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HOA Amendments
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides the circumstances under which a homeowners' association may convey a portion of the common areas;
- ▶ requires that the Office of the Homeowners' Association Ombudsman (office) make public each advisory opinion the office issues;
- ▶ requires that the office provide a list of statutes and frequently asked questions that impact persons under the jurisdiction of a homeowners' association;
- ▶ requires that the office publish educational materials on the office's website;
- ▶ requires that the office direct individuals making a phone call to the office to resources the office creates;
- ▶ provides that an action by an attorney employed by the office does not create an attorney-client relationship;
- ▶ provides that the filing fee a person pays for an advisory opinion from the office is nonrefundable;
- ▶ provides that a homeowners' association may not require a person to engage in binding arbitration before obtaining an advisory opinion from the office;
- ▶ provides the requirements for the contents of a request for an advisory opinion from the office;
- ▶ amends provisions relating to a civil penalty associated with an action that arises from the same set of facts as an advisory opinion the office issues;

- 28 ▶ amends provisions relating to what type of vehicle a rule may restrict from parking on a
 29 driveway;
- 30 ▶ provides that a homeowners' association's declaration may not contain certain provisions;
- 31 ▶ amends the circumstances under which a lot owner may continue renting a lot in a
 32 homeowners' association without a fee;
- 33 ▶ renames an association transfer fee to an administrative setup fee;
- 34 ▶ repeals the requirement that the parties to an advisory opinion split the cost of the
 35 advisory opinion;
- 36 ▶ establishes the conditions under which Title 57, Chapter 8, Condominium Ownership Act,
 37 or Title 57, Chapter 8a, Community Association Act, applies;
- 38 ▶ requires that an association of unit owners prepare and adopt an annual budget for the
 39 association;
- 40 ▶ removes the requirement that a board member and president of an association provide a
 41 physical address to the Department of Commerce for registration;
- 42 ▶ provides that certain documents are considered property of an association;
- 43 ▶ provides that if a person maintains a document considered property of an association, the
 44 person shall provide the document to the association upon request;
- 45 ▶ provides the duties of a declarant during the period of administrative control;
- 46 ▶ provides the circumstances under which the period of administrative control may be
 47 extended for a large master planned development; and
- 48 ▶ makes technical changes.

49 **Money Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 None

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **10-20-809**, as renumbered and amended by Laws of Utah 2025, First Special Session,
 56 Chapter 15

57 **13-79-103**, as enacted by Laws of Utah 2025, Chapter 226

58 **13-79-104**, as enacted by Laws of Utah 2025, Chapter 226

59 **17-79-709**, as renumbered and amended by Laws of Utah 2025, First Special Session,
 60 Chapter 14

61 **57-1-46**, as last amended by Laws of Utah 2025, Chapter 226

- 62 **57-8-2**, as enacted by Laws of Utah 1963, Chapter 111
- 63 **57-8-3**, as last amended by Laws of Utah 2025, Chapter 291
- 64 **57-8-6.1**, as enacted by Laws of Utah 2020, Chapter 75
- 65 **57-8-8.1**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
- 66 **57-8-10**, as last amended by Laws of Utah 2014, Chapter 397
- 67 **57-8-13.1**, as last amended by Laws of Utah 2025, Chapter 226
- 68 **57-8-16.5**, as last amended by Laws of Utah 2016, Chapter 210
- 69 **57-8-17**, as last amended by Laws of Utah 2025, Chapters 197, 226
- 70 **57-8-32**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 71 **57-8a-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 72 **57-8a-103**, as enacted by Laws of Utah 2004, Chapter 153
- 73 **57-8a-105**, as last amended by Laws of Utah 2025, Chapter 226
- 74 **57-8a-105.1**, as enacted by Laws of Utah 2020, Chapter 75
- 75 **57-8a-209**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 76 **57-8a-212**, as last amended by Laws of Utah 2013, Chapter 152
- 77 **57-8a-215**, as enacted by Laws of Utah 2011, Chapter 355
- 78 **57-8a-218**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 79 **57-8a-227**, as last amended by Laws of Utah 2025, Chapters 197, 226
- 80 **57-8a-232**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 81 **57-8a-502**, as last amended by Laws of Utah 2025, Chapters 197, 226

82 ENACTS:

83 **57-8-7.6**, Utah Code Annotated 1953

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

86 Section 1. Section **10-20-809** is amended to read:

87 **10-20-809 . Common area parcels on a plat -- No separate ownership --**
 88 **Ownership interest equally divided among other parcels on plat and included in**
 89 **description of other parcels.**

90 (1) As used in this section:

- 91 (a) "Association" means the same as that term is defined in:
 - 92 (i) regarding a common area, Section 57-8a-102; and
 - 93 (ii) regarding a common area and facility, Section 57-8-3.
- 94 (b) "Common area" means the same as that term is defined in Section 57-8a-102.
- 95 (c) "Common area and facility" means the same as that term is defined in Section 57-8-3.

- 96 (d) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
- 97 ~~[(d)]~~ (e) "Declarant" means the same as that term is defined in:
- 98 (i) regarding a common area, Section 57-8a-102; and
- 99 (ii) regarding a common area and facility, Section 57-8-3.
- 100 ~~[(e)]~~ (f) "Declaration," regarding a common area and facility, means the same as that
- 101 term is defined in Section 57-8-3.
- 102 ~~[(f)]~~ (g) "Period of administrative control" means the same as that term is defined in:
- 103 (i) regarding a common area, Section 57-8a-102; and
- 104 (ii) regarding a common area and facility, Section 57-8-3.
- 105 (h) "Under threat of condemnation" means the same as that term is defined in Section
- 106 78B-6-520.3.
- 107 (2) A person may not separately own, convey, or modify a parcel designated as a common
- 108 area or common area and facility, on a plat recorded in compliance with this part,
- 109 independent of the other lots, units, or parcels created by the plat unless:
- 110 (a) an association holds in trust the parcel designated as a common area for the owners
- 111 of the other lots, units, or parcels created by the plat;~~[-or]~~
- 112 (b) the conveyance or modification is approved under Subsection (5)~~[-]~~ ; or
- 113 (c) the conveyance or modification is made in accordance with Subsection (6).
- 114 (3) If a conveyance or modification of a common area or common area and facility is
- 115 approved in accordance with Subsection (5), the person who presents the instrument of
- 116 conveyance to a county recorder shall:
- 117 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the
- 118 document of conveyance; or
- 119 (b) record a notice of the approval described in Subsection (5) concurrently with the
- 120 conveyance as a separate document.
- 121 (4) When a plat contains a common area or common area and facility:
- 122 (a) for purposes of assessment, each parcel that the plat creates has an equal ownership
- 123 interest in the common area or common area and facility within the plat, unless the
- 124 plat or an accompanying recorded document indicates a different division of interest
- 125 for assessment purposes; and
- 126 (b) each instrument describing a parcel on the plat by the parcel's identifying plat
- 127 number implicitly includes the ownership interest in the common area or common
- 128 area and facility, even if that ownership interest is not explicitly stated in the
- 129 instrument.

- 130 (5) Notwithstanding Subsection (2), a person may modify the size or location of or
 131 separately convey a common area or common area and facility if the following approve
 132 the conveyance or modification:
 133 (a) the local government;
 134 (b)(i) for a common area that an association owns, 67% of the voting interests in the
 135 association; or
 136 (ii) for a common area that an association does not own, or for a common area and
 137 facility, 67% of the owners of lots, units, and parcels designated on a plat that is
 138 subject to a declaration and on which the common area or common area and
 139 facility is included; and
 140 (c) during the period of administrative control, the declarant.

- 141 (6)(a) Notwithstanding Subsection (2), an individual may convey a portion of a common
 142 area and facility in accordance with Section 57-8-32 or 57-8a-232, if:
 143 (i) the individual is authorized to act on behalf of an association by:
 144 (A) a vote of the association's board, either before or after the threat of
 145 condemnation arises; or
 146 (B) if the association is defunct or unable to act through a board, the association's
 147 governing documents;
 148 (ii) the common area or common area and facility is under threat of condemnation;
 149 and
 150 (iii) the individual makes the conveyance to a condemnor.
 151 (b) If an individual makes a conveyance in accordance with Subsection (6)(a), no lot
 152 owner or unit owner is required to approve the conveyance or modification.

153 Section 2. Section **13-79-103** is amended to read:

154 **13-79-103 . Duties and jurisdiction of office.**

- 155 (1) The attorneys of the office shall:
 156 (a) develop and maintain expertise in and understanding of issues and statutes impacting
 157 unit owners, lot owners, associations of lot owners, and associations of unit owners;
 158 and
 159 (b) upon request:
 160 (i) analyze a complaint from a lot owner, a unit owner, an association of lot owners,
 161 or an association of unit owners regarding the conduct of a lot owner, a unit
 162 owner, an association of lot owners, or an association of unit owners; and
 163 (ii) provide an advisory opinion as described in Section 13-79-104.

- 164 (2)(a) Neither the office nor the office's attorneys may represent private parties, state
 165 agencies, local governments, or any other individual or entity in a legal action that
 166 arises from or relates to a matter addressed in this chapter.
- 167 (b) No attorney of the office may be compelled to testify in a civil action filed
 168 concerning the subject matter of any review or advisory opinion arranged through the
 169 office.
- 170 (3) Except as provided in [~~Section 13-75-105~~] Subsection 13-79-104(10), evidence of a
 171 review by the office and the opinions, writings, findings, and determinations of the
 172 office are not admissible as evidence in a judicial action or arbitration.
- 173 (4) The office[;]
 174 [~~(a)~~] shall:
- 175 (a) [~~-~~]analyze a complaint and issue an advisory opinion only for issues relating to a
 176 violation of a state statute;~~[-and]~~
- 177 (b) make public each advisory opinion the office issues in accordance with Subsection
 178 (4)(a);
- 179 (c) provide, on the office's website:
- 180 (i) a list of statutes that impact unit owners, lot owners, associations of lot owners,
 181 and associations of unit owners; and
- 182 (ii) a list of frequently asked questions that the office receives and answers to those
 183 questions;
- 184 (d) publish educational materials on the office's website providing, in simple and easy to
 185 understand language, a brief overview of state law governing associations of unit
 186 owners and associations of lot owners, including:
- 187 (i) a description of the rights and responsibilities provided in Title 57, Chapter 8,
 188 Condominium Ownership Act, to a party under the jurisdiction of Title 57,
 189 Chapter 8, Condominium Ownership Act;
- 190 (ii) a description of the rights and responsibilities provided in Title 57, Chapter 8a,
 191 Community Association Act, to a party under the jurisdiction of Title 57, Chapter
 192 8a, Community Association Act; and
- 193 (iii) instructions regarding how an association of unit owners or an association of lot
 194 owners may be organized and dismantled in accordance with this chapter; and
- 195 (e) direct an individual that makes a phone call to the office to the resources described in
 196 this Subsection (4).
- 197 [~~(b)~~] (5) The office may not provide any service that requires interpreting the governing

198 documents of an association of lot owners or the governing documents of an association
199 of unit owners, including determining whether a provision of the governing documents
200 is reasonable.

201 (6) An action that an attorney employed by the office takes within the scope of the
202 attorney's employment in the office does not create an attorney-client relationship
203 between the office or the office's attorneys and any of the following:

204 (a) a lot owner;

205 (b) a unit owner;

206 (c) an association of lot owners; or

207 (d) an association of unit owners.

208 Section 3. Section **13-79-104** is amended to read:

209 **13-79-104 . Advisory opinion -- Process of advisory opinions.**

210 (1) A lot owner, a unit owner, an association of lot owners, or an association of unit owners
211 may request a written advisory opinion:

212 (a) from the office to determine compliance with:

213 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a,
214 Community Association Act; or

215 (ii) other applicable statutes of this state; and

216 (b) at any time before the commencement of:

217 (i) an action in a court with jurisdiction; or

218 (ii) binding arbitration.

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

221 (i) file the request with the office;

222 (ii) pay a nonrefundable filing fee of \$150;[~~and~~]

223 (iii)(A) file the request no later than one year after the day on which the person
224 making the request knew or should have known about the alleged act that is the
225 subject of the advisory opinion; and

226 (B) include in the request facts that demonstrate that the person submits the
227 request no later than a year after the day on which the person making the
228 request knew or should have known about the alleged act that is the subject of
229 the advisory opinion[-] ; and

230 (iv) in the request for an advisory opinion, describe:

231 (A) the alleged act that is the subject of the advisory opinion; and

232 (B) the impact of the alleged act that is the subject of the advisory opinion on the
233 person making the request.

234 (b) A person making a request under this Subsection (2) may allege actual damages as a
235 result of the alleged act that is the subject of the advisory opinion.

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

238 (4)(a) ~~[The]~~ Except as provided in Subsection (4)(b), the office may not issue an advisory
239 opinion unless the person requesting an advisory opinion exhausts all existing dispute
240 resolution procedures provided in:

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

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

245 (b) An association of unit owners or an association of lot owners may not require that a
246 person engage in binding arbitration before requesting an advisory opinion from the
247 office.

248 ~~[(b)]~~ (c) A person requesting an advisory opinion shall include in the person's complaint
249 a description of how that person ~~[exhausted all existing procedures provided in the~~
250 ~~applicable governing documents]~~ complied with this Subsection (4).

251 (5) Upon receipt of a request for an advisory opinion, the office shall:

252 (a) inquire of all parties if there are other necessary parties to the dispute;

253 (b) determine whether the person bringing the request has ~~[exhausted all existing~~
254 ~~procedures provided in the applicable governing documents]~~ complied with
255 Subsections (1) through (4); and

256 (c) deliver notice of the request to the opposing parties indicated in the request and any
257 other necessary party identified in accordance with Subsection (5)(a).

258 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:

259 (a) issue a written advisory opinion addressing the issues described in the request for an
260 advisory opinion;

261 (b) include in the advisory opinion a statement of the facts and law supporting the
262 opinion's conclusions; and

263 (c) deliver copies of the advisory opinion to all necessary parties identified in
264 accordance with Subsection (5)(a).

