium
- 399 unit:
- 400 (A) a for-sale sign; or
- 401 (B) a political sign;
- 402 (ii) regulate the content of a political sign; or
- 403 (iii) establish design criteria for a political sign.
- 404 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time,
- 405 place, and manner of posting a for-sale sign or a political sign.

- 406 (9) For any area for which one or more unit owners are responsible for landscape
407 maintenance, the association of unit owners:
- 408 (a) shall adopt rules supporting water wise landscaping, including:
- 409 (i) low water use requirements on lawns during drought conditions;
- 410 (ii) design criterion for water wise landscaping; and
- 411 (iii) limiting permissible plant material to specific water wise plant material;
- 412 (b) may not prohibit low water use on lawns during drought conditions; and
- 413 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient
414 landscaping.
- 415 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
416 operated, or owned by the association, subject to the exceptions described in Subsection
417 77-27-21.7(3).
- 418 (11)(a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner
419 from making modifications, consistent with industry standards, for radon mitigation.
- 420 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 421 (i) a local land use ordinance;
- 422 (ii) a building code;
- 423 (iii) a health code; or
- 424 (iv) a fire code.
- 425 (c) A rule governing the placement or external appearance of modifications may apply to
426 modifications for radon mitigation unless the rule would:
- 427 (i) unreasonably interfere with the modifications' functionality; or
- 428 (ii) add more than 40% of the modifications' original cost to the cost of installing the
429 modifications.
- 430 (d) A rule may require that a unit owner making modifications related to radon
431 mitigation:
- 432 (i) demonstrate or provide proof of radon contamination; and
- 433 (ii) provide proof that the modifications and any related construction will be
434 performed by a licensed person.
- 435 (12) A rule shall be reasonable.
- 436 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of
437 Subsections (1) through (5), except Subsection (1)(b)(ii).
- 438 (14) This section applies to an association of unit owners regardless of when the association
439 of unit owners is created.

440 Section 7. Section **57-8-17** is amended to read:

441 **57-8-17 . Records -- Availability for examination.**

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

446 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance
447 with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and
448 16-6a-1610;[~~and~~]

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

450 (A) governing documents;

451 (B) most recent approved minutes;

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

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

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

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

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

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

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

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

463 (i) a Social Security number;

464 (ii) a bank account number; or

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

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

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

470 (ii)(A) if the association of unit owners has an active website, make the
471 documents described in Subsections (1)(a)(ii)(A) through (C) available to unit
472 owners, free of charge, through the website; or

473 (B) if the association of unit owners does not have an active website, make

- 474 physical copies of the documents described in Subsections (1)(a)(ii)(A)
475 through (C) available to unit owners during regular business hours at the
476 association of unit owners' address registered with the Department of
477 Commerce under Section 57-8-13.1.
- 478 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 479 (c) If a provision of an association of unit owners' governing documents conflicts with a
480 provision of this section, the provision of this section governs.
- 481 (3) In a written request to inspect or copy documents:
- 482 (a) a unit owner shall include:
- 483 (i) the association of unit owners' name;
- 484 (ii) the unit owner's name;
- 485 (iii) the unit owner's property address;
- 486 (iv) the unit owner's email address;
- 487 (v) a description of the documents requested; and
- 488 (vi) any election or request described in Subsection (3)(b); and
- 489 (b) a unit owner may:
- 490 (i) elect whether to inspect or copy the documents;
- 491 (ii) if the unit owner elects to copy the documents, request hard copies or electronic
492 scans of the documents; or
- 493 (iii) subject to Subsection (4), request that:
- 494 (A) the association of unit owners make the copies or electronic scans of the
495 requested documents;
- 496 (B) a recognized third party duplicating service make the copies or electronic
497 scans of the requested documents;
- 498 (C) the unit owner be allowed to bring any necessary imaging equipment to the
499 place of inspection and make copies or electronic scans of the documents while
500 inspecting the documents; or
- 501 (D) the association of unit owners email the requested documents to an email
502 address provided in the request.
- 503 (4)(a) An association of unit owners shall comply with a request described in
504 Subsection (3) within two weeks after the day on which the association of unit
505 owners receives the request.
- 506 (b) If an association of unit owners produces the copies or electronic scans:
- 507 (i) the copies or electronic scans shall be legible and accurate; [~~and~~]

