

R. Neil Walter proposes the following substitute bill:

Homeowners' Association Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor:

2

3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to homeowners' associations.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ establishes the Office of the Homeowners' Association Ombudsman;
- 10 ▶ establishes the duties, jurisdiction, and functions of the Office of the Homeowners'
- 11 Association Ombudsman;
- 12 ▶ requires the Office of the Homeowners' Association Ombudsman to issue an advisory
- 13 opinion under certain circumstances;
- 14 ▶ provides the circumstances under which an advisory opinion of the Office of the
- 15 Homeowners' Association Ombudsman is admissible in a subsequent proceeding;
- 16 ▶ makes void and unenforceable a homeowners' association transfer fee under certain
- 17 conditions;
- 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
- 21 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
- 26 administrative control under certain circumstances; and
- 27 ▶ prohibits a homeowners' association from charging any costs associated with producing
- 28 certain documents.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **57-1-46**, as last amended by Laws of Utah 2024, Chapter 431

36 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519

37 **57-8-13.1**, as last amended by Laws of Utah 2020, Chapter 75

38 **57-8-17**, as last amended by Laws of Utah 2022, Chapter 439

39 **57-8-32**, as last amended by Laws of Utah 2024, Chapter 519

40 **57-8-39**, as last amended by Laws of Utah 2017, Chapter 324

41 **57-8a-104**, as last amended by Laws of Utah 2015, Chapters 34, 325 and 387

42 **57-8a-105**, as last amended by Laws of Utah 2023, Chapter 503

43 **57-8a-201**, as enacted by Laws of Utah 2004, Chapter 153

44 **57-8a-227**, as last amended by Laws of Utah 2022, Chapter 439

45 **57-8a-232**, as enacted by Laws of Utah 2024, Chapter 519

46 ENACTS:

47 **13-75-101**, Utah Code Annotated 1953

48 **13-75-102**, Utah Code Annotated 1953

49 **13-75-103**, Utah Code Annotated 1953

50 **13-75-104**, Utah Code Annotated 1953



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

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

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

55 **13-75-101 . Definitions.**

56 As used in this part:

57 (1) "Association of lot owners" means an association as that term is defined in Section
58 57-8a-102.

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

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

61 (4) "Governing documents of an association of lot owners" means the same as governing
62 documents as that term is defined in Section 57-8a-102.

63 (5) "Governing documents of an association of unit owners" means the same as governing
64 documents as that term is defined in Section 57-8-3.

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

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

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

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

70 **13-75-102 . Creation of Office of the Homeowners' Association Ombudsman.**

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

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

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

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

77 **13-75-103 . Duties and jurisdiction of office.**

78 (1) The attorneys of the office shall:

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

81 (b) upon request:

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

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

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

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

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

95 (4) The office:

96 (a) shall analyze a complaint and issue an advisory opinion only for issues relating to a

97 violation of the law; and

98 (b) may not provide any service that requires interpreting the governing documents of an
99 association of lot owners or the governing documents of an association of unit
100 owners.

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

102 **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
104 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,
107 Community Association Act; or

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

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

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

111 (a) file the request with the office; and

112 (b) pay a filing fee of \$150.

113 (3) The office may establish policies providing for partial fee waivers for a person who is
114 financially unable to pay the entire fee described in Subsection (2)(b).

115 (4)(a) The office may not issue an advisory opinion unless the person requesting an
116 advisory opinion exhausts all existing remedies provided in:

117 (i) the governing documents of an association of lot owners, if the dispute involves a
118 lot owner; or

119 (ii) the governing documents of an association of unit owners, if the dispute involves
120 a unit owner.