265 (7)(a) The office shall issue a written statement declining to issue an advisory opinion

- 266 when, in the opinion of the office:
- 267 (i) the issues are not ripe for review;
- 268 (ii) the person bringing the request has not exhausted all existing procedures provided
- 269 in the applicable governing documents; or
- 270 (iii) the issues raised are beyond the scope of the office's statutory duty to review.
- 271 (b) Notwithstanding Subsection (7)(a), the office shall issue a written statement
- 272 declining to review a request, if the request deals solely with a contractual dispute.
- 273 (8)(a)(i) If in the process of issuing an advisory opinion, the office determines that a
- 274 person knowingly filed a false or fraudulent request for an advisory opinion, the
- 275 office shall prohibit that person from filing a complaint with the office for two
- 276 years after the day on which the office makes the determination.
- 277 (ii) The office may impose a civil penalty of up to \$1,000 against a person if the
- 278 office determines under this Subsection (8)(a) that the person filed a false or
- 279 fraudulent request for an advisory opinion.
- 280 (b)(i) The office may designate a person as a vexatious filer if the person has filed a
- 281 request for three or more advisory opinions and for each request the office:
- 282 (A) determines that the person requesting the advisory opinion has not exhausted
- 283 all existing procedures, as described in Subsection (4)(a);
- 284 (B) declines to issue an advisory opinion, as described in Subsection (7)(a); or
- 285 (C) determines that the request deals solely with a contractual dispute, as
- 286 described in Subsection (7)(b).
- 287 (ii) If the office designates a person as a vexatious filer under this Subsection (8)(b),
- 288 the office may not accept a request by the person unless:
- 289 (A) the person submits a written copy of the request to the executive director of
- 290 the department; and
- 291 (B) the executive director of the department authorizes the person to file the
- 292 request for the advisory opinion with the office.
- 293 [~~(9) The party that requests the advisory opinion shall pay the filing fee described in~~
- 294 ~~Subsection (2)(a)(ii), unless the office issues an advisory opinion in favor of the party~~
- 295 ~~that requests the advisory opinion, in which case all necessary parties shall share the cost~~
- 296 ~~of the filing fee equally.]~~
- 297 [(~~10~~)] (9) An advisory opinion issued under this section is neither binding on any party to,
- 298 nor admissible as evidence in, a dispute involving an association of lot owners or an
- 299 association of unit owners, except as provided in Subsection [(~~11~~)] (10).

- 300 ~~[(11)]~~ (10)(a) As used in this Subsection ~~[(11)]~~ (10), "qualifying conditions" means:
- 301 (i) the office issues an advisory opinion described in this section;
- 302 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated
- 303 in court; and
- 304 (iii) the court rules in favor of the same party as the advisory opinion in a final
- 305 judgment.
- 306 (b) If the qualifying conditions are met, the court may award the substantially prevailing
- 307 party:
- 308 (i) reasonable attorney fees and court costs relating to the development of the cause
- 309 of action from the date the office delivers the advisory opinion to the date of the
- 310 court's resolution; and
- 311 (ii) if the court finds that the opposing party knowingly and intentionally violated the
- 312 law governing the cause of action, a civil penalty of ~~[\$250 for each day described~~
- 313 ~~in Subsection (12)]~~ up to \$5,000.

314 ~~[(12) The civil penalty described in Subsection (11)(b):]~~

315 ~~[(a) begins to accrue on the later of:]~~

316 ~~[(i) 30 days after the day on which the office delivers the advisory opinion; or]~~

317 ~~[(ii) the day on which the substantially prevailing party or opposing party filed the~~

318 ~~action in court; and]~~

319 ~~[(b) ends the day on which the court enters a final judgment.]~~

320 Section 4. Section **17-79-709** is amended to read:

321 **17-79-709 . Common area parcels on a plat -- No separate ownership --**

322 **Ownership interest equally divided among other parcels on plat and included in**

323 **description of other parcels.**

324 (1) As used in this section:

325 (a) "Association" means the same as that term is defined in:

326 (i) regarding a common area, Section 57-8a-102; and

327 (ii) regarding a common area and facility, Section 57-8-3.

328 (b) "Common area" means the same as that term is defined in Section 57-8a-102.

329 (c) "Common area and facility" means the same as that term is defined in Section 57-8-3.

330 (d) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.

331 ~~[(d)]~~ (e) "Declarant" means the same as that term is defined in:

332 (i) regarding a common area, Section 57-8a-102; and

333 (ii) regarding a common area and facility, Section 57-8-3.

- 334 ~~[(e)]~~ (f) "Declaration," regarding a common area and facility, means the same as that
335 term is defined in Section 57-8-3.
- 336 ~~[(f)]~~ (g) "Period of administrative control" means the same as that term is defined in:
337 (i) regarding a common area, Section 57-8a-102; and
338 (ii) regarding a common area and facility, Section 57-8-3.
- 339 (h) "Under threat of condemnation" means the same as that term is defined in Section
340 78B-6-520.3.
- 341 (2) A person may not separately own, convey, or modify a parcel designated as a common
342 area or common area and facility on a plat recorded in compliance with this part,
343 independent of the other lots, units, or parcels created by the plat unless:
344 (a) an association holds in trust the parcel designated as a common area for the owners
345 of the other lots, units, or parcels created by the plat;~~[-or]~~
346 (b) the conveyance or modification is approved under Subsection (5)~~[-]~~ ; or
347 (c) the conveyance or modification is made in accordance with Subsection (6).
- 348 (3) If a conveyance or modification of a common area or common area and facility is
349 approved in accordance with Subsection (5), the person who presents the instrument of
350 conveyance to a county recorder shall:
351 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the
352 document of conveyance; or
353 (b) record a notice of the approval described in Subsection (5) concurrently with the
354 conveyance as a separate document.
- 355 (4) When a plat contains a common area or common area and facility:
356 (a) each parcel that the plat creates has an equal ownership interest in the common area
357 or common area and facility within the plat, unless the plat or an accompanying
358 recorded document indicates a different division of interest for assessment purposes;
359 and
360 (b) each instrument describing a parcel on the plat by the parcel's identifying plat
361 number implicitly includes the ownership interest in the common area or common
362 area and facility within the plat, even if that ownership interest is not explicitly stated
363 in the instrument.
- 364 (5) Notwithstanding Subsection (2), a person may modify the size or location of or
365 separately convey a common area or common area and facility if the following approve
366 the conveyance or modification:
367 (a) the local government;

- 368 (b)(i) for a common area that an association owns, 67% of the voting interests in the
 369 association; or
- 370 (ii) for a common area that an association does not own, or for a common area and
 371 facility, 67% of the owners of lots, units, and parcels designated on a plat that is
 372 subject to a declaration and on which the common area or common area and
 373 facility is included; and
- 374 (c) during the period of administrative control, the declarant.
- 375 (6)(a) Notwithstanding Subsection (2), an individual may convey a portion of a common
 376 area and facility in accordance with Section 57-8-32 or 57-8a-232, if:
- 377 (i) the individual is authorized to act on behalf of an association by:
- 378 (A) a vote of the association's board, either before or after the threat of
 379 condemnation arises; or
- 380 (B) if the association is defunct or unable to act through a board, the association's
 381 governing documents;
- 382 (ii) the common area or common area and facility is under threat of condemnation;
 383 and
- 384 (iii) the individual makes the conveyance to a condemnor.
- 385 (b) If an individual makes a conveyance in accordance with Subsection (6)(a), no lot
 386 owner or unit owner is required to approve the conveyance or modification.
- 387 Section 5. Section **57-1-46** is amended to read:
- 388 **57-1-46 . Transfer fee and reinvestment fee covenants.**
- 389 (1) As used in this section:
- 390 (a) "Administrative setup fee" means a fee, charge, or payment that is:
- 391 (i) related to the sale of real property; and
- 392 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
- 393 (A) a common interest association; or
- 394 (B) a person acting on behalf of the common interest association.
- 395 ~~(a)~~ (b) "Association expenses" means expenses incurred by a common interest
 396 association for:
- 397 (i) the purchase, ownership, leasing, construction, operation, use, administration,
 398 maintenance, improvement, repair, or replacement of association facilities,
 399 including expenses for taxes, insurance, operating reserves, capital reserves, and
 400 emergency funds;
- 401 (ii) providing, establishing, creating, or managing a facility, activity, service, or

402 program for the benefit of property owners, tenants, common areas, the burdened
403 property, or property governed by the common interest association; or
404 (iii) other facilities, activities, services, or programs that are required or permitted
405 under the common interest association's organizational documents.

406 ~~[(b)]~~ (c) "Association facilities" means any real property, improvements on real property,
407 or personal property owned, leased, constructed, developed, managed, or used by a
408 common interest association, including common areas.

409 ~~[(e) "Association transfer fee" means a fee, charge, or payment that is:]~~

410 ~~[(i) related to the sale of real property; and]~~

411 ~~[(ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:]~~

412 ~~[(A) a common interest association; or]~~

413 ~~[(B) a person acting on behalf of the common interest association.]~~

414 (d) "Burdened property" means the real property that is subject to a reinvestment fee
415 covenant or transfer fee covenant.

416 (e) "Common areas" means areas described within:

417 (i) the definition of "common areas and facilities" under Section 57-8-3; and

418 (ii) the definition of "common areas" under Section 57-8a-102.

419 (f)(i) "Common interest association" means:

420 (A) an association, as defined in Section 57-8a-102;

421 (B) an association of unit owners, as defined in Section 57-8-3; or

422 (C) a nonprofit association.

423 (ii) "Common interest association" includes a person authorized by an association,
424 association of unit owners, or nonprofit association.

425 (g) "Large master planned development" means an approved development:

426 (i) of at least 500 acres or 500 units; and

427 (ii) that includes a commitment to fund, construct, develop, or maintain:

428 (A) common infrastructure;

429 (B) association facilities;

430 (C) community programming;

431 (D) resort facilities;

432 (E) open space; or

433 (F) recreation amenities.

434 (h) "Nonprofit association" means a nonprofit corporation organized under Title 16,
435 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,

- 436 govern, manage, or maintain burdened property.
- 437 (i) "Organizational documents" means:
- 438 (i) for an association, as that term is defined in Section 57-8a-102, governing
- 439 documents as that term is defined in Section 57-8a-102;
- 440 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a
- 441 declaration as that term is defined in Section 57-8-3; and
- 442 (iii) for a nonprofit association:
- 443 (A) a written instrument by which the nonprofit association exercises powers or
- 444 manages, maintains, or otherwise affects the property under the jurisdiction of
- 445 the nonprofit association; and
- 446 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
- 447 rules, and declarations of covenants, conditions, and restrictions.
- 448 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest
- 449 association:
- 450 (i) upon a buyer or seller of real property;
- 451 (ii) upon and as a result of a transfer of the real property; and
- 452 (iii) that is dedicated to benefiting the common areas, including payment for:
- 453 (A) common planning, facilities, and infrastructure;
- 454 (B) obligations arising from an environmental covenant;
- 455 (C) community programming;
- 456 (D) resort facilities;
- 457 (E) open space;
- 458 (F) recreation amenities;
- 459 (G) charitable purposes; or
- 460 (H) association expenses.
- 461 (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 462 (i) affects real property; and
- 463 (ii) obligates a future buyer or seller of the real property to pay to a common interest
- 464 association, upon and as a result of a transfer of the real property, a fee that is
- 465 dedicated to benefitting the burdened property, including payment for:
- 466 (A) common planning, facilities, and infrastructure;
- 467 (B) obligations arising from an environmental covenant;
- 468 (C) community programming;
- 469 (D) resort facilities;

- 470 (E) open space;
- 471 (F) recreation amenities;
- 472 (G) charitable purposes; or
- 473 (H) association expenses.
- 474 (l) "Transfer fee covenant":
- 475 (i) means an obligation, however denominated, expressed in a covenant, restriction,
- 476 agreement, or other instrument or document:
- 477 (A) that affects real property;
- 478 (B) that is imposed on a future buyer or seller of real property, other than a person
- 479 who is a party to the covenant, restriction, agreement, or other instrument or
- 480 document; and
- 481 (C) to pay a fee upon and as a result of a transfer of the real property; and
- 482 (ii) does not include:
- 483 (A) an obligation imposed by a court judgment, order, or decree;
- 484 (B) an obligation imposed by the federal government or a state or local
- 485 government entity; or
- 486 (C) a reinvestment fee covenant.
- 487 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 488 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be
- 489 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a
- 490 common interest association that was formed to benefit the burdened property.
- 491 (b) A common interest association may assign or pledge to a lender the right to receive
- 492 payment under a reinvestment fee covenant if:
- 493 (i) the assignment or pledge is as collateral for a credit facility; and
- 494 (ii) the lender releases the collateral interest upon payment in full of all amounts that
- 495 the common interest association owes to the lender under the credit facility.
- 496 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if
- 497 the reinvestment fee covenant is intended to affect property that is the subject of a
- 498 previously recorded transfer fee covenant or reinvestment fee covenant.
- 499 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the
- 500 payment of a fee that exceeds .5% of the value of the burdened property, unless the
- 501 burdened property is part of a large master planned development.
- 502 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
- 503 unenforceable unless a notice of reinvestment fee covenant, separate from the

504 reinvestment fee covenant, is recorded in the office of the recorder of each county in
505 which any of the burdened property is located.

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

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

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

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

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

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

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

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

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

522 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
523 2010, is not enforceable after May 31, 2010, unless:

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

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

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

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

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

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

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

- 538 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
539 substantially complies with the requirements of Subsection (7)(b) is valid and
540 effective.
- 541 (d) A notice under Subsection (7)(b):
542 (i) that is recorded after May 31, 2010, is not enforceable; and
543 (ii) shall comply with the requirements of Section 57-1-47.
- 544 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
545 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
546 not an enforceable amendment.
- 547 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
548 upon:
- 549 (a) an involuntary transfer;
550 (b) a transfer that results from a court order;
551 (c) a bona fide transfer to a family member of the seller within three degrees of
552 consanguinity who, before the transfer, provides adequate proof of consanguinity;
553 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
554 decree of distribution; or
555 (e) the transfer of burdened property by a financial institution, except to the extent that
556 the reinvestment fee covenant requires the payment of a common interest
557 association's costs directly related to the transfer of the burdened property, not to
558 exceed \$250.
- 559 (9)(a) An ~~[association transfer fee]~~ administrative setup fee imposed on or after May 7,
560 2025, is void and unenforceable unless the association uses the fee only to pay
561 expenses related to the transfer of real property.
- 562 (b) No later than December 31 each year, if a manager collects an administrative setup
563 fee, the manager shall provide to the association an annual accounting of each
564 administrative setup fee the manager collects in a calendar year.
- 565 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
566 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
567 covenant; and
568 (b) a majority of voting interests in the association, or a higher percentage if required in
569 the organizational documents, approves the reinvestment fee.
- 570 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
571 association may set the amount of a reinvestment fee only:

- 572 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
 573 (b) upon providing notice in accordance with Section 57-8a-214.