- 508 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the
509 copies [~~or electronic scans~~]and for time spent meeting with the unit owner, which
510 may not exceed:
- 511 (A) the actual cost that the association of unit owners paid to a recognized third
512 party duplicating service to make the copies or electronic scans; or
- 513 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other
514 agent's time making the copies or electronic scans[~~;~~] ; and
- 515 (iii) the association may not charge the unit owner for any costs associated with
516 fulfilling a request for the electronic transmission of the documents described in
517 Subsection (3).
- 518 (c) If a unit owner requests a recognized third party duplicating service make the copies
519 or electronic scans:
- 520 (i) the association of unit owners shall arrange for the delivery and pick up of the
521 original documents; and
- 522 (ii) the unit owner shall pay the duplicating service directly.
- 523 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the
524 inspection, the association of unit owners shall provide the necessary space, light, and
525 power for the imaging equipment.
- 526 (5) If, in response to a unit owner's request to inspect or copy documents, an association of
527 unit owners fails to comply with a provision of this section, the association of unit
528 owners shall pay:
- 529 (a) the reasonable costs of inspecting and copying the requested documents;
- 530 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner
531 who made the request for each day the request continues unfulfilled, beginning the
532 sixth day after the day on which the unit owner made the request; and
- 533 (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the
534 inspection and copies of the requested documents.
- 535 (6)(a) In addition to any remedy in the association of unit owners' governing documents
536 or as otherwise provided by law, a unit owner may file an action in court under this
537 section if:
- 538 (i) subject to Subsection (9), an association of unit owners fails to make documents
539 available to the unit owner in accordance with this section, the association of unit
540 owners' governing documents, or as otherwise provided by law; and
- 541 (ii) the association of unit owners fails to timely comply with a notice described in

- 542 Subsection (6)(d).
- 543 (b) In an action described in Subsection (6)(a):
- 544 (i) the unit owner may request:
- 545 (A) injunctive relief requiring the association of unit owners to comply with the
- 546 provisions of this section;
- 547 (B) \$500 or actual damage, whichever is greater; or
- 548 (C) any other relief provided by law; and
- 549 (ii) the court shall award costs and reasonable attorney fees to the prevailing party,
- 550 including any reasonable attorney fees incurred before the action was filed that
- 551 relate to the request that is the subject of the action.
- 552 (c)(i) In an action described in Subsection (6)(a), upon motion by the unit owner,
- 553 notice to the association of unit owners, and a hearing in which the court finds a
- 554 likelihood that the association of unit owners failed to comply with a provision of
- 555 this section, the court shall order the association of unit owners to immediately
- 556 comply with the provision.
- 557 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
- 558 after the day on which the unit owner files the motion.
- 559 (d) At least 10 days before the day on which a unit owner files an action described in
- 560 Subsection (6)(a), the unit owner shall deliver a written notice to the association of
- 561 unit owners that states:
- 562 (i) the unit owner's name, address, telephone number, and email address;
- 563 (ii) each requirement of this section with which the association of unit owners has
- 564 failed to comply;
- 565 (iii) a demand that the association of unit owners comply with each requirement with
- 566 which the association of unit owners has failed to comply; and
- 567 (iv) a date by which the association of unit owners shall remedy the association of
- 568 unit owners' noncompliance that is at least 10 days after the day on which the unit
- 569 owner delivers the notice to the association of unit owners.
- 570 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association of unit
- 571 owners.
- 572 (b) The provisions of this section apply regardless of any conflicting provision in Title
- 573 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 574 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that
- 575 the unit owner has under this section.

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

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

580 **57-8-32 . Sale of property and common areas and facilities.**

581 (1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the
582 declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and
583 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
584 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
585 common areas and facilities.

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

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

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

596 (i) the provisions of this section; and

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

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

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

603 (5) A declarant may not sell any part of the common areas and facilities during the period
604 of administrative control.

605 Section 9. Section **57-8-39** is amended to read:

606 **57-8-39 . Limitation on requirements for amending governing documents --**

607 **Limitation on contracts.**

608 (1)(a)(i) To amend the governing documents, the governing documents may not
609 require:

610 ~~[(A) for an amendment adopted after the period of administrative control, the~~
 611 ~~vote or approval of unit owners with more than 67% of the voting interests;]~~
 612 ~~[(B)] (A) the approval of any specific unit owner; or~~
 613 ~~[(C)] (B) the vote or approval of lien holders holding more than 67% of the first~~
 614 ~~position security interests secured by a mortgage or trust deed in the~~
 615 ~~association of unit owners.~~

616 (ii) To adopt an amendment after the period of administrative control, the governing
 617 documents shall require the vote or approval of unit owners with at least 67% of
 618 the voting interests.

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

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

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

625 (ii) unit boundaries; or

626 (iii) unit owners' voting rights.

627 (c) The management committee may not amend the declaration.