121 (b) A person requesting an advisory opinion shall include in the person's complaint a
122 description of how that person exhausted all existing remedies provided in the
123 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

126 (b) deliver notice of the request to the opposing parties indicated in the request and any
127 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
130 advisory opinion;

- 131 (b) include in the advisory opinion a statement of the facts and law supporting the
132 opinion's conclusions; and
- 133 (c) deliver copies of the advisory opinion to all necessary parties identified in
134 accordance with Subsection (5)(a).
- 135 (7)(a) The office shall issue a written statement declining to issue an advisory opinion
136 when, in the opinion of the office:
- 137 (i) the issues are not ripe for review; or
138 (ii) 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 issue a written
140 statement, and may decline to review a request, if the request deals solely with a
141 contractual dispute.
- 142 (8) The party that requests the advisory opinion shall pay the filing fee described in
143 Subsection (2)(b), unless the office issues an advisory opinion in favor of the party that
144 requests the advisory opinion, in which case all necessary parties shall share the cost of
145 the filing fee equally.
- 146 (9) An advisory opinion issued as described in Subsection (6) is neither binding on any
147 party to, nor admissible as evidence in, a dispute involving an association of lot owners
148 or an association of unit owners, except as provided in Subsection (10).
- 149 (10)(a) As used in this Subsection (10), "qualifying conditions" means the office issues
150 an advisory opinion described in this section, the same issue that is the subject of the
151 advisory opinion is subsequently litigated in court, and the court rules in favor of the
152 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
154 party:
- 155 (i) reasonable attorney fees and court costs relating to the development of the cause
156 of action from the date the office delivers the advisory opinion to the date of the
157 court's resolution; and
- 158 (ii) if the court finds that the opposing party knowingly and intentionally violated the
159 law governing the cause of action, a civil penalty of \$250 for each day described
160 in Subsection (11).
- 161 (11) The civil penalty described in Subsection (10)(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

165 action in court; and

166 (b) ends the day on which the court enters a final judgment.

167 Section 5. Section **57-1-46** is amended to read:

168 **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
171 for:

172 [~~(i) the administration of the common interest association;~~]

173 [~~(ii)~~] (i) the purchase, ownership, leasing, construction, operation, use, administration,
174 maintenance, improvement, repair, or replacement of association facilities,
175 including expenses for taxes, insurance, operating reserves, capital reserves, and
176 emergency funds;

177 [~~(iii)~~] (ii) providing, establishing, creating, or managing a facility, activity, service, or
178 program for the benefit of property owners, tenants, common areas, the burdened
179 property, or property governed by the common interest association; or

180 [~~(iv)~~] (iii) other facilities, activities, services, or programs that are required or
181 permitted under the common interest association's organizational documents.

182 (b) "Association facilities" means any real property, improvements on real property, or
183 personal property owned, leased, constructed, developed, managed, or used by a
184 common interest association, including common areas.

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
191 covenant or transfer fee covenant.

192 [~~(f)~~] (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 [~~(g)~~] (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,
 201 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,
 212 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
 213 govern, manage, or maintain burdened property.
- 214 ~~[(h)]~~ (i) "Organizational documents" means:
- 215 (i) for an association, as defined in Section 57-8a-102, ~~[means]~~governing documents
 216 as defined in Section 57-8a-102;
- 217 (ii) for an association of unit owners, as defined in Section 57-8-3, ~~[means]~~a
 218 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
 221 powers or manages, maintains, or otherwise affects the property under the
 222 jurisdiction of the nonprofit association; and
- 223 (B) ~~[includes]~~articles of incorporation, bylaws, plats, charters, the nonprofit
 224 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
 226 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
- 241 association, upon and as a result of a transfer of the real property, a fee that is
- 242 dedicated to benefitting 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;
 - 248 (F) recreation amenities;
 - 249 (G) charitable purposes; or
 - 250 (H) association expenses.

251 [(+)] (l) "Transfer fee covenant":

- 252 (i) means an obligation, however denominated, expressed in a covenant, restriction,
- 253 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
 - 256 who is a party to the covenant, restriction, agreement, or other instrument or
 - 257 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
 - 262 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
 266 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a