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

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

578 (b) at which:

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

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

582 Section 6. Section **57-8-2** is amended to read:

583 **57-8-2 . Applicability of chapter.**

584 [This act shall be applicable only to property which the sole owner or all the owners
 - 585 submit to the provisions of the act by duly executing and recording a declaration as provided in
 - 586 the act.]

587 (1) This chapter applies to an association if:

588 (a) the association's declaration states that this chapter applies; or

589 (b) if the association's declaration does not state whether this chapter applies, the plats of
 590 the association are designated as condominium plats.

591 (2) This section applies regardless of when an association is created.

592 Section 7. Section **57-8-3** is amended to read:

593 **57-8-3 . Definitions.**

594 As used in this chapter:

595 (1) "Assessment" means any charge [~~imposed by~~] that the association imposes, including:

596 (a) common expenses on or against a unit owner [~~pursuant to~~] in accordance with the
 597 provisions of the declaration, bylaws, or this chapter; and

598 (b) an amount that an association of unit owners assesses to a unit owner under
 599 Subsection 57-8-43(9)(g).

600 (2) "Association of unit owners" or "association" means all of the unit owners:

601 (a) acting as a group in accordance with the declaration and bylaws; or

602 (b) organized as a legal entity in accordance with the declaration.

603 (3) "Building" means a building, containing units, and comprising a part of the property.

604 (4) "Commercial condominium project" means a condominium project that has no
 605 residential units within the project.

- 606 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful
607 amendments to the declaration means:
- 608 (a) the land included within the condominium project, whether leasehold or in fee
609 simple;
- 610 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
611 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 612 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 613 (d) the premises for lodging of janitors or persons in charge of the property;
- 614 (e) installations of central services such as power, light, gas, hot and cold water, heating,
615 refrigeration, air conditioning, and incinerating;
- 616 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
617 apparatus and installations existing for common use;
- 618 (g) such community and commercial facilities as may be provided for in the declaration;
619 and
- 620 (h) all other parts of the property necessary or convenient to its existence, maintenance,
621 and safety, or normally in common use.
- 622 (6) "Common expenses" means:
- 623 (a) all sums lawfully assessed against the unit owners;
- 624 (b) expenses of administration, maintenance, repair, or replacement of the common areas
625 and facilities;
- 626 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 627 (d) expenses declared common expenses by this chapter, or by the declaration or the
628 bylaws.
- 629 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
630 to the declaration, means the balance of all income, rents, profits, and revenues from the
631 common areas and facilities remaining after the deduction of the common expenses.
- 632 (8) "Condominium" means the ownership of a single unit in a multiunit project together
633 with an undivided interest in common in the common areas and facilities of the property.
- 634 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
635 accordance with Section 57-8-13.
- 636 (10)(a) "Condominium project" means a real estate condominium project; a plan or
637 project whereby two or more units, whether contained in existing or proposed
638 apartments, commercial or industrial buildings or structures, or otherwise, are
639 separately offered or proposed to be offered for sale.

640 (b) ~~[-]~~ "Condominium project" ~~[also means-]~~ includes the property when the context so
 641 requires.

642 (11)(a) "Condominium unit" means a unit together with the undivided interest in the
 643 common areas and facilities appertaining to that unit.

644 (b) ~~[-Any reference in this chapter to a condominium unit]~~ "Condominium unit" includes
 645 both a physical unit together with ~~[its]~~ the physical unit's appurtenant undivided
 646 interest in the common areas and facilities and a time period unit together with ~~[its]~~
 647 the time period unit's appurtenant undivided interest, unless the ~~[reference]~~ term is
 648 specifically limited to a time period unit.

649 (12)(a) "Contractible condominium" means a condominium project from which one or
 650 more portions of the land within the project may be withdrawn in accordance with
 651 provisions of the declaration and of this chapter.

652 (b) ~~[-If]~~ "Contractible condominium" does not include a condominium project where the
 653 withdrawal described in Subsection (12)(a) can occur only by the expiration or
 654 termination of one or more leases~~[-, then the condominium project is not a~~
 655 ~~contractible condominium within the meaning of this chapter.]~~ .

656 (13) "Convertible land" means a building site which is a portion of the common areas and
 657 facilities, described by metes and bounds, within which additional units or limited
 658 common areas and facilities may be created in accordance with this chapter.

659 (14) "Convertible space" means a portion of the structure within the condominium project,
 660 which portion may be converted into one or more units or common areas and facilities,
 661 including limited common areas and facilities in accordance with this chapter.

662 (15)(a) "Declarant" means all persons who execute the declaration or on whose behalf
 663 the declaration is executed.~~[-From the time of the recordation of any amendment to~~
 664 ~~the declaration expanding an expandable condominium, all persons who execute that~~
 665 ~~amendment or on whose behalf that amendment is executed shall also come within~~
 666 ~~this definition.]~~

667 (b) ~~[-Any successors of the persons referred to in this subsection who come]~~ "Declarant"
 668 includes:

669 (i) a person that executes an amendment to the declaration expanding an expandable
 670 condominium;

671 (ii) a person on whose behalf a person executes an amendment described in
 672 Subsection (15)(b)(i); and

673 (iii) a successor of a person described in Subsection (15)(a) that comes to stand in the

674 same relation to the condominium project as [~~their predecessors also come within~~
675 ~~this definition~~] the person's predecessor.

676 (16) "Declaration" means the instrument by which the property is submitted to the
677 provisions of this [æ] chapter, as [it] the declaration from time to time may be lawfully
678 amended.

679 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

680 (18) "Expandable condominium" means a condominium project to which additional land or
681 an interest in [it] the condominium project may be added in accordance with the
682 declaration and this chapter.

683 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

684 (20) "Governing documents":

685 (a) means a written instrument by which an association of unit owners may:

686 (i) exercise powers; or

687 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
688 association of unit owners; and

689 (b) includes:

690 (i) articles of incorporation;

691 (ii) bylaws;

692 (iii) a plat;

693 (iv) a declaration of covenants, conditions, and restrictions; and

694 (v) rules of the association of unit owners.

695 (21) "Independent third party" means a person that:

696 (a) is not related to the unit owner;

697 (b) shares no pecuniary interests with the unit owner; and

698 (c) purchases the unit in good faith and without the intent to defraud a current or future
699 lienholder.

700 (22) "Judicial foreclosure" means a foreclosure of a unit:

701 (a) for the nonpayment of an assessment;

702 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and

703 (c) as provided in this chapter.

704 (23)(a) "Leasehold condominium" means a condominium project in all or any portion of
705 which each unit owner owns an estate for years in [his] the unit owner's unit, or in the
706 land upon which that unit is situated, or both, with all those leasehold interests to
707 expire naturally at the same time.

- 708 (b) [~~A~~] "Leasehold condominium" does not include a condominium project including
 709 leased land, or an interest in the land, upon which no units are situated or to be
 710 situated [~~is not a leasehold condominium within the meaning of this chapter~~].
- 711 (24) "Limited common areas and facilities" means [~~those~~] the common areas and facilities
 712 designated in the declaration as reserved for use of a certain unit or units to the exclusion
 713 of the other units.
- 714 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
 715 declaration or lawful amendments to the declaration, means the owners of more than
 716 50% in the aggregate in interest of the undivided ownership of the common areas and
 717 facilities.
- 718 (26) "Management committee" means the committee as provided in the declaration charged
 719 with and having the responsibility and authority to make and to enforce all of the
 720 reasonable rules covering the operation and maintenance of the property.
- 721 (27) "Management committee meeting" means a gathering of a management committee,
 722 whether in person or by means of electronic communication, at which the management
 723 committee can take binding action.
- 724 (28) "Manager" means a person with whom the management committee enters into a
 725 contract for the person to:
- 726 (a) provide administrative or financial services for the association; or
 727 (b) act on behalf of the association in accordance with this chapter.
- 728 [~~(28)~~] (29)(a) "Means of electronic communication" means an electronic system that
 729 allows individuals to communicate orally in real time.
- 730 (b) "Means of electronic communication" includes:
- 731 (i) web conferencing;
 732 (ii) video conferencing; and
 733 (iii) telephone conferencing.
- 734 [~~(29)~~] (30) "Mixed-use condominium project" means a condominium project that has both
 735 residential and commercial units in the condominium project.
- 736 [~~(30)~~] (31) "Nonjudicial foreclosure" means the sale of a unit:
- 737 (a) for the nonpayment of an assessment;
 738 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
 739 57-1-34; and
 740 (c) as provided in this chapter.
- 741 [~~(31)~~] (32) "Par value" means a number of dollars or points assigned to each unit by the

- 742 declaration~~[-]~~ in accordance with the following:
- 743 (a) ~~[-Substantially]~~ the declaration shall assign substantially identical units ~~[shall be~~
744 ~~assigned-]~~the same par value~~[-]~~ ;
- 745 (b) ~~[-but]~~ units located at substantially different heights above the ground, or having
746 substantially different views, or having substantially different amenities or other
747 characteristics that might result in differences in market value, may be considered
748 substantially identical ~~[within the meaning of this subsection.-]~~ for purposes of
749 Subsection (32)(a); and
- 750 (c) ~~[Hf]~~ if the declaration states par value ~~[is stated-]~~in terms of dollars~~[-, that statement]~~ ;
- 751 (i) the dollar amount may not be considered to reflect or control the sales price or fair
752 market value of ~~[any]~~ a unit[-] ; and
- 753 (ii) ~~[-no]~~ an opinion, an appraisal, or a fair market transaction at a different figure may
754 not affect:
- 755 (A) ~~[-]~~the par value of ~~[any]~~ a unit[-] ; or
- 756 (B) ~~[-any]~~ an undivided interest in the common areas and facilities, voting rights in
757 the unit owners' association, liability for common expenses, or right to
758 common profits, ~~[assigned]~~ that the declaration assigns on the basis ~~[thereof]~~ of
759 the par value.
- 760 ~~[(32)]~~ (33) "Period of administrative control" means the period of control described in
761 Subsection 57-8-16.5(1).
- 762 ~~[(33)]~~ (34) "Person" means an individual, corporation, partnership, association, trustee, or
763 other legal entity.
- 764 ~~[(34)]~~ (35) "Political sign" means ~~[any]~~ a sign or document that advocates for:
- 765 (a) the election or defeat of a candidate for public office; or
766 (b) the approval or defeat of a ballot proposition.
- 767 ~~[(35)]~~ (36) "Property" means:
- 768 (a) ~~[-]~~the land, whether leasehold or in fee simple~~[-]~~ ;
- 769 (b) ~~[-]~~the building, if any~~[-]~~ ;
- 770 (c) ~~[-]~~all improvements and structures ~~[thereon,-]~~ on the land;
- 771 (d) ~~[-]~~all easements, rights, and appurtenances belonging ~~[thereto,-]~~ to the land; and
- 772 (e) ~~[-]~~all articles of personal property intended for use in connection ~~[therewith]~~ with the
773 land.
- 774 ~~[(36)]~~ (37) "Protected area" means the same as that term is defined in Section 53-29-306.
- 775 ~~[(37)]~~ (38) "Record," "recording," "recorded," and "recorder" ~~[have the meaning stated]~~

776 mean the same as the terms are defined in Chapter 3, Recording of Documents.

777 [~~(38)~~] (39) "Rentals" or "rental unit" means:

778 (a) a unit that:

779 (i) is not owned by an entity or trust; and

780 (ii) [~~is occupied by~~] an individual occupies while the unit owner is not occupying the
781 unit as the unit owner's primary residence; or

782 (b) an occupied unit [~~owned by~~] that an entity or trust owns, regardless of who occupies
783 the unit.

784 [~~(39)~~] (40)(a) "Size" means the number of cubic feet, or the number of square feet of
785 ground or floor space, within [~~each~~] a unit as computed by reference to the record of
786 survey map and rounded off to a whole number.

787 (b) [~~Certain spaces~~] "Size" does not include the following within [~~the units including~~
788 ~~attic, basement, or garage space may be omitted from the calculation or be partially~~
789 ~~discounted by the use of a ratio, if the same basis of calculation is employed for all~~
790 ~~units in the condominium project and if that basis is described in the declaration.~~] a
791 unit, if when making the calculation described in Subsection (40)(a), the following
792 are omitted or partially discounted by the use of a ratio, the same basis of calculation
793 is employed for all units in the condominium project, and that basis is described in
794 the declaration:

795 (i) an attic;

796 (ii) a basement; or

797 (iii) a garage space.

798 [~~(40)~~] (41) "Time period unit" means an annually recurring part or parts of a year specified
799 in the declaration as a period for which a unit is separately owned and includes a
800 timeshare estate as that term is defined in Section 57-19-2.

801 [~~(41)~~] (42) "Unconstructed unit" means a unit that:

802 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
803 a building; and

804 (b) is not constructed.

805 [~~(42)~~] (43)(a) "Unit" means a separate part of the property intended for any type of
806 independent use, which is created by the recording of a declaration and a
807 condominium plat that describes the unit boundaries.