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

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

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

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

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

641 Section 10. Section **57-8a-104** is amended to read:

642 **57-8a-104 . Limitation on requirements for amending governing documents --**

643 **Limitation on contracts.**

- 644 (1)(a)(i) To amend the governing documents, the governing documents may not
645 require:
- 646 ~~[(A) for an amendment adopted after the period of administrative control, the~~
647 ~~vote or approval of lot owners with more than 67% of the voting interests;]~~
648 ~~[(B)] (A) the approval of any specific lot owner; or~~
649 ~~[(C)] (B) the vote or approval of lien holders holding more than 67% of the first~~
650 ~~position security interests secured by a mortgage or trust deed in the~~
651 ~~association.~~
- 652 (ii) To adopt an amendment after the period of administrative control, the governing
653 documents shall require the vote or approval of lot owners with at least 67% of the
654 voting interests.
- 655 ~~[(ii)] (iii) Any provision in the governing documents that prohibits a vote or approval~~
656 ~~to amend any part of the governing documents during a particular time period is~~
657 ~~invalid.~~
- 658 (iv) The board may not amend the declaration.
- 659 (b) Subsection (1)(a) does not apply to an amendment affecting only:
- 660 (i) lot boundaries; or
661 (ii) lot owner's voting rights.
- 662 (2)(a) A contract for services such as garbage collection, maintenance, lawn care, or
663 snow removal executed on behalf of the association during a period of administrative
664 control is binding beyond the period of administrative control unless terminated by
665 the board of directors after the period of administrative control ends.
- 666 (b) Subsection (2)(a) does not apply to golf course and amenity management, utilities,
667 cable services, and other similar services that require an investment of infrastructure
668 or capital.
- 669 (3) Voting interests under Subsection (1) are calculated in the manner required by the
670 governing documents.
- 671 (4) Nothing in this section affects any other rights reserved by the person who filed the
672 association's original governing documents or a successor in interest.
- 673 (5) This section applies to an association regardless of when the association is created.
- 674 Section 11. Section **57-8a-201** is amended to read:
- 675 **57-8a-201 . Payment of a common expense or assessment -- Late fees.**
- 676 (1) An owner shall pay the owner's proportionate share of:
- 677 (a) the common expenses; and

- 678 (b) any other assessments levied by the association.
- 679 (2) A payment described in Subsection (1) shall be in the amount and at the time
- 680 determined by the board of directors in accordance with the terms of the:
- 681 (a) declaration; or
- 682 (b) bylaws.
- 683 (3) An assessment levied against a lot is:
- 684 (a) a debt of the owner at the time the assessment is made; and
- 685 (b) collectible as a debt described in Subsection (3)(a).

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

- 687 (a) a monthly penalty, equal to the lesser of:
- 688 (i) 5% of the assessment amount; or
- 689 (ii) \$50; and
- 690 (b) interest on the penalty of up to 1.5% per month.

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

692 **57-8a-227 . Records -- Availability for examination.**

- 693 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association is
- 694 incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an
- 695 association shall keep and make available to lot owners:
- 696 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance
- 697 with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and
- 698 16-6a-1610;~~and~~
- 699 (ii) a copy of the association's:
- 700 (A) governing documents;
- 701 (B) most recent approved minutes;
- 702 (C) most recent annual budget and financial statement;
- 703 (D) most recent reserve analysis;~~and~~
- 704 (E) certificate of insurance for each insurance policy the association holds~~[-]~~ ;
- 705 (F) board meeting minutes from the previous three calendar years;
- 706 (G) a profit and loss statement for the previous three fiscal years; and
- 707 (H) a balance sheet for the previous three fiscal years; and
- 708 (iii) a copy of each service contract to which the association is currently a party.
- 709 (b) An association may redact the following information from any document the
- 710 association produces for inspection or copying:
- 711 (i) a Social Security number;

- 712 (ii) a bank account number; or
713 (iii) any communication subject to attorney-client privilege.
- 714 (2)(a) In addition to the requirements described in Subsection (1), an association shall:
- 715 (i) make documents available to lot owners in accordance with the association's
716 governing documents; and
- 717 (ii)(A) if the association has an active website, make the documents described in
718 Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge,
719 through the website; or
- 720 (B) if the association does not have an active website, make physical copies of the
721 documents described in Subsections (1)(a)(ii)(A) through (C) available to lot
722 owners during regular business hours at the association's address registered
723 with the Department of Commerce under Section 57-8a-105.
- 724 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 725 (c) If a provision of an association's governing documents conflicts with a provision of
726 this section, the provision of this section governs.
- 727 (3) In a written request to inspect or copy documents:
- 728 (a) a lot owner shall include:
- 729 (i) the association's name;
- 730 (ii) the lot owner's name;
- 731 (iii) the lot owner's property address;
- 732 (iv) the lot owner's email address;
- 733 (v) a description of the documents requested; and
- 734 (vi) any election or request described in Subsection (3)(b); and
- 735 (b) a lot owner may:
- 736 (i) elect whether to inspect or copy the documents;
- 737 (ii) if the lot owner elects to copy the documents, request hard copies or electronic
738 scans of the documents; or
- 739 (iii) subject to Subsection (4), request that:
- 740 (A) the association make the copies or electronic scans of the requested
741 documents;
- 742 (B) a recognized third party duplicating service make the copies or electronic
743 scans of the requested documents;
- 744 (C) the lot owner be allowed to bring any necessary imaging equipment to the
745 place of inspection and make copies or electronic scans of the documents while