- 267 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
269 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
272 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
274 the reinvestment fee covenant is intended to affect property that is the subject of a
275 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
277 payment of a fee that exceeds .5% of the value of the burdened property, unless the
278 burdened property is part of a large master planned development.
- 279 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
280 unenforceable unless a notice of reinvestment fee covenant, separate from the
281 reinvestment fee covenant, is recorded in the office of the recorder of each county in
282 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
285 under the reinvestment fee covenant is required to be paid;
- 286 (ii) include the notarized signature of the common interest association's authorized
287 representative;
- 288 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
289 land and to bind successors in interest and assigns;
- 290 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
291 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
294 covenant; and
- 295 (vii) state that the fee required to be paid under the reinvestment fee covenant is
296 required to benefit the burdened property.
- 297 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
298 requirements of Subsection (6)(b) is valid and effective.
- 299 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
300 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
302 the office of the recorder of each county in which any of the burdened property is
303 located; or
- 304 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
305 Subsection (7)(b), is recorded in the office of the recorder of each county in which
306 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
309 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
311 covenant or transfer fee covenant;
- 312 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
313 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
316 substantially complies with the requirements of Subsection (7)(b) is valid and
317 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,
322 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
323 not an enforceable amendment.
- 324 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
325 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
329 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
331 decree of distribution; or
- 332 (e) the transfer of burdened property by a financial institution, except to the extent that
333 the reinvestment fee covenant requires the payment of a common interest
334 association's costs directly related to the transfer of the burdened property, not to

- 335 exceed \$250.
- 336 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable
337 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) the reinvestment fee is authorized in the declaration or a reinvestment fee covenant;
340 or
341 (b) a majority of voting interests in the association, or a higher percentage if required in
342 the organizational documents, approves the reinvestment fee.
- 343 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
344 association may set the amount of a reinvestment fee only:
345 (a) if a reinvestment fee covenant or the declaration permits;
346 (b) in accordance with the terms of a reinvestment fee covenant or the declaration; and
347 (c) 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
349 vote at a special meeting:
350 (a) called by the members for the purpose of removing or amending the reinvestment
351 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
355 reinvestment fee.
- 356 Section 6. Section **57-8-8.1** is amended to read:
- 357 **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
359 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
362 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
365 reasonable limit on the number of individuals that may use the common areas and
366 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
368 owners' governing documents and any rule that the association of unit owners adopts

369 under Subsection (5), a rule may not treat the unit owner differently because the unit
370 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
373 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'
375 common areas and facilities, even occasionally:

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

377 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
378 reasonable limit on the number of individuals that may use the common areas
379 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
382 documents; and

383 (B) holds the tenant and the rental unit owner jointly and severally liable for a
384 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
386 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;
389 or

390 (ii) limit the total number of occupants permitted in each residential dwelling on the
391 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 association of unit owners may by
396 rule:

397 (a) unless otherwise provided in the declaration:

398 (i) regulate the use, maintenance, repair, replacement, and modification of common
399 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
402 areas and facilities; ~~and~~ or

- 403 [(ii)] (B) a service provided to a unit owner;
- 404 [(e)] (b) impose~~[-a charge]~~ , for a late payment of an assessment:
- 405 (i) a late fee, not to exceed the greater of:
- 406 (A) 10% of the assessment amount; or
- 407 (B) \$50; and
- 408 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 409 [(f)] (c) provide for the indemnification of the association of unit owners' officers and
- 410 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
- 411 Corporation Act.
- 412 (6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from
- 413 installing a personal security camera immediately adjacent to the entryway, window,
- 414 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
- 416 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
- 418 sign, symbol, or decoration inside the owner's condominium unit.
- 419 (b) An association may adopt a reasonable time, place, and manner restriction with
- 420 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
- 423 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,
- 429 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
- 431 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
438 landscaping.
- 439 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
440 operated, or owned by the association, subject to the exceptions described in Subsection
441 77-27-21.7(3).
- 442 (11)(a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner
443 from making modifications, consistent with industry standards, for radon mitigation.
- 444 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 445 (i) a local land use ordinance;
- 446 (ii) a building code;
- 447 (iii) a health code; or
- 448 (iv) a fire code.
- 449 (c) A rule governing the placement or external appearance of modifications may apply to
450 modifications for radon mitigation unless the rule would:
- 451 (i) unreasonably interfere with the modifications' functionality; or
- 452 (ii) add more than 40% of the modifications' original cost to the cost of installing the
453 modifications.
- 454 (d) A rule may require that a unit owner making modifications related to radon
455 mitigation:
- 456 (i) demonstrate or provide proof of radon contamination; and
- 457 (ii) provide proof that the modifications and any related construction will be
458 performed by a licensed person.
- 459 (12) A rule shall be reasonable.
- 460 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of
461 Subsections (1) through (5), except Subsection (1)(b)(ii).
- 462 (14) This section applies to an association of unit owners regardless of when the association
463 of unit owners is created.
- 464 Section 7. Section **57-8-13.1** is amended to read:
- 465 **57-8-13.1 . Registration with Department of Commerce -- Department**
466 **publication of educational materials.**
- 467 (1) As used in this section, "department" means the Department of Commerce created in
468 Section 13-1-2.
- 469 (2) No later than 90 days after the recording of a declaration, an association of unit owners
470 shall register with the department in the manner established by the department.