808 (b) "Unit" includes:

809 (i) one or more rooms or spaces located in one or more floors or a portion of a floor

- 810 in a building[-] ; and
811 [(e)] (ii) [~~"Unit" includes~~] a convertible space, in accordance with Subsection
812 57-8-13.4(3).
- 813 [(43)] (44) "Unit number" means the number, letter, or combination of numbers and letters
814 designating the unit in the declaration and in the record of survey map.
- 815 [(44)] (45) "Unit owner" means the person or persons owning a unit in fee simple and an
816 undivided interest in the fee simple estate of the common areas and facilities in the
817 percentage specified and established in the declaration or, in the case of a leasehold
818 condominium project, the person or persons whose leasehold interest or interests in the
819 condominium unit extend for the entire balance of the unexpired term or terms.
- 820 [(45)] (46) "Water wise landscaping" means:
- 821 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
 - 822 (i) remain healthy with minimal irrigation once established; or
 - 823 (ii) be maintained without the use of overhead spray irrigation;
 - 824 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
825 water application; or
 - 826 (c) use of other landscape design features that:
 - 827 (i) minimize the landscape's need for supplemental water from irrigation;
 - 828 (ii) reduce the landscape area dedicated to lawn or turf; or
 - 829 (iii) encourage vegetative coverage.
- 830 [(46)] (47) "Water wise plant material" means a plant material suited to water wise
831 landscaping.
- 832 Section 8. Section **57-8-6.1** is amended to read:
- 833 **57-8-6.1 . Information required before sale to independent third party.**
- 834 (1) Before the sale of [any] a unit under the jurisdiction of an association of unit owners to
835 an independent third party, the grantor shall provide to the independent third party:
 - 836 (a) a copy of the association of unit owners' recorded governing documents; and
 - 837 (b) a link or other access point to the [~~department's~~] educational materials described in
838 Subsection [~~57-8-13.1(6)~~] 13-79-103(4).
 - 839 (2) The grantor shall provide the information described in Subsection (1) before closing.
 - 840 (3) The association of unit owners shall, upon request by the grantor, provide to the grantor
841 the information described in Subsection (1).
 - 842 (4) This section applies to each association of unit owners, regardless of when the
843 association of unit owners is formed.

844 Section 9. Section **57-8-7.6** is enacted to read:

845 **57-8-7.6 . Budget.**

- 846 (1) At least once annually a management committee shall prepare and adopt a budget for
847 the association.
- 848 (2) The management committee shall present the adopted budget to association members at
849 a meeting of the members.
- 850 (3) A budget is disapproved if within 45 days after the date of the meeting under Subsection
851 (2) at which the management committee presents the adopted budget:
- 852 (a) at least 51% of all the allocated voting interests of the unit owners in the association
853 vote to disapprove the adopted budget; and
- 854 (b) the vote is taken at a special meeting called by unit owners under the declaration,
855 articles, or bylaws to disapprove the budget.
- 856 (4) If a budget is disapproved under Subsection (3) or not adopted under Subsection (1), the
857 budget that the management committee last adopted continues as the budget until the
858 management committee prepares and adopts a new budget for the association.

859 Section 10. Section **57-8-8.1** is amended to read:

860 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**

- 861 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
862 owners similarly.
- 863 (b) A rule may:
- 864 (i) vary according to the level and type of service that the association of unit owners
865 provides to unit owners;
- 866 (ii) differ between residential and nonresidential uses; or
- 867 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
868 reasonable limit on the number of individuals that may use the common areas and
869 facilities as the rental unit tenant's guest or as the unit owner's guest.
- 870 (2)(a) Except as provided in Subsection (2)(b), if a unit owner owns a rental unit and is
871 in compliance with the association of unit owners' governing documents and any rule
872 that the association of unit owners adopts under Subsection (4), a rule may not treat
873 the unit owner differently because the unit owner owns a rental unit.
- 874 (b) A rule may:
- 875 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
876 purposes other than attending an association meeting or managing the rental unit;
- 877 (ii) if the rental unit owner retains the right to use the association of unit owners'

- 878 common areas and facilities, even occasionally:
- 879 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 880 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
- 881 reasonable limit on the number of individuals that may use the common areas
- 882 and facilities as the rental unit tenant's guest or as the unit owner's guest; or
- 883 (iii) include a provision in the association of unit owners' governing documents that:
- 884 (A) requires each tenant of a rental unit to abide by the terms of the governing
- 885 documents; and
- 886 (B) holds the tenant and the rental unit owner jointly and severally liable for a
- 887 violation of a provision of the governing documents.
- 888 (3)(a) Except as provided in Subsection (3)(b), a rule may not interfere with the freedom
- 889 of a unit owner to determine the composition of the unit owner's household.
- 890 (b) An association of unit owners may:
- 891 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
- 892 or
- 893 (ii) limit the total number of occupants permitted in each residential dwelling on the
- 894 basis of the residential dwelling's:
- 895 (A) size and facilities; and
- 896 (B) fair use of the common areas and facilities.
- 897 (4) Subject to Subsection (14), an association of unit owners may by rule:
- 898 (a) unless otherwise provided in the declaration:
- 899 (i) regulate the use, maintenance, repair, replacement, and modification of common
- 900 areas and facilities; and
- 901 (ii) impose and receive any payment, fee, or charge for:
- 902 (A) the use, rental, or operation of the common areas, except limited common
- 903 areas and facilities; or
- 904 (B) a service provided to a unit owner;
- 905 (b) impose, for a late payment of an assessment:
- 906 (i) a late fee, not to exceed the greater of:
- 907 (A) 10% of the assessment amount; or
- 908 (B) \$50; and
- 909 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 910 (c) provide for the indemnification of the association of unit owners' officers and
- 911 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit

- 912 Corporation Act.
- 913 (5)(a) Except as provided in Subsection (5)(b), a rule may not prohibit a unit owner from
914 installing a personal security camera immediately adjacent to the entryway, window,
915 or other outside entry point of the owner's condominium unit.
- 916 (b) A rule may prohibit a unit owner from installing a personal security camera in a
917 common area not physically connected to the owner's unit.
- 918 (6)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
919 sign, symbol, or decoration inside the owner's condominium unit.
- 920 (b) An association may adopt a reasonable time, place, and manner restriction with
921 respect to a display that is visible from the exterior of a unit.
- 922 (7)(a) A rule may not:
- 923 (i) prohibit a unit owner from displaying in a window of the owner's condominium
924 unit:
- 925 (A) a for-sale sign;
926 (B) a political sign; or
927 (C) a flag; or
- 928 (ii) except as provided Subsection (7)(b), regulate the content or establish specific
929 design criteria for the content of a political sign or flag.
- 930 (b) A rule may restrict a political sign or flag that contains obscene, profane, or
931 commercial content.
- 932 (c) A rule may reasonably regulate the size and time, place, and manner of posting a
933 for-sale sign, a political sign, or a flag.
- 934 (8) For any area for which one or more unit owners, but not the association, are responsible
935 for landscape maintenance, the association of unit owners:
- 936 (a) shall adopt rules supporting water wise landscaping, including:
- 937 (i) low water use requirements on lawns during drought conditions;
938 (ii) design criterion for water wise landscaping; and
939 (iii) limiting permissible plant material to specific water wise plant material;
- 940 (b) may not prohibit low water use on lawns during drought conditions; and
941 (c) except where reasonably necessary for erosion control, may not prohibit or restrict
942 the conversion of a grass park strip of less than 8 feet wide to water-efficient
943 landscaping.
- 944 (9) A rule may restrict a sex offender from accessing a protected area that is maintained,
945 operated, or owned by the association, subject to the exceptions described in Subsection

- 946 53-29-306(3).
- 947 (10)(a) Except as provided in this Subsection (10), a rule may not prohibit a unit owner
948 from making modifications, consistent with industry standards, for radon mitigation.
- 949 (b) Subsection (10)(a) does not apply if the modifications would violate:
- 950 (i) a local land use ordinance;
- 951 (ii) a building code;
- 952 (iii) a health code; or
- 953 (iv) a fire code.
- 954 (c) A rule governing the placement or external appearance of modifications may apply to
955 modifications for radon mitigation unless the rule would:
- 956 (i) unreasonably interfere with the modifications' functionality; or
- 957 (ii) add more than 40% of the modifications' original cost to the cost of installing the
958 modifications.
- 959 (d) A rule may require that a unit owner making modifications related to radon
960 mitigation:
- 961 (i) demonstrate or provide proof of radon contamination; and
- 962 (ii) provide proof that the modifications and any related construction will be
963 performed by a licensed person.
- 964 (11)(a) Except as provided in Subsection (11)(b), a rule may not restrict an individual
965 from parking an operable vehicle in a driveway where the vehicle has a legal right to
966 park, unless the vehicle is:
- 967 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 968 (ii) a motor home, as that term is defined in Section 13-20-2;~~[-or]~~
- 969 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2~~[-]~~ ;
- 970 (iv) a trailer, as that term is defined in Section 41-1a-102;
- 971 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
- 972 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
- 973 (vii) a motorboat, as that term is defined in Section 73-18-2.
- 974 (b) A rule may require that an individual park in a garage appurtenant to a unit before
975 parking elsewhere.
- 976 (12)(a) Except as provided in Subsection (12)(b), a rule may not restrict an individual
977 from operating a vehicle that is not a commercial vehicle, as that term is defined in
978 Section 72-9-102, in conformance with state traffic laws.
- 979 (b) A rule may enforce a reduced speed limit on a private roadway.

- 980 (13) A rule may not:
- 981 (a) impose a requirement or restriction on the use of a public street, as that term is
- 982 defined in Section 10-20-102; or
- 983 (b) restrict an individual from:
- 984 (i) installing, displaying, or storing an item that the individual has a legal right to
- 985 store if the item is not visible to an individual standing outside the unit; or
- 986 (ii) hiring a contractor or worker solely because the contractor or worker:
- 987 (A) is not on the association's preferred vendor list; or
- 988 (B) does not have a professional or occupational license, unless the license is
- 989 required by law.
- 990 (14) A rule shall be reasonable.
- 991 (15) A declaration, or an amendment to a declaration, may [~~vary any of the requirements of~~
- 992 ~~Subsections (1) through (5), except] not vary the requirements of Subsection (1)(b)(ii).~~
- 993 (16) This section applies to an association of unit owners regardless of when the association
- 994 of unit owners is created.
- 995 (17) Before imposing a fee under Subsection (4), an association of unit owners shall:
- 996 (a) adopt a fee schedule by rule that describes the amount of each fee the association of
- 997 unit owners shall impose; and
- 998 (b) provide a copy of the fee schedule to each unit owner.
- 999 Section 11. Section **57-8-10** is amended to read:
- 1000 **57-8-10 . Contents of declaration -- Limitations on declaration.**
- 1001 (1)(a) Before the conveyance of [~~any~~] a unit in a condominium project, a declaration
- 1002 shall be recorded that contains the covenants, conditions, and restrictions relating to
- 1003 the project that shall be enforceable equitable servitudes, where reasonable, and
- 1004 which shall run with the land.
- 1005 (b) [~~-~~]Unless otherwise provided, [~~these servitudes may be enforced by a unit owner or~~
- 1006 ~~a unit owner's successor in interest.] a unit owner or a unit owner's successor in~~
- 1007 interest may enforce a servitude described in Subsection (1)(a).
- 1008 (2)(a) For every condominium project, the declaration shall:
- 1009 (i) include a description of the land or interests in real property included within the
- 1010 project;
- 1011 (ii) contain a description of any buildings that states the number of storeys and
- 1012 basements, the number of units, the principal materials of which the building is or
- 1013 is to be constructed, and a description of all other significant improvements

- 1014 contained or to be contained in the project;
- 1015 (iii) contain the unit number of each unit, the square footage of each unit, and any
- 1016 other description or information necessary to properly identify each unit;
- 1017 (iv) describe the common areas and facilities of the project; ~~and~~
- 1018 (v) describe any limited common areas and facilities and state to which units the use
- 1019 of the common areas and facilities is reserved[-] ; and
- 1020 (vi) include a statement that the project is:
- 1021 (A) designated as a condominium project; and
- 1022 (B) governed by this chapter.
- 1023 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other
- 1024 apparatus intended to serve a single unit, but located outside the boundaries of the
- 1025 unit, shall constitute a limited common area and facility appertaining to that unit
- 1026 exclusively, regardless of whether ~~[or not]~~ the declaration makes such a provision.
- 1027 (c) The condominium plat recorded with the declaration may provide or supplement the
- 1028 information required under Subsections (2)(a) and (b).
- 1029 (d)(i) The declaration shall include the percentage or fraction of undivided interest in
- 1030 the common areas and facilities appurtenant to each unit and the unit owner for all
- 1031 purposes, including voting, derived and allocated in accordance with Subsection
- 1032 57-8-7(2).
- 1033 (ii) If any use restrictions are to apply, the declaration shall state the purposes for
- 1034 which the units are intended and the use restrictions that apply.
- 1035 (iii)(A) The declaration shall include the name and address of a person to receive
- 1036 service of process on behalf of the condominium project, in the cases provided
- 1037 by this chapter.
- 1038 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or
- 1039 shall maintain a place of business within, this state.
- 1040 (iv) The declaration shall describe the method by which the declaration may be
- 1041 amended consistent with this chapter.
- 1042 (v) Any further matters in connection with the property may be included in the
- 1043 declaration, which the person or persons executing the declaration may consider
- 1044 desirable, consistent with this chapter.
- 1045 ~~[(vi) The declaration shall contain a statement of intention that this chapter applies to~~
- 1046 ~~the property.]~~
- 1047 (e) The initial recorded declaration shall include:

- 1048 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
1049 and
- 1050 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
1051 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the
1052 unit and all improvements to the unit for the purpose of securing payment of
1053 assessments under the terms of the declaration."
- 1054 (3)(a) If the condominium project contains any convertible land, the declaration shall:
- 1055 (i) contain a legal description by metes and bounds of each area of convertible land
1056 within the condominium project;
- 1057 (ii) state the maximum number of units that may be created within each area of
1058 convertible land;
- 1059 (iii) state, with respect to each area of convertible land, the maximum percentage of
1060 the aggregate land and floor area of all units that may be created and the use of
1061 which will not or may not be restricted exclusively to residential purposes, unless
1062 none of the units on other portions of the land within the project are restricted
1063 exclusively to residential use;
- 1064 (iv) state the extent to which any structure erected on any convertible land will be
1065 compatible with structures on other portions of the land within the condominium
1066 project in terms of quality of construction, the principal materials to be used, and
1067 architectural style;
- 1068 (v) describe all other improvements that may be made on each area of convertible
1069 land within the condominium project;
- 1070 (vi) state that any units created within each area of convertible land will be
1071 substantially identical to the units on other portions of the land within the project
1072 or describe in detail what other type of units may be created; and
- 1073 (vii) describe the declarant's reserved right, if any, to create limited common areas
1074 and facilities within any convertible land in terms of the types, sizes, and
1075 maximum number of the limited common areas within each convertible land.
- 1076 (b) The condominium plat recorded with the declaration may provide or supplement the
1077 information required under Subsection (3)(a).
- 1078 (4)(a) If the condominium project is an expandable condominium project, the
1079 declaration shall:
- 1080 (i) contain an explicit reservation of an option to expand the project;
- 1081 (ii) include a statement of any limitations on the option to expand, including a