- 746 inspecting the documents; or
- 747 (D) the association email the requested documents to an email address provided in
- 748 the request.
- 749 (4)(a) An association shall comply with a request described in Subsection (3) within
- 750 two weeks after the day on which the association receives the request.
- 751 (b) If an association produces the copies or electronic scans:
- 752 (i) the copies or electronic scans shall be legible and accurate; ~~and~~
- 753 (ii) the lot owner shall pay the association the reasonable cost of the copies ~~or~~
- 754 ~~electronic scans~~ and for time spent meeting with the lot owner, which may not
- 755 exceed:
- 756 (A) the actual cost that the association paid to a recognized third party duplicating
- 757 service to make the copies or electronic scans; or
- 758 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other
- 759 agent's time ~~;~~ and
- 760 (iii) the association may not charge the lot owner for any costs associated with
- 761 fulfilling a request for electronic transmission of the documents described in
- 762 Subsection (3).
- 763 (c) If a lot owner requests a recognized third party duplicating service make the copies
- 764 or electronic scans:
- 765 (i) the association shall arrange for the delivery and pick up of the original
- 766 documents; and
- 767 (ii) the lot owner shall pay the duplicating service directly.
- 768 (d) If a lot owner requests to bring imaging equipment to the inspection, the association
- 769 shall provide the necessary space, light, and power for the imaging equipment.
- 770 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy
- 771 documents, an association fails to comply with a provision of this section, the
- 772 association shall pay:
- 773 (a) the reasonable costs of inspecting and copying the requested documents;
- 774 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner
- 775 who made the request for each day the request continues unfulfilled, beginning the
- 776 sixth day after the day on which the lot owner made the request; and
- 777 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the
- 778 inspection and copies of the requested documents.
- 779 (6)(a) In addition to any remedy in the association's governing documents or otherwise

- 780 provided by law, a lot owner may file an action in court under this section if:
- 781 (i) subject to Subsection (9), an association fails to make documents available to the
782 lot owner in accordance with this section, the association's governing documents,
783 or as otherwise provided by law; and
- 784 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 785 (b) In an action described in Subsection (6)(a):
- 786 (i) the lot owner may request:
- 787 (A) injunctive relief requiring the association to comply with the provisions of this
788 section;
- 789 (B) \$500 or actual damage, whichever is greater; or
- 790 (C) any other relief provided by law; and
- 791 (ii) the court shall award costs and reasonable attorney fees to the prevailing party,
792 including any reasonable attorney fees incurred before the action was filed that
793 relate to the request that is the subject of the action.
- 794 (c)(i) In an action described in Subsection (6)(a), upon motion by the lot owner,
795 notice to the association, and a hearing in which the court finds a likelihood that
796 the association failed to comply with a provision of this section, the court shall
797 order the association to immediately comply with the provision.
- 798 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
799 after the day on which the lot owner files the motion.
- 800 (d) At least 10 days before the day on which a lot owner files an action described in
801 Subsection (6)(a), the lot owner shall deliver a written notice to the association that
802 states:
- 803 (i) the lot owner's name, address, telephone number, and email address;
- 804 (ii) each requirement of this section with which the association has failed to comply;
- 805 (iii) a demand that the association comply with each requirement with which the
806 association has failed to comply; and
- 807 (iv) a date by which the association shall remedy the association's noncompliance
808 that is at least 10 days after the day on which the lot owner delivers the notice to
809 the association.
- 810 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association.
- 811 (b) The provisions of this section apply regardless of any conflicting provision in Title
812 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 813 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the

814 lot owner has under this section.

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

817 Section 13. Section **57-8a-232** is amended to read:

818 **57-8a-232 . Sale of common areas.**

819 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the
820 governing documents, an association may by an affirmative vote of at least 67% of the
821 voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of
822 all or part of the common areas.

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

827 (3) The general easement of ingress, egress, and use of the common areas and facilities
828 granted to an association and lot owners through recorded governing documents is
829 extinguished in any portion of the common areas and facilities the association sells,
830 conveys, transfers, or otherwise disposes of, if:

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

833 (i) the provisions of this section; and

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

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

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

839 (5) A declarant may not sell any part of the common areas during the period of
840 administrative control.

841 Section 14. **Effective Date.**

842 This bill takes effect on May 7, 2025.