- 471 (3) The department shall require an association of unit owners registering as required in this
472 section to provide with each registration:
- 473 (a) the name and address of the association of unit owners;
- 474 (b) the name, address, telephone number, and, if applicable, email address of the
475 president of the association of unit owners;
- 476 (c) the name and address of each manager or management committee member;
- 477 (d) the name, address, telephone number, and, if the contact person wishes to use email
478 or facsimile transmission for communicating payoff information, the email address or
479 facsimile number, as applicable, of a primary contact person who has association
480 payoff information that a closing agent needs in connection with the closing of a unit
481 owner's financing, refinancing, or sale of the owner's unit; and
- 482 (e) a registration fee [~~not to exceed \$37~~] set by the department in accordance with
483 Section 63J-1-504.
- 484 (4)(a) An association of unit owners shall annually renew the registration of the
485 association of unit owners described in Subsection (2).
- 486 (b) The department may impose and set the amount of a renewal registration fee in
487 accordance with Section 63J-1-504.
- 488 [(4)] (5) An association of unit owners that has registered under Subsection (2) shall submit
489 to the department an [~~updated registration~~] update to the association of unit owners'
490 registration information, in the manner established by the department, within 90 days
491 after a change in any of the information provided under Subsection (3).
- 492 [(5)] (6)(a) During any period of noncompliance with the registration requirement
493 described in Subsection (2) or the requirement for an updated registration described
494 in Subsection [(4)] (5):
- 495 (i) a lien may not arise under Section 57-8-44; and
- 496 (ii) an association of unit owners may not enforce an existing lien that arose under
497 Section 57-8-44.
- 498 (b) A period of noncompliance with the registration requirement of Subsection (2) or
499 with the updated registration requirement of Subsection [(4)] (5) does not begin until
500 after the expiration of the 90-day period specified in Subsection (2) or [(4)] (5),
501 respectively.
- 502 (c) An association of unit owners that is not in compliance with the registration
503 requirement described in Subsection (2) may end the period of noncompliance by
504 registering with the department in the manner established by the department under

505 Subsection (2).

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

510 (e) Except as described in Subsection [~~(5)(f)~~] (6)(f), beginning on the date an association
511 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
515 unit owners been in compliance with the registration requirements described in
516 this section; and

517 (ii) an association of unit owners may enforce a lien described in Subsection [~~(5)(e)~~]
518 (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
520 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
522 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
524 would have given rise to a lien under Section 57-8-44 had the association of unit
525 owners been in compliance with the registration requirements of this section, may
526 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
527 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
529 providing, in simple and easy to understand language, a brief overview of state law
530 governing associations of unit owners, including:

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

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

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

536 **57-8-17 . Records -- Availability for examination.**

537 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association of unit
538 owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit

- 539 Corporation Act, an association of unit owners shall keep and make available to unit
540 owners:
- 541 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance
542 with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and
543 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
550 owners holds[-] ;
- 551 (F) management committee meeting minutes from the previous three calendar
552 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
- 555 (iii) 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
557 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
562 owners shall:
- 563 (i) make documents available to unit owners in accordance with the association of
564 unit owners' governing documents; and
- 565 (ii)(A) if the association of unit owners has an active website, make the documents
566 described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free
567 of charge, through the website; or
- 568 (B) if the association of unit owners does not have an active website, make
569 physical copies of the documents described in Subsections (1)(a)(ii)(A)
570 through (C) available to unit owners during regular business hours at the
571 association of unit owners' address registered with the Department of
572 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
575 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
587 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
590 requested documents;
- 591 (B) a recognized third party duplicating service make the copies or electronic
592 scans of the requested documents;
- 593 (C) the unit owner be allowed to bring any necessary imaging equipment to the
594 place of inspection and make copies or electronic scans of the documents while
595 inspecting the documents; or
- 596 (D) the association of unit owners email the requested documents to an email
597 address provided in the request.
- 598 (4)(a) An association of unit owners shall comply with a request described in Subsection
599 (3) within two weeks after the day on which the association of unit owners receives
600 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
604 copies ~~[or electronic scans]~~ and for time spent meeting with the unit owner, which
605 may not exceed:
- 606 (A) the actual cost that the association of unit owners paid to a recognized third