- 1082 statement as to whether the consent of any unit owners is required and, a
1083 statement as to the method by which consent shall be ascertained, or a statement
1084 that there are no such limitations;
- 1085 (iii) include a time limit, not exceeding seven years after the day on which the
1086 declaration is recorded, upon which the option to expand the condominium project
1087 expires and a statement of any circumstances that will terminate the option before
1088 expiration of the specified time limits;
- 1089 (iv) contain a legal description by metes and bounds of all land that may be added to
1090 the condominium project, which is known as additional land;
- 1091 (v) state:
- 1092 (A) if any of the additional land is added to the condominium project, whether all
1093 of it or any particular portion of it must be added;
- 1094 (B) any limitations as to what portions may be added; or
- 1095 (C) a statement that there are no such limitations;
- 1096 (vi) include a statement as to whether portions of the additional land may be added to
1097 the condominium project at different times, including any limitations fixing the
1098 boundaries of those portions by legal descriptions setting forth the metes and
1099 bounds of these lands and regulating the order in which [~~they~~] the lands may be
1100 added to the condominium project;
- 1101 (vii) include a statement of any limitations on the locations of any improvements that
1102 may be made on any portions of the additional land added to the condominium
1103 project, or a statement that no assurances are made in that regard;
- 1104 (viii)(A) state the maximum number of units that may be created on the additional
1105 land;
- 1106 (B) if portions of the additional land may be added to the condominium project
1107 and the boundaries of those portions are fixed in accordance with Subsection
1108 (4)(a)(vi), state the maximum number of units that may be created on each
1109 portion added to the condominium project; and
- 1110 (C) if portions of the additional land may be added to the condominium project
1111 and the boundaries of those portions are not fixed in accordance with
1112 Subsection (4)(a)(vi), state the maximum number of units per acre that may be
1113 created on any portion added to the condominium project;
- 1114 (ix) with respect to the additional land and to any portion of the additional land that
1115 may be added to the condominium project, state the maximum percentage of the

1116 aggregate land and floor area of all units that may be created on it, the use of
1117 which will not or may not be restricted exclusively to residential purposes, unless
1118 none of the units on the land originally within the project are restricted exclusively
1119 to residential use;

1120 (x) state the extent to which any structures erected on any portion of the additional
1121 land added to the condominium project will be compatible with structures on the
1122 land originally within the project in terms of quality of construction, the principal
1123 materials to be used, and architectural style, or that no assurances are made in
1124 those regards;

1125 (xi) describe all other improvements that will be made on any portion of the
1126 additional land added to the condominium project, including any limitations on
1127 what other improvements may be made on the additional land, or state that no
1128 assurances are made in that regard;

1129 (xii) contain a statement that any units created on any portion of the additional land
1130 added to the condominium project will be substantially identical to the units on
1131 the land originally within the project, a statement of any limitations on what types
1132 of units may be created on the additional land, or a statement that no assurances
1133 are made in that regard; and

1134 (xiii) describe the declarant's reserved right, if any, to create limited common areas
1135 and facilities within any portion of the additional land added to the condominium
1136 project, in terms of the types, sizes, and maximum number of limited common
1137 areas within each portion, or state that no assurances are made in those regards.

1138 (b) The condominium plat recorded with the declaration may provide or supplement the
1139 information required under Subsections (4)(a)(iv) through (a)(vii) and (a)(x) through
1140 (a)(xiii).

1141 (5)(a) If the condominium project is a contractible condominium, the declaration shall:

1142 (i) contain an explicit reservation of an option to contract the condominium project;

1143 (ii) contain a statement of any limitations on the option to contract, including a
1144 statement regarding whether the consent of any unit owners is required, and if so,
1145 a statement regarding the method by which this consent shall be ascertained, or a
1146 statement that there are no such limitations;

1147 (iii) state the time limit, not exceeding seven years after the day on which the
1148 declaration is recorded, upon which the option to contract the condominium
1149 project expires, together with a statement of any circumstances that will terminate

- 1150 the option before expiration of the specified time limit;
- 1151 (iv) include a legal description by metes and bounds of all land that may be
1152 withdrawn from the condominium project, which is known as withdrawable land;
- 1153 (v) include a statement as to whether portions of the withdrawable land may be
1154 withdrawn from the condominium project at different times, together with any
1155 limitations fixing the boundaries of those portions by legal descriptions setting
1156 forth the metes and bounds and regulating the order in which they may be
1157 withdrawn from the condominium project; and
- 1158 (vi) include a legal description by metes and bounds of all of the land within the
1159 condominium project to which the option to contract the project does not extend.
- 1160 (b) The condominium plat recorded with the declaration may provide or supplement the
1161 information required under Subsections (5)(a)(iv) through (vi).
- 1162 (6)(a) If the condominium project is a leasehold condominium, the declaration shall,
1163 with respect to any ground lease or other leases the expiration or termination of
1164 which will or may terminate or contract the condominium project:
- 1165 (i) include recording information enabling the location of each lease in the official
1166 records of the county recorder;
- 1167 (ii) include the date upon which each lease is due to expire;
- 1168 (iii) state whether any land or improvements will be owned by the unit owners in fee
1169 simple;
- 1170 (iv) if there is to be fee simple ownership of any land or improvement, as described in
1171 Subsection (6)(a)(iii), include:
- 1172 (A) a description of the land or improvements, including a legal description by
1173 metes and bounds of the land; or
- 1174 (B) a statement of [~~any rights~~] the right the unit owners have to remove [~~these~~] the
1175 improvements described in Subsection (6)(a)(iv)(A) within a reasonable time
1176 after the expiration or termination of the lease or leases involved, or a
1177 statement that [~~they shall have no such rights~~] the unit owners do not have that
1178 right; and
- 1179 (v) include a statement of the [~~rights~~] right the unit owners have to extend or renew
1180 any of the leases or to redeem or purchase any of the reversions, or a statement
1181 that [~~they have no such rights~~] the unit owners do not have that right.
- 1182 (b) After the recording of the declaration, a lessor who executed the declaration, or the
1183 lessor's successor in interest, may not terminate any part of the leasehold interest of [

- 1184 any] a unit owner who:
- 1185 (i) makes timely payment of the unit owner's share of the rent to the persons
- 1186 designated in the declaration for the receipt of the rent; and
- 1187 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
- 1188 the lease if the covenants were violated.
- 1189 (7)(a)(i) If the condominium project contains time period units, the declaration shall
- 1190 also contain the location of each condominium unit in the calendar year.
- 1191 (ii) ~~[-This information]~~ The information described in Subsection (7)(a)(i) shall be set
- 1192 out in a fourth column of the exhibit or schedule referred to in Subsection
- 1193 57-8-7(2), if the exhibit or schedule accompanies the declaration.
- 1194 (b) The declaration shall also put timeshare owners on notice that tax notices will be sent
- 1195 to the management committee, not each timeshare owner.
- 1196 (c) The time period units created with respect to any given physical unit shall be such
- 1197 that the aggregate of the durations involved constitute a full calendar year.
- 1198 (8)(a) The declaration, bylaws, and condominium plat shall be duly executed and
- 1199 acknowledged by all of the owners and any lessees of the land ~~[which]~~ that is ~~[made-]~~
- 1200 subject to this chapter.
- 1201 (b) As used in Subsection (8)(a), "owners and lessees" does not include~~[- in their~~
- 1202 ~~respective capacities,]~~ :
- 1203 (i) ~~[-any]~~ a mortgagee~~[-]~~ ;
- 1204 (ii) ~~[-any]~~ a trustee or beneficiary under a deed of trust~~[-]~~ ;
- 1205 (iii) ~~[-]~~any other lien holder~~[-]~~ ;
- 1206 (iv) ~~[-any]~~ a person ~~[having]~~ that has an equitable interest under ~~[-any]~~ a contract for the
- 1207 sale or lease of a condominium unit~~[-]~~ ; or
- 1208 (v) ~~[-any]~~ a lessee whose leasehold interest does not extend to any portion of the
- 1209 common areas and facilities.
- 1210 (9) A declaration, or an amendment to a declaration may not:
- 1211 (a) prohibit a unit owner from displaying in a window of the owner's unit:
- 1212 (i) a for-sale sign;
- 1213 (ii) a political sign; or
- 1214 (iii) a flag;
- 1215 (b) regulate the content or establish specific design criteria for the content of a political
- 1216 sign or flag, except to restrict a political sign or flag that contains obscene, profane,
- 1217 or commercial content;

- 1218 (c) prohibit low water use on lawns during drought conditions;
- 1219 (d) except where reasonably necessary for erosion control, prohibit or restrict the
- 1220 conversion of a grass park strip of less than eight feet wide to water-efficient
- 1221 landscaping;
- 1222 (e) prohibit a unit owner from making modifications, consistent with industry standards,
- 1223 for radon mitigation, unless the modifications would violate:
- 1224 (i) a local land use ordinance;
- 1225 (ii) a building code;
- 1226 (iii) a health code; or
- 1227 (iv) a fire code;
- 1228 (f) restrict an individual from parking an operable vehicle in a driveway where the
- 1229 vehicle has a legal right to park, unless the vehicle is:
- 1230 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 1231 (ii) a motor home, as that term is defined in Section 13-20-2;
- 1232 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2;
- 1233 (iv) a trailer, as that term is defined in Section 41-1a-102;
- 1234 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
- 1235 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
- 1236 (vii) a motorboat, as that term is defined in Section 73-18-2;
- 1237 (g) restrict an individual from operating a vehicle that is not a commercial vehicle, as
- 1238 that term is defined in Section 72-9-102, in accordance with state traffic laws;
- 1239 (h) impose a requirement or restriction on the use of a public street, as that term is
- 1240 defined in Section 10-20-102;
- 1241 (i) restrict an individual from:
- 1242 (i) installing, displaying, or storing an item that the individual has a legal right to
- 1243 store if the item is not visible to an individual standing outside the unit; or
- 1244 (ii) hiring a contractor or worker solely because the contractor or worker:
- 1245 (A) is not on the association's preferred vendor list; or
- 1246 (B) does not have a professional or occupational license, unless the license is
- 1247 required by law;
- 1248 (j) restrict a unit owner from displaying a religious or holiday sign, symbol, or
- 1249 decoration on:
- 1250 (i) the unit; or
- 1251 (ii) the exterior of the unit, unless the association has an ownership interest in, or

- 1252 maintenance, repair, or replacement obligation for the exterior;
- 1253 (k) interfere with reasonable activity of a unit owner within the confines of the unit, to
- 1254 the extent that the activity is in compliance with local laws and ordinances, including
- 1255 nuisance laws and ordinances;
- 1256 (l)(i) prohibit the transfer of a unit; or
- 1257 (ii) require the consent of the association or management committee to transfer a unit;
- 1258 (m) prohibit a unit owner from installing a personal security camera immediately
- 1259 adjacent to the entryway, window, or other outside entry point of the unit;
- 1260 (n) impose a restriction on a unit interior, except as reasonably necessary for the safety
- 1261 of adjacent units and the occupants of the units; or
- 1262 (o) restrict an individual from installing or keeping a properly maintained basketball
- 1263 standard on the individual's driveway or property if the driveway or property where
- 1264 the basketball standard is located is:
- 1265 (i) privately owned and maintained; and
- 1266 (ii) abutting a public street.
- 1267 (10) A declaration, or an amendment to a declaration may:
- 1268 (a) require that an individual park in a garage appurtenant to a unit before parking
- 1269 elsewhere;
- 1270 (b) enforce a reduced speed limit on a private roadway;
- 1271 (c) reasonably regulate the size and time, place, and manner of posting a for-sale sign, a
- 1272 political sign, or a flag;
- 1273 (d) restrict a sex offender from accessing a protected area that is maintained, operated, or
- 1274 owned by the association, subject to the exceptions described in Subsection
- 1275 53-29-306(3); or
- 1276 (e) adopt a reasonable time, place, and manner restriction with respect to a religious or
- 1277 holiday sign, symbol, or decoration that is:
- 1278 (i) outside of or on the unit; or
- 1279 (ii) visible from outside the unit.

1280 Section 12. Section **57-8-13.1** is amended to read:

1281 **57-8-13.1 . Registration with Department of Commerce.**

- 1282 (1) As used in this section, "department" means the Department of Commerce created in
- 1283 Section 13-1-2.
- 1284 (2) No later than 90 days after the recording of a declaration, an association of unit owners
- 1285 shall register with the department in the manner [~~established by~~] that the department

- 1286 establishes.
- 1287 (3) The department shall require an association of unit owners registering as required in this
1288 section to provide with each registration:
- 1289 (a) the name and address of the association of unit owners;
- 1290 (b) the name, [~~address,~~]telephone number, and, if applicable, email address of the
1291 president of the association of unit owners;
- 1292 (c) the name [~~and address~~]of each manager or management committee member;
- 1293 (d) the name, address, telephone number, and, if the contact person wishes to use email
1294 or facsimile transmission for communicating payoff information, the email address or
1295 facsimile number, as applicable, of a primary contact person who has association
1296 payoff information that a closing agent needs in connection with the closing of a unit
1297 owner's financing, refinancing, or sale of the owner's unit; and
- 1298 (e) a registration fee [~~set by~~] that the department sets in accordance with Section
1299 63J-1-504.
- 1300 (4)(a) An association of unit owners shall annually renew the registration of the
1301 association of unit owners described in Subsection (2).
- 1302 (b) The department may impose and set the amount of a renewal registration fee in
1303 accordance with Section 63J-1-504.
- 1304 (5) An association of unit owners [~~that has registered under~~] that registers in accordance with
1305 Subsection (2) shall submit to the department an update to the association of unit
1306 owners' registration information, in the manner [~~established by~~] that the department
1307 establishes, within 90 days after the day on which a change in any of the information
1308 provided under Subsection (3) occurs.
- 1309 (6)(a) During any period of noncompliance with the registration requirement described
1310 in Subsection (2) or the requirement for an updated registration described in
1311 Subsection (5):
- 1312 (i) a lien may not arise under Section 57-8-44; and
- 1313 (ii) an association of unit owners may not enforce an existing lien that arose under
1314 Section 57-8-44.
- 1315 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1316 with the updated registration requirement of Subsection (5) does not begin until after
1317 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 1318 (c) An association of unit owners that is not in compliance with the registration
1319 requirement described in Subsection (2) may end the period of noncompliance by

- 1320 registering with the department in the manner [~~established by~~] that the department
 1321 establishes under Subsection (2).
- 1322 (d) An association of unit owners that is not in compliance with the updated registration
 1323 requirement described in Subsection (5) may end the period of noncompliance by
 1324 submitting to the department an updated registration in the manner [~~established by~~]
 1325 that the department establishes under Subsection (5).
- 1326 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit
 1327 owners ends a period of noncompliance:
- 1328 (i) a lien may arise under Section 57-8-44 for any event that:
- 1329 (A) occurred during the period of noncompliance; and
 1330 (B) would have given rise to a lien under Section 57-8-44 had the association of
 1331 unit owners been in compliance with the registration requirements described in
 1332 this section; and
- 1333 (ii) an association of unit owners may enforce a lien described in Subsection [(6)(e)]
 1334 (6)(e)(i) or a lien that existed before the period of noncompliance.
- 1335 (f) If an owner's unit is conveyed to an independent third party during a period of
 1336 noncompliance described in this Subsection (6):
- 1337 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
 1338 final is extinguished when the conveyance of the unit becomes final; and
 1339 (ii) an event that occurred before the conveyance of the unit became final, and that
 1340 would have given rise to a lien under Section 57-8-44 had the association of unit
 1341 owners been in compliance with the registration requirements of this section, may
 1342 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
 1343 final before the association of unit owners ends the period of noncompliance.
- 1344 [~~(7) The department shall publish educational materials on the department's website
 1345 providing, in simple and easy to understand language, a brief overview of state law
 1346 governing associations of unit owners, including:]~~
- 1347 [~~(a) a description of the rights and responsibilities provided in this chapter to any party
 1348 under the jurisdiction of an association of unit owners; and]~~
- 1349 [~~(b) instructions regarding how an association of unit owners may be organized and
 1350 dismantled in accordance with this chapter.]~~
- 1351 Section 13. Section **57-8-16.5** is amended to read:
- 1352 **57-8-16.5 . Period of administrative control -- Renewal or ratification of**
 1353 **contracts -- Failure to establish association or committee -- Declarant responsibilities.**

- 1354 (1)(a) The declaration may authorize the declarant, ~~[or]~~ a managing agent, or ~~[some other]~~
1355 a person ~~[or persons selected or to be selected by]~~ that the declarant selects, to:
- 1356 (i) ~~[-]~~ appoint and remove some or all of:
- 1357 (A) ~~[-]~~ the members of the management committee; or
1358 (B) ~~[-some or all of-]~~ the officers of the association of unit owners~~[-]~~; or
- 1359 (ii) ~~[-to-]~~ exercise powers and responsibilities otherwise assigned by the declaration
1360 and by this ~~[aet]~~ chapter to the association of unit owners, ~~[its]~~ the association's
1361 officers, or the management committee.
- 1362 (b) If the declaration authorizes the declarant to ~~[appoint or remove some or all members~~
1363 ~~of the management committee or some or all of the officers of the association of unit~~
1364 ~~owners]~~ conduct the actions described in Subsection (1)(a)(i) during the period of
1365 administrative control ~~[contemplated by]~~ described in this Subsection (1), the
1366 declarant may appoint the declarant's officers, employees or agents as members of the
1367 management committee or as officers of the association of unit owners.
- 1368 (c) ~~[No-]~~ An amendment to the declaration ~~[not consented to by all unit owners shall]~~ may
1369 not increase the scope of ~~[this authorization]~~ the authorization described in Subsection
1370 (1)(b), unless all unit owners unanimously consent to the amendment.
- 1371 (d) ~~[-, and no such authorization shall be valid after the first to occur of the following]~~
1372 The authorization described in Subsection (1)(b) terminates on the day on which the
1373 first of the following occurs:
- 1374 (i) ~~[expiration of-]~~ the time limit set by the declaration expires, ~~[which shall]~~ that may
1375 not exceed:
- 1376 (A) ~~[-six years in the case of-]~~ for an expandable condominium~~[-]~~, six years;
1377 (B) ~~[-four years in the case of-]~~ for a condominium project containing any
1378 convertible land, four years; or
1379 (C) ~~[-three years in the case of-]~~ for any other condominium project~~[-or]~~, three
1380 years;
- 1381 (ii) ~~[after-]~~ units to which three-fourths of the undivided interest in the common areas
1382 and facilities appertain have been conveyed~~[-]~~; or
- 1383 (iii) ~~[-after-]~~ all additional land has been added to the project and all convertible land
1384 has been converted, whichever last occurs.
- 1385 (2) If entered into during the period of administrative control contemplated by Subsection
1386 (1), ~~[no]~~ a management contract, lease of recreational areas or facilities, or any other
1387 contract or lease designed to benefit the declarant which was executed by or on behalf of

1388 the association of unit owners or the unit owners as a group [~~shall be~~] is not binding after [~~sueh~~]
 1389 the period of administrative control unless [then renewed or ratified by the consent
 1390 of] unit owners of units to which a majority of the votes in the association of unit owners
 1391 appertains renew and ratify the management contract, lease of recreational areas or
 1392 facilities, or any other contract or lease designed to benefit the declarant.

1393 (3) If the association of unit owners or management committee is not in existence or does
 1394 not have officers at the time of the creation of a condominium project, the declarant
 1395 shall, until there is an association or management committee with these officers, have
 1396 the power and responsibility to act in all instances where this [~~aet~~] chapter or the
 1397 declaration requires action by the association of unit owners, the management
 1398 committee, or any of the officers of [~~them~~] the association of unit owners or the
 1399 management committee.

1400 (4) This section shall be strictly construed to protect the rights of the unit owners.

1401 (5) During the period of administrative control, the declarant shall:

- 1402 (a) use reasonable care and prudence in managing and maintaining the common areas
 1403 and facilities;
- 1404 (b) establish a sound fiscal basis for the association by imposing and collecting
 1405 assessments and establishing reserves for the maintenance and replacement of
 1406 common areas and facilities;
- 1407 (c) for a service that the association is or will be obligated to provide, disclose to the unit
 1408 owners the amount of money the declarant provides for or subsidizes for that service;
- 1409 (d) comply with and enforce the terms of the declaration, including design controls,
 1410 land-use restrictions, and the payment of assessments; and
- 1411 (e) disclose to the unit owners all material facts and circumstances affecting:
- 1412 (i) the condition of the property that the association is responsible for maintaining;
 1413 and
- 1414 (ii) the financial condition of the association, including the interest of the declarant
 1415 and the declarant's affiliates in a contract, lease, or other agreement entered into
 1416 by the association.

1417 Section 14. Section **57-8-17** is amended to read:

1418 **57-8-17 . Records -- Availability for examination.**

1419 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association of unit
 1420 owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit
 1421 Corporation Act, an association of unit owners shall keep and make available to unit

- 1422 owners:
- 1423 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner
- 1424 described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605,
- 1425 16-6a-1606, and 16-6a-1610; and
- 1426 (ii) a copy of the association's:
- 1427 (A) governing documents;
- 1428 (B) most recent approved minutes;
- 1429 (C) most recent annual budget and financial statement;
- 1430 (D) most recent reserve analysis;
- 1431 (E) certificate of insurance for each insurance policy the association of unit
- 1432 owners holds;
- 1433 (F) management committee meeting minutes from the previous three calendar
- 1434 years;
- 1435 (G) [a-]profit and loss statement for the previous three fiscal years; and
- 1436 (H) [a-]balance sheet for the previous three fiscal years.
- 1437 (b) An association of unit owners may redact the following information from any
- 1438 document the association of unit owners produces for inspection or copying:
- 1439 (i) a [~~Social Security~~] social security number;
- 1440 (ii) a bank account number; or
- 1441 (iii) any communication subject to attorney-client privilege.
- 1442 (c) The following are considered property of the association:
- 1443 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 1444 (ii) the funds contained in an account described in Section 57-8-60.
- 1445 (d) If a person other than the association of unit owners has control over or possession of
- 1446 a record described in Subsection (1)(a)(i) or (ii), the person shall, upon the
- 1447 association's request, provide the record to the association of unit owners without
- 1448 charge.
- 1449 (2)(a) In addition to the requirements described in Subsection (1), an association of unit
- 1450 owners shall:
- 1451 (i) make documents available to unit owners in accordance with the association of
- 1452 unit owners' governing documents; and
- 1453 (ii)(A) if the association of unit owners has an active website, make the documents
- 1454 described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free
- 1455 of charge, through the website; or

- 1456 (B) if the association of unit owners does not have an active website, make
1457 physical copies of the documents described in Subsections (1)(a)(ii)(A)
1458 through (C) available to unit owners during regular business hours at the
1459 association of unit owners' address registered with the Department of
1460 Commerce under Section 57-8-13.1.
- 1461 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 1462 (c) If a provision of an association of unit owners' governing documents conflicts with a
1463 provision of this section, the provision of this section governs.
- 1464 (3) In a written request to inspect or copy documents:
- 1465 (a) a unit owner shall include:
- 1466 (i) the association of unit owners' name;
- 1467 (ii) the unit owner's name;
- 1468 (iii) the unit owner's property address;
- 1469 (iv) the unit owner's email address;
- 1470 (v) a description of the documents requested; and
- 1471 (vi) ~~any~~ an election or a request described in Subsection (3)(b); and
- 1472 (b) a unit owner may:
- 1473 (i) elect whether to inspect or copy the documents;
- 1474 (ii) if the unit owner elects to copy the documents, request hard copies or electronic
1475 scans of the documents; or
- 1476 (iii) subject to Subsection (4), request that:
- 1477 (A) the association of unit owners make the copies or electronic scans of the
1478 requested documents;
- 1479 (B) a recognized third party duplicating service make the copies or electronic
1480 scans of the requested documents;
- 1481 (C) the unit owner be allowed to bring any necessary imaging equipment to the
1482 place of inspection and make copies or electronic scans of the documents while
1483 inspecting the documents; or
- 1484 (D) the association of unit owners email the requested documents to an email
1485 address provided in the request.
- 1486 (4)(a) An association of unit owners shall comply with a request described in Subsection
1487 (3) within ~~two weeks~~ 10 business days after the day on which the association of unit
1488 owners receives the request.
- 1489 (b) If an association of unit owners produces the copies or electronic scans:

- 1490 (i) the copies or electronic scans shall be legible and accurate;
- 1491 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the
- 1492 copies and for time spent meeting with the unit owner, which may not exceed:
- 1493 (A) the actual cost that the association of unit owners paid to a recognized third
- 1494 party duplicating service to make the copies or electronic scans; or
- 1495 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other
- 1496 agent's time making the copies or electronic scans; and
- 1497 (iii) the association may not charge the unit owner for any costs associated with
- 1498 fulfilling a request for the electronic transmission of the documents described in
- 1499 Subsection (3).
- 1500 (c) If a unit owner requests a recognized third party duplicating service make the copies
- 1501 or electronic scans:
- 1502 (i) the association of unit owners shall arrange for the delivery and pick up of the
- 1503 original documents; and
- 1504 (ii) the unit owner shall pay the duplicating service directly.
- 1505 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the
- 1506 inspection, the association of unit owners shall provide the necessary space, light, and
- 1507 power for the imaging equipment.
- 1508 (e) An association may comply with a request described in Subsection (3) by posting the
- 1509 documents described in Subsection (3) to the association's website or online owner
- 1510 portal.
- 1511 (5) If, in response to a unit owner's request to inspect or copy documents, an association of
- 1512 unit owners fails to comply with a provision of this section, the association of unit
- 1513 owners shall pay:
- 1514 (a) the reasonable costs of inspecting and copying the requested documents;
- 1515 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner
- 1516 who made the request for each day the request continues unfulfilled, beginning the [
- 1517 ~~sixth day~~ eleventh business day after the day on which the unit owner made the
- 1518 request; and
- 1519 (c) reasonable attorney fees and costs [~~incurred by~~] that the unit owner incurs in
- 1520 obtaining the inspection and copies of the requested documents.
- 1521 (6)(a) In addition to any remedy in the association of unit owners' governing documents
- 1522 or as otherwise provided by law, a unit owner may file an action in court under this
- 1523 section if:

- 1524 (i) subject to Subsection (9), an association of unit owners fails to make documents
1525 available to the unit owner in accordance with this section, the association of unit
1526 owners' governing documents, or as otherwise provided by law; and
- 1527 (ii) the association of unit owners fails to timely comply with a notice described in
1528 Subsection (6)(d).
- 1529 (b) In an action described in Subsection (6)(a):
- 1530 (i) the unit owner may request:
- 1531 (A) injunctive relief requiring the association of unit owners to comply with the
1532 provisions of this section;
- 1533 (B) \$1,000 or actual [~~damage~~] damages, whichever is greater; or
- 1534 (C) any other relief provided by law; and
- 1535 (ii) the court may award costs and reasonable attorney fees to the prevailing party,
1536 including any reasonable attorney fees incurred before the action was filed that
1537 relate to the request that is the subject of the action.
- 1538 (c)(i) In an action described in Subsection (6)(a), upon motion by the unit owner
1539 made in accordance with Subsection (6)(b), notice to the association of unit
1540 owners, and a hearing in which the court finds a likelihood that the association of
1541 unit owners failed to comply with a provision of this section, the court shall order
1542 the association of unit owners to immediately comply with the provision.
- 1543 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
1544 after the day on which the unit owner files the motion.
- 1545 (d) At least 10 days before the day on which a unit owner files an action described in
1546 Subsection (6)(a), the unit owner shall deliver a written notice to the association of
1547 unit owners that states:
- 1548 (i) the unit owner's name, address, telephone number, and email address;
- 1549 (ii) each requirement of this section with which the association of unit owners has
1550 failed to comply;
- 1551 (iii) a demand that the association of unit owners comply with each requirement with
1552 which the association of unit owners has failed to comply; and
- 1553 (iv) a date by which the association of unit owners shall remedy the association of
1554 unit owners' noncompliance that is at least 10 days after the day on which the unit
1555 owner delivers the notice to the association of unit owners.
- 1556 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association of unit
1557 owners.