- 607 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
609 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
611 fulfilling a request for the electronic transmission of the documents described in
612 Subsection (3).
- 613 (c) If a unit owner requests a recognized third party duplicating service make the copies
614 or electronic scans:
615 (i) the association of unit owners shall arrange for the delivery and pick up of the
616 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
619 inspection, the association of unit owners shall provide the necessary space, light, and
620 power for the imaging equipment.
- 621 (e) An association may comply with a request described in Subsection (3) by posting the
622 documents described in Subsection (3) to the association's website or online owner
623 portal.
- 624 (5) If, in response to a unit owner's request to inspect or copy documents, an association of
625 unit owners fails to comply with a provision of this section, the association of unit
626 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
629 who made the request for each day the request continues unfulfilled, beginning the
630 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
632 inspection and copies of the requested documents.
- 633 (6)(a) In addition to any remedy in the association of unit owners' governing documents
634 or as otherwise provided by law, a unit owner may file an action in court under this
635 section if:
636 (i) subject to Subsection (9), an association of unit owners fails to make documents
637 available to the unit owner in accordance with this section, the association of unit
638 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
640 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
- 644 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,
- 648 including any reasonable attorney fees incurred before the action was filed that
- 649 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,
- 651 notice to the association of unit owners, and a hearing in which the court finds a
- 652 likelihood that the association of unit owners failed to comply with a provision of
- 653 this section, the court shall order the association of unit owners to immediately
- 654 comply with the provision.
- 655 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
- 656 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
- 658 Subsection (6)(a), the unit owner shall deliver a written notice to the association of
- 659 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
- 662 failed to comply;
- 663 (iii) a demand that the association of unit owners comply with each requirement with
- 664 which the association of unit owners has failed to comply; and
- 665 (iv) a date by which the association of unit owners shall remedy the association of
- 666 unit owners' noncompliance that is at least 10 days after the day on which the unit
- 667 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
- 669 owners.
- 670 (b) The provisions of this section apply regardless of any conflicting provision in Title
- 671 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
- 673 the unit owner has under this section.
- 674 (9) An association of unit owners is not liable for identifying or providing a document in

675 error, if the association of unit owners identified or provided the erroneous document in
676 good faith.

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

678 **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
680 declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and
681 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
682 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
683 common areas and facilities.

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

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

692 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
693 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
697 areas and facilities results in a person other than the association or a unit owner
698 owning the portion of the common areas and facilities.

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

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

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

704 **57-8-39 . Limitation on requirements for amending governing documents --**

705 **Limitation on contracts.**

706 (1)(a)(i) To amend the governing documents, the governing documents may not
707 require:

708 [~~(A) for an amendment adopted after the period of administrative control, the vote~~

709 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
 712 position security interests secured by a mortgage or trust deed in the
 713 association of unit owners.

714 (ii) An amendment to the declaration after the period of administrative control may
 715 be adopted by a majority vote of voters, or a greater percentage if required in the
 716 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
 718 to amend any part of the governing documents during a particular time period is
 719 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
 722 expressed in the declaration;

723 (ii) unit boundaries; or

724 (iii) unit owners' voting rights.

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

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

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

734 (3) Voting interests under Subsection (1) are calculated in the manner required by the
 735 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
 738 of unit owners is created.

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

740 **57-8a-104 . Limitation on requirements for amending governing documents --**

741 **Limitation on contracts.**

742 (1)(a)(i) To amend the governing documents, the governing documents may not

743 require:

744 [~~(A) for an amendment adopted after the period of administrative control, the vote~~
 745 ~~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
 748 position security interests secured by a mortgage or trust deed in the
 749 association.

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

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

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

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

758 (i) lot boundaries; or

759 (ii) lot owner's voting rights.

760 (2)(a) A contract for services such as garbage collection, maintenance, lawn care, or
 761 snow removal executed on behalf of the association during a period of administrative
 762 control is binding beyond the period of administrative control unless terminated by
 763 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,
 765 cable services, and other similar services that require an investment of infrastructure
 766 or capital.

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

769 (4) Nothing in this section affects any other rights reserved by the person who filed the
 770 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.

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

773 **57-8a-105 . Registration with Department of Commerce -- Department**
 774 **publication of educational materials.**

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

- 777 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
778 and restrictions establishing an association, the association shall register with the
779 department in the manner established by the department.
- 780 (b) An association existing under a declaration of covenants, conditions, and restrictions
781 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
782 department in the manner established by the department.
- 783 (3) The department shall require an association registering as required in this section to
784 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
787 the association board;
- 788 (c) contact information for the manager;
- 789 (d) the name, address, telephone number, and, if the contact person wishes to use email
790 or facsimile transmission for communicating payoff information, the email address or
791 facsimile number, as applicable, of a primary contact person who has association
792 payoff information that a closing agent needs in connection with the closing of a lot
793 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
795 Section 63J-1-504.
- 796 (4)(a) An association shall annually renew the association's registration described in
797 Subsection (2).
- 798 (b) The department may impose and set the amount of a renewal registration fee in
799 accordance with Section 63J-1-504.
- 800 [(4)] (5) An association that has registered under Subsection (2) shall submit to the
801 department an [~~updated registration~~] update to the association's registration information,
802 in the manner established by the department, within 90 days after a change in any of the
803 information provided under Subsection (3).
- 804 [(5)] (6)(a) During any period of noncompliance with the registration requirement
805 described in Subsection (2) or the requirement for an updated registration described
806 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
810 with the updated registration requirement of Subsection [(4)] (5) does not begin until

- 811 after the expiration of the 90-day period specified in Subsection (2) or [~~(4)~~] (5),
812 respectively.
- 813 (c) An association that is not in compliance with the registration requirement described
814 in Subsection (2) may end the period of noncompliance by registering with the
815 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
817 described in Subsection [~~(4)~~] (5) may end the period of noncompliance by submitting
818 to the department an updated registration in the manner established by the department
819 under Subsection [~~(4)~~] (5).
- 820 (e) Except as described in Subsection [~~(5)~~](~~f~~) (6)(f), beginning on the date an association
821 ends a period of noncompliance:
- 822 (i) a lien may arise under Section 57-8a-301 for any event that:
- 823 (A) occurred during the period of noncompliance; and
824 (B) would have given rise to a lien under Section 57-8a-301 had the association
825 been in compliance with the registration requirements described in this section;
826 and
- 827 (ii) an association may enforce a lien described in this Subsection [~~(5)~~](~~e~~) (6)(e) or a
828 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
830 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
832 lot became final is extinguished when the conveyance of the residential lot
833 becomes final; and
- 834 (ii) an event that occurred before the conveyance of the residential lot became final,
835 and that would have given rise to a lien under Section 57-8a-301 had the
836 association been in compliance with the registration requirements of this section,
837 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
838 residential lot becomes final before the association ends the period of
839 noncompliance.
- 840 [~~(6)~~] (7) The department shall publish educational materials on the department's website
841 providing, in simple and easy to understand language, a brief overview of state law
842 governing associations, including:
- 843 (a) a description of the rights and responsibilities provided in this chapter to any party
844 under the jurisdiction of an association; and

- 845 (b) instructions regarding how an association may be organized and dismantled in
846 accordance with this chapter.
- 847 [~~(7)~~] (8)(a) Unless otherwise expressly exempted, this chapter applies to an association
848 that registers, or renews or updates the association's registration, with the department
849 under this section.
- 850 (b) This section applies to an association regardless of when the association is created.

851 Section 13. Section **57-8a-201** is amended to read:

852 **57-8a-201 . Payment of a common expense or assessment -- Late fees.**

- 853 (1) An owner shall pay the owner's proportionate share of:
- 854 (a) the common expenses; and
- 855 (b) any other assessments levied by the association.
- 856 (2) A payment described in Subsection (1) shall be in the amount and at the time
857 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.

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

869 **57-8a-227 . Records -- Availability for examination.**

- 870 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association is
871 incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an
872 association shall keep and make available to lot owners:
- 873 (i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance
874 with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and
875 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;
- 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
- 885 (iii) 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
- 887 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
- 893 governing documents; and
- 894 (ii)(A) if the association has an active website, make the documents described in
- 895 Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge,
- 896 through the website; or
- 897 (B) if the association does not have an active website, make physical copies of the
- 898 documents described in Subsections (1)(a)(ii)(A) through (C) available to lot
- 899 owners during regular business hours at the association's address registered
- 900 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
- 903 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;
- 914 (ii) if the lot owner elects to copy the documents, request hard copies or electronic
915 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
918 documents;
- 919 (B) a recognized third party duplicating service make the copies or electronic
920 scans of the requested documents;
- 921 (C) the lot owner be allowed to bring any necessary imaging equipment to the
922 place of inspection and make copies or electronic scans of the documents while
923 inspecting the documents; or
- 924 (D) the association email the requested documents to an email address provided in
925 the request.
- 926 (4)(a) An association shall comply with a request described in Subsection (3) within two
927 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~~
931 ~~electronic scans~~ and for time spent meeting with the lot owner, which may not
932 exceed:
- 933 (A) the actual cost that the association paid to a recognized third party duplicating
934 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
936 agent's time ~~[-]~~ ; and
- 937 (iii) the association may not charge the lot owner for any costs associated with
938 fulfilling a request for electronic transmission of the documents described in
939 Subsection (3).
- 940 (c) If a lot owner requests a recognized third party duplicating service make the copies
941 or electronic scans:
- 942 (i) the association shall arrange for the delivery and pick up of the original
943 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
946 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
948 documents described in Subsection (3) to the association's website or online owner
949 portal.
- 950 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy
951 documents, an association fails to comply with a provision of this section, the
952 association shall pay:
- 953 (a) the reasonable costs of inspecting and copying the requested documents;
954 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner
955 who made the request for each day the request continues unfulfilled, beginning the
956 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
958 inspection and copies of the requested documents.
- 959 (6)(a) In addition to any remedy in the association's governing documents or otherwise
960 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
962 lot owner in accordance with this section, the association's governing documents,
963 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
968 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,
972 including any reasonable attorney fees incurred before the action was filed that
973 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,
975 notice to the association, and a hearing in which the court finds a likelihood that
976 the association failed to comply with a provision of this section, the court shall
977 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
979 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

981 Subsection (6)(a), the lot owner shall deliver a written notice to the association that
982 states:
983 (i) the lot owner's name, address, telephone number, and email address;
984 (ii) each requirement of this section with which the association has failed to comply;
985 (iii) a demand that the association comply with each requirement with which the
986 association has failed to comply; and
987 (iv) a date by which the association shall remedy the association's noncompliance
988 that is at least 10 days after the day on which the lot owner delivers the notice to
989 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
992 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
994 lot owner has under this section.

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

997 Section 15. Section **57-8a-232** is amended to read:

998 **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
1000 governing documents, an association may by an affirmative vote of at least 67% of the
1001 voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of
1002 all or part of the common areas.

1003 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each
1004 lot owner shall execute and deliver the appropriate instruments and perform all acts as
1005 necessary to effect the sale, conveyance, transfer, or other disposition of the common
1006 areas.

1007 (3) The general easement of ingress, egress, and use of the common areas and facilities
1008 granted to an association and lot owners through recorded governing documents is
1009 extinguished in any portion of the common areas and facilities the association sells,
1010 conveys, transfers, or otherwise disposes of, if:

1011 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
1012 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
1016 areas results in a person other than the association or a lot owner owning the portion
1017 of the common areas and facilities.

1018 (4) This section applies to an association regardless of when the association is created.

1019 (5) A declarant may not sell any part of the common areas during the period of
1020 administrative control, except as provided in Section 10-9a-606 or 17-27a-606.

1021 Section 16. **Effective Date.**

1022 This bill takes effect on May 7, 2025.