1558 (b) The provisions of this section apply regardless of any conflicting provision in Title
1559 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

1560 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that
1561 the unit owner has under this section.

1562 (9) An association of unit owners is not liable for identifying or providing a document in
1563 error, if the association of unit owners identified or provided the erroneous document in
1564 good faith.

1565 Section 15. Section **57-8-32** is amended to read:

1566 **57-8-32 . Sale of property and common areas and facilities.**

1567 (1) As used in this section:

1568 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.

1569 (b) "Under threat of condemnation" means the same as that term is defined in Section
1570 78B-6-520.3.

1571 [~~(1)~~] (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in
1572 the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and
1573 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
1574 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
1575 common areas and facilities.

1576 [~~(2)~~] (3) An affirmative vote described in Subsection [~~(1)~~] (2) is binding upon all unit
1577 owners, and each unit owner shall execute and deliver the appropriate instruments and
1578 perform all acts as necessary to affect the sale, conveyance, transfer, or other disposition
1579 of the property or common areas and facilities.

1580 [~~(3)~~] (4) The general easement of ingress, egress, and use of the common areas and facilities
1581 granted to an association and unit owners through recorded governing documents is
1582 extinguished in any portion of the common areas and facilities the unit owners sell,
1583 convey, transfer, or otherwise dispose of, if:

1584 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
1585 portion of the common areas and facilities, comply with:

1586 (i) the provisions of this section; and

1587 (ii) Section 10-20-809 or 17-79-709; and

1588 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
1589 areas and facilities results in a person other than the association owning the portion of
1590 the common areas and facilities.

1591 [~~(4)~~] (5) This section applies to an association of unit owners regardless of when the

1592 association of unit owners is created.

1593 [~~(5)~~] (6) A declarant may not sell or otherwise encumber any part of the common areas and
1594 facilities during the period of administrative control, except:

1595 (a) as allowed for convertible land or convertible space within a condominium project;[
1596 or]

1597 (b) as provided in Section 10-20-809 or 17-79-709[.]; or

1598 (c) if the declarant sells or otherwise encumbers a part of the common areas and
1599 facilities that are under threat of condemnation to a condemnor.

1600 [~~(6)~~] (7) Unless otherwise prohibited by the association's declaration or bylaws, an
1601 authorized representative of the association may act as attorney-in-fact for the
1602 association's unit owners in executing a sale, conveyance, transfer, or other disposition
1603 of the common areas and facilities following an affirmative vote described in Subsection [
1604 ~~(1)~~] (2).

1605 Section 16. Section **57-8a-102** is amended to read:

1606 **57-8a-102 . Definitions.**

1607 As used in this chapter:

1608 (1)(a) "Assessment" means a charge imposed or levied:

1609 (i) by the association;

1610 (ii) on or against a lot or a lot owner; and

1611 (iii) in accordance with a governing document recorded with the county recorder.

1612 (b) "Assessment" includes:

1613 (i) a common expense; and

1614 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

1615 (2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or
1616 other legal entity, any member of which:

1617 (i) is an owner of a residential lot located within the jurisdiction of the association, as
1618 described in the governing documents; and

1619 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:

1620 (A) real property taxes;

1621 (B) insurance premiums;

1622 (C) maintenance costs; or

1623 (D) for improvement of real property not owned by the member.

1624 (b) "Association" or "homeowner association" does not include an association created
1625 under Chapter 8, Condominium Ownership Act.

- 1626 (3) "Board meeting" means a gathering of a board, whether in person or by means of
1627 electronic communication, at which the board can take binding action.
- 1628 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
1629 authority to manage the affairs of the association.
- 1630 (5) "Common areas" means property that the association:
1631 (a) owns;
1632 (b) maintains;
1633 (c) repairs; or
1634 (d) administers.
- 1635 (6) "Common expense" means costs incurred by the association to exercise any of the
1636 powers provided for in the association's governing documents.
- 1637 (7)(a) "Declarant"[:]
1638 [(a)] _means the person who executes a declaration and submits [it] the declaration for
1639 recording in the office of the recorder of the county in which the property described
1640 in the declaration is located[; and] _
- 1641 (b) "Declarant" includes:
1642 (i) [-]the [~~person's~~]successor and assign of the person described in Subsection (7)(a);
1643 and
1644 (ii) an affiliate or related business entity of the person described in Subsection (7)(a).
- 1645 (8) "Development right" means any right or combination of rights a declarant reserves in
1646 the declaration to:
1647 (a) add real estate to an association;
1648 (b) create lots, common elements, or limited common elements within an association;
1649 (c) subdivide lots or convert lots into common elements; or
1650 (d) withdraw real estate from an association.
- 1651 (9) "Director" means a member of the board of directors.
- 1652 (10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 1653 (11) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 1654 (12)(a) "Governing documents" means a written instrument by which the association
1655 may:
1656 (i) exercise powers; or
1657 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
1658 association.
- 1659 (b) "Governing documents" includes:

- 1660 (i) articles of incorporation;
- 1661 (ii) bylaws;
- 1662 (iii) a plat;
- 1663 (iv) a declaration of covenants, conditions, and restrictions; and
- 1664 (v) rules of the association.
- 1665 (13) "Independent third party" means a person that:
- 1666 (a) is not related to the owner of the residential lot;
- 1667 (b) shares no pecuniary interests with the owner of the residential lot; and
- 1668 (c) purchases the residential lot in good faith and without the intent to defraud a current
- 1669 or future lienholder.
- 1670 (14) "Judicial foreclosure" means a foreclosure of a lot:
- 1671 (a) for the nonpayment of an assessment;
- 1672 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 1673 (c) as provided in Part 3, Collection of Assessments.
- 1674 (15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 1675 (a) by a person or persons other than the owner; and
- 1676 (b) for which the owner receives a consideration or benefit, including a fee, service,
- 1677 gratuity, or emolument.
- 1678 (16) "Limited common areas" means common areas described in the declaration and
- 1679 allocated for the exclusive use of one or more lot owners.
- 1680 (17) "Lot" means:
- 1681 (a) a lot, parcel, plot, or other division of land:
- 1682 (i) designated for separate ownership or occupancy; and
- 1683 (ii)(A) shown on a recorded subdivision plat; or
- 1684 (B) the boundaries of which are described in a recorded governing document; or
- 1685 (b)(i) a unit in a condominium association if the condominium association is a part of
- 1686 a development; or
- 1687 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
- 1688 development.
- 1689 (18) "Manager" means a person with whom the board enters into a contract for the person
- 1690 to:
- 1691 (a) provide administrative or financial services for the association; or
- 1692 (b) act on behalf of the association in accordance with this chapter.
- 1693 [~~18~~] (19)(a) "Means of electronic communication" means an electronic system that

- 1694 allows individuals to communicate orally in real time.
- 1695 (b) "Means of electronic communication" includes:
- 1696 (i) web conferencing;
- 1697 (ii) video conferencing; and
- 1698 (iii) telephone conferencing.
- 1699 ~~[(19)]~~ (20) "Mixed-use project" means a project under this chapter that has both residential
- 1700 and commercial lots in the project.
- 1701 ~~[(20)]~~ (21) "Nonjudicial foreclosure" means the sale of a lot:
- 1702 (a) for the nonpayment of an assessment;
- 1703 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
- 1704 57-1-34; and
- 1705 (c) as provided in Part 3, Collection of Assessments.
- 1706 ~~[(21)]~~ (22) "Period of administrative control" means the period during which the person who
- 1707 filed the association's governing documents or the person's successor in interest retains
- 1708 authority to:
- 1709 (a) appoint or remove members of the association's board of directors; or
- 1710 (b) exercise power or authority assigned to the association under the association's
- 1711 governing documents.
- 1712 ~~[(22)]~~ (23) "Political sign" means any sign or document that advocates:
- 1713 (a) the election or defeat of a candidate for public office; or
- 1714 (b) the approval or defeat of a ballot proposition.
- 1715 ~~[(23)]~~ (24) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 1716 ~~[(24)]~~ (25) "Rentals" or "rental lot" means:
- 1717 (a) a lot that:
- 1718 (i) is not owned by an entity or trust; and
- 1719 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
- 1720 owner's primary residence;
- 1721 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 1722 (c) an internal accessory dwelling unit as defined in Section 10-21-101 or 17-80-101.
- 1723 ~~[(25)]~~ (26) "Residential lot" means a lot, the use of which is limited by law, covenant, or
- 1724 otherwise to primarily residential or recreational purposes.
- 1725 ~~[(26)]~~ (27)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an
- 1726 association that:
- 1727 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or

- 1728 declaration; and
- 1729 (ii) governs:
- 1730 (A) the conduct of persons; or
- 1731 (B) the use, quality, type, design, or appearance of real property or personal
- 1732 property.
- 1733 (b) "Rule" does not include the internal business operating procedures of a board.
- 1734 ~~[(27)]~~ (28) "Sex offender" means an individual who is a sex offender as described in
- 1735 Subsection 53-29-202(2)(b) if the offense that the individual committed that resulted in
- 1736 the individual being a sex offender was committed against an individual younger than 18
- 1737 years old.
- 1738 ~~[(28)]~~ (29) "Solar energy system" means:
- 1739 (a) a system that is used to produce electric energy from sunlight; and
- 1740 (b) the components of the system described in Subsection ~~[(28)(a)]~~ (29)(a).
- 1741 Section 17. Section **57-8a-103** is amended to read:
- 1742 **57-8a-103 . Scope of chapter -- Applicability of chapter.**
- 1743 (1) Remedies provided in this chapter, by law, or in equity are not mutually exclusive.
- 1744 (2) This chapter applies to an association if:
- 1745 (a) the association's declaration states that this chapter applies; or
- 1746 (b) if the association's declaration does not state whether this chapter or Chapter 8,
- 1747 Condominium Ownership Act, applies to the lot, the plats within the association are
- 1748 not designated as condominium plats.
- 1749 (3) This section applies regardless of when an association is created.
- 1750 Section 18. Section **57-8a-105** is amended to read:
- 1751 **57-8a-105 . Registration with Department of Commerce.**
- 1752 (1) As used in this section, "department" means the Department of Commerce created in
- 1753 Section 13-1-2.
- 1754 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
- 1755 and restrictions establishing an association, the association shall register with the
- 1756 department in the manner established by the department.
- 1757 (b) An association existing under a declaration of covenants, conditions, and restrictions
- 1758 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
- 1759 department in the manner established by the department.
- 1760 (3) The department shall require an association registering as required in this section to
- 1761 provide with each registration:

- 1762 (a) the name and address of the association;
- 1763 (b) the name, [~~address,~~]telephone number, and, if applicable, email address of the chair
1764 of the association board;
- 1765 (c) contact information for the manager;
- 1766 (d) the name, address, telephone number, and, if the contact person wishes to use email
1767 or facsimile transmission for communicating payoff information, the email address or
1768 facsimile number, as applicable, of a primary contact person who has association
1769 payoff information that a closing agent needs in connection with the closing of a lot
1770 owner's financing, refinancing, or sale of the owner's lot; and
- 1771 (e) a registration fee [~~set by~~]the department sets in accordance with Section 63J-1-504.
- 1772 (4)(a) An association shall annually renew the association's registration described in
1773 Subsection (2).
- 1774 (b) The department may impose and set the amount of a renewal registration fee in
1775 accordance with Section 63J-1-504.
- 1776 (5) An association that has registered under Subsection (2) shall submit to the department
1777 an update to the association's registration information, in the manner established by the
1778 department, within 90 days after a change in any of the information provided under
1779 Subsection (3).
- 1780 (6)(a) During any period of noncompliance with the registration requirement described
1781 in Subsection (2) or the requirement for an updated registration described in
1782 Subsection (5):
- 1783 (i) a lien may not arise under Section 57-8a-301; and
- 1784 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 1785 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1786 with the updated registration requirement of Subsection (5) does not begin until after
1787 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 1788 (c) An association that is not in compliance with the registration requirement described
1789 in Subsection (2) may end the period of noncompliance by registering with the
1790 department in the manner established by the department under Subsection (2).
- 1791 (d) An association that is not in compliance with the updated registration requirement
1792 described in Subsection (5) may end the period of noncompliance by submitting to
1793 the department an updated registration in the manner established by the department
1794 under Subsection (5).
- 1795 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a

- 1796 period of noncompliance:
- 1797 (i) a lien may arise under Section 57-8a-301 for any event that:
- 1798 (A) occurred during the period of noncompliance; and
- 1799 (B) would have given rise to a lien under Section 57-8a-301 had the association
- 1800 been in compliance with the registration requirements described in this section;
- 1801 and
- 1802 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that
- 1803 existed before the period of noncompliance.
- 1804 (f) If an owner's residential lot is conveyed to an independent third party during a period
- 1805 of noncompliance described in this Subsection (6):
- 1806 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
- 1807 lot became final is extinguished when the conveyance of the residential lot
- 1808 becomes final; and
- 1809 (ii) an event that occurred before the conveyance of the residential lot became final,
- 1810 and that would have given rise to a lien under Section 57-8a-301 had the
- 1811 association been in compliance with the registration requirements of this section,
- 1812 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
- 1813 residential lot becomes final before the association ends the period of
- 1814 noncompliance.
- 1815 ~~[(7) The department shall publish educational materials on the department's website~~
- 1816 ~~providing, in simple and easy to understand language, a brief overview of state law~~
- 1817 ~~governing associations, including:]~~
- 1818 ~~[(a) a description of the rights and responsibilities provided in this chapter to any party~~
- 1819 ~~under the jurisdiction of an association; and]~~
- 1820 ~~[(b) instructions regarding how an association may be organized and dismantled in~~
- 1821 ~~accordance with this chapter.]~~
- 1822 ~~[(8)(a) Unless otherwise expressly exempted, this chapter applies to an association that~~
- 1823 ~~registers, or renews or updates the association's registration, with the department~~
- 1824 ~~under this section.]~~
- 1825 ~~[(b) This section applies to an association regardless of when the association is created.]~~
- 1826 Section 19. Section **57-8a-105.1** is amended to read:
- 1827 **57-8a-105.1 . Information required before sale to independent third party.**
- 1828 (1) Before the sale of [any] a lot under the jurisdiction of an association to an independent
- 1829 third party, the grantor shall provide to the independent third party:

- 1830 (a) a copy of the association's recorded governing documents; and
1831 (b) a link or other access point to the ~~[department's]~~ educational materials described in
1832 Subsection ~~[57-8a-105(6)]~~ 13-79-103(4).
- 1833 (2) The grantor shall provide the information described in Subsection (1) before closing.
1834 (3) The association shall, upon request by the grantor, provide to the grantor the
1835 information described in Subsection (1).
1836 (4) This section applies to each association, regardless of when the association is formed.
- 1837 Section 20. Section **57-8a-209** is amended to read:
1838 **57-8a-209 . Rental restrictions.**
- 1839 (1)(a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
1840 (i) create restrictions on the number and term of rentals in an association; or
1841 (ii) prohibit rentals in the association.
1842 (b) Except as provided in Subsection (1)(c), an association that creates a rental
1843 restriction or prohibition in accordance with Subsection (1)(a) shall create the rental
1844 restriction or prohibition in a recorded declaration of covenants, conditions, and
1845 restrictions, or by amending the recorded declaration of covenants, conditions, and
1846 restrictions.
1847 (c) An association may establish, by rule, a minimum lease term of six months or less.
- 1848 (2) If an association prohibits or imposes a restriction on the number and term of rentals or
1849 charges a fee described in Subsection (9)(c), the association shall:
1850 (a) exempt the following from the prohibition, restriction, or fee:
1851 (i) a lot owner in the military for the period of the lot owner's deployment;
1852 (ii) a lot occupied by a lot owner's parent, child, or sibling;
1853 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
1854 (iv) a lot owned by an entity that is occupied by an individual who:
1855 (A) has voting rights under the entity's organizing documents; and
1856 (B) has a 25% or greater share of ownership, control, and right to profits and
1857 losses of the entity; or
1858 (v) a lot owned by a trust or other entity created for estate planning purposes if the
1859 trust or other estate planning entity was created for:
1860 (A) the estate of a current resident of the lot; or
1861 (B) the parent, child, or sibling of the current resident of the lot;
- 1862 (b) allow a lot owner who has a rental in the association before the time the rental
1863 restriction described in Subsection ~~[(1)(a)]~~ is recorded with the county recorder of the

- 1864 county in which the association is located] (1) becomes effective to continue renting
 1865 without a fee described in Subsection (9)(c) until:
- 1866 (i) the lot owner occupies the lot;
 - 1867 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
 1868 similar position of ownership or control of an entity or trust that holds an
 1869 ownership interest in the lot, occupies the lot; or
 - 1870 (iii) the lot is transferred; and
- 1871 (c) create, by rule or resolution, procedures to:
- 1872 (i) determine and track the number of rentals and lots in the association subject to the
 1873 provisions described in Subsections (2)(a) and (b); and
 - 1874 (ii) ensure consistent administration and enforcement of any rental prohibition,
 1875 restriction, or fee.
- 1876 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
 1877 following occur:
- 1878 (a) the conveyance, sale, or other transfer of a lot by deed;
 - 1879 (b) the granting of a life estate in the lot; or
 - 1880 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
 1881 business entity, the sale or transfer of more than 75% of the business entity's share,
 1882 stock, membership interests, or partnership interests in a 12-month period.
- 1883 (4) This section does not limit or affect residency age requirements for an association that
 1884 complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
 1885 3607.
- 1886 (5) A declaration of covenants, conditions, and restrictions or amendments to the
 1887 declaration of covenants, conditions, and restrictions recorded before the transfer of the
 1888 first lot from the initial declarant may prohibit or restrict rentals without providing for
 1889 the exceptions, provisions, and procedures required under Subsection (2).
- 1890 (6)(a) Subsections (1) through (5) do not apply to:
- 1891 (i) an association that contains a time period unit as defined in Section 57-8-3;
 - 1892 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
 - 1893 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
 1894 unless, on or after May 12, 2015, the association:
 - 1895 (A) adopts a rental restriction or prohibition; or
 - 1896 (B) amends an existing rental restriction or prohibition.
- 1897 (b) An association that adopts a rental restriction or amends an existing rental restriction

1898 or prohibition before May 9, 2017, is not required to include the exemption described
1899 in Subsection (2)(a)(iv).

1900 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an
1901 exception described in Subsection (2) if:

1902 (a) the restriction or prohibition receives unanimous approval by all lot owners; and

1903 (b) when the restriction or prohibition requires an amendment to the association's
1904 recorded declaration of covenants, conditions, and restrictions, the association fulfills
1905 all other requirements for amending the recorded declaration of covenants,
1906 conditions, and restrictions described in the association's governing documents.

1907 (8) Except as provided in Subsection (9), an association may not require a lot owner who
1908 owns a rental lot to:

1909 (a) obtain the association's approval of a prospective renter;

1910 (b) give the association:

1911 (i) a copy of a rental application;

1912 (ii) a copy of a renter's or prospective renter's credit information or credit report;

1913 (iii) a copy of a renter's or prospective renter's background check; or

1914 (iv) documentation to verify the renter's age;

1915 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;

1916 (d) use a lease agreement provided by the association; or

1917 (e) obtain the association's approval of a lease agreement.

1918 (9)(a) A lot owner who owns a rental lot shall give an association the documents
1919 described in Subsection (8)(b) if the lot owner is required to provide the documents
1920 by court order or as part of discovery under the Utah Rules of Civil Procedure.

1921 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
1922 prohibits or restricts occupancy of the lots by a certain class of individuals, the
1923 association may require a lot owner who owns a rental lot to give the association the
1924 information described in Subsection (8)(b), if:

1925 (i) the information helps the association determine whether the renter's occupancy of
1926 the lot complies with the association's declaration of covenants, conditions, and
1927 restrictions; and

1928 (ii) the association uses the information to determine whether the renter's occupancy
1929 of the lot complies with the association's declaration of covenants, conditions, and
1930 restrictions.

1931 (c) An association that permits at least 35% of the lots in the association to be rental lots

- 1932 may charge a lot owner who owns a rental lot a fee of up to \$200 once every 12
1933 months to defray the association's additional administrative expenses directly related
1934 to a lot that is a rental lot, as detailed in a notice described in Subsection (12).
- 1935 (d) An association may require a lot owner who owns a rental lot and the renter of the lot
1936 owner's rental lot to sign an addendum to a lease agreement provided by the
1937 association.
- 1938 (e) Before an association may charge a fee described in Subsection (9)(c), an association
1939 shall:
- 1940 (i) provide notice to each lot owner in the association of a board meeting described in
1941 Subsection (9)(e)(ii) 15 days before the day on which the association holds the
1942 board meeting;
- 1943 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
1944 (A) the new administrative expenses that the association intends to cover using the
1945 funds from the fee; and
1946 (B) the circumstances that require the association to impose or increase the fee;
1947 and
- 1948 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board
1949 approves the fee by a majority vote.
- 1950 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
1951 rental of an internal accessory dwelling unit, as defined in Section 10-21-101 or
1952 17-80-101, constructed within a lot owner's residential lot, if the internal accessory
1953 dwelling unit complies with all applicable:
- 1954 (a) land use ordinances;
1955 (b) building codes;
1956 (c) health codes; and
1957 (d) fire codes.
- 1958 (11) The provisions of Subsections (8) through (10) apply to an association regardless of
1959 when the association is created.
- 1960 (12) Within 30 days after the day on which the association imposes a fee described in
1961 Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a
1962 notice describing:
- 1963 (a) the new administrative expenses that the association intends to cover using the funds
1964 from the fee; and
1965 (b) the circumstances that require the association to impose or increase the fee.

- 1966 (13)(a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the
 1967 association a written request that the association waive the fee if:
- 1968 (i) the association fails to provide the notice described in Subsection (12) within 30
 1969 days after the day on which the association imposes the fee; or
- 1970 (ii) the notice the association provides to the lot owner does not contain the
 1971 information required in Subsection (12).
- 1972 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written
 1973 request, an association of lot owners shall waive the fee if:
- 1974 (i) the association does not provide the notice described in Subsection (12) to the lot
 1975 owner; or
- 1976 (ii) a notice provided by the association does not contain the information required in
 1977 Subsection (12).
- 1978 (14)(a) A lot owner of a rental lot may designate, in a written notice to the association, a
 1979 primary contact individual who is not the lot owner with whom the association may
 1980 communicate as though the primary contact individual is the lot owner.
- 1981 (b) If a lot owner designates a primary contact individual under this Subsection (14), the
 1982 association shall provide the lot owner a written notice that confirms the association
 1983 has changed the association's records to identify the primary contact individual
 1984 designated by the lot owner.
- 1985 Section 21. Section **57-8a-212** is amended to read:
- 1986 **57-8a-212 . Content of a declaration.**
- 1987 (1) An initial declaration [~~recorded on or after May 10, 2011~~] shall contain:
- 1988 (a) the name of the project;
- 1989 (b) the name of the association;
- 1990 (c) a statement that the project is not a cooperative;
- 1991 (d) a statement indicating any portions of the project that contain condominiums
 1992 governed by Chapter 8, Condominium Ownership Act;
- 1993 ~~(e) a statement that the project is governed by this chapter;~~
- 1994 ~~[(e)]~~ (f) if the declarant desires to reserve the option to expand the project, a statement
 1995 reserving the option to expand the project;
- 1996 ~~[(f)]~~ (g) the name of each county in which any part of the project is located;
- 1997 ~~[(g)]~~ (h) a legally sufficient description of the real estate included in the project;
- 1998 ~~[(h)]~~ (i) a description of any limited common areas and any real estate that is or is
 1999 required to become common areas;

- 2000 [(+) (j) any restriction on the alienation of a lot, including a restriction on leasing; and
- 2001 [(+)] (k)(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i)
- 2002 or (iv); and
- 2003 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
- 2004 U.C.A. Sections 57-1-20 and 57-8a-302 to (name of trustee), with power of sale,
- 2005 the lot and all improvements to the lot for the purpose of securing payment of
- 2006 assessments under the terms of the declaration."
- 2007 (2) A declaration may contain any other information the declarant considers appropriate,
- 2008 including [~~any~~] a restriction on the use of a lot, the number of persons who may occupy a
- 2009 lot, or other qualifications of a person who may occupy a lot.
- 2010 (3) The location of a limited common area or real estate described in Subsection (1)(g) may
- 2011 be shown on a subdivision plat.
- 2012 (4) A declaration, or an amendment to a declaration may not:
- 2013 (a) prohibit a lot owner from displaying in a window of the owner's lot:
- 2014 (i) a for-sale sign;
- 2015 (ii) a political sign; or
- 2016 (iii) a flag;
- 2017 (b) regulate the content or establish specific design criteria for the content of a political
- 2018 sign or flag, except to restrict a political sign or flag that contains obscene, profane,
- 2019 or commercial content;
- 2020 (c) prohibit low water use on lawns during drought conditions;
- 2021 (d) except where reasonably necessary for erosion control, prohibit or restrict the
- 2022 conversion of a grass park strip of less than eight feet wide to water-efficient
- 2023 landscaping;
- 2024 (e) prohibit a lot owner from making modifications, consistent with industry standards,
- 2025 for radon mitigation, unless the modifications would violate:
- 2026 (i) a local land use ordinance;
- 2027 (ii) a building code;
- 2028 (iii) a health code; or
- 2029 (iv) a fire code;
- 2030 (f) restrict an individual from parking an operable vehicle in a driveway where the
- 2031 vehicle has a legal right to park, unless the vehicle is:
- 2032 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 2033 (ii) a motor home, as that term is defined in Section 13-20-2;

- 2034 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2;
2035 (iv) a trailer, as that term is defined in Section 41-1a-102;
2036 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
2037 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
2038 (vii) a motorboat, as that term is defined in Section 73-18-2;
2039 (g) restrict an individual from operating a vehicle that is not a commercial vehicle, as
2040 that term is defined in Section 72-9-102, in accordance with state traffic laws;
2041 (h) impose a requirement or restriction on the use of a public street, as that term is
2042 defined in Section 10-20-102;
2043 (i) restrict an individual from:
2044 (i) installing, displaying, or storing an item that the individual has a legal right to
2045 store if the item is not visible to an individual standing outside the unit; or
2046 (ii) hiring a contractor or worker solely because the contractor or worker:
2047 (A) is not on the association's preferred vendor list; or
2048 (B) does not have a professional or occupational license, unless the license is
2049 required by law;
2050 (j) restrict a lot owner from displaying a religious or holiday sign, symbol, or decoration
2051 on:
2052 (i) the lot; or
2053 (ii) the exterior of the lot, unless the association has an ownership interest in, or
2054 maintenance, repair, or replacement obligation for the exterior;
2055 (k) interfere with reasonable activity of a lot owner within the confines of the lot, to the
2056 extent that the activity is in compliance with local laws and ordinances, including
2057 nuisance laws and ordinances;
2058 (l)(i) prohibit the transfer of a lot; or
2059 (ii) require the consent of the association or management committee to transfer a lot;
2060 (m) prohibit a unit owner from installing a personal security camera immediately
2061 adjacent to the entryway, window, or other outside entry point of the lot;
2062 (n) impose a restriction on the interior of a dwelling, except as reasonably necessary for
2063 the safety of adjacent lots and the occupants of the lots; or
2064 (o) restrict an individual from installing or keeping a properly maintained basketball
2065 standard on the individual's driveway or property if the driveway or property where
2066 the basketball standard is located is:
2067 (i) privately owned and maintained; and

- 2068 (ii) abutting a public street.
- 2069 (5) A declaration, or an amendment to a declaration may:
- 2070 (a) require that an individual park in a garage appurtenant to a unit before parking
- 2071 elsewhere;
- 2072 (b) enforce a reduced speed limit on a private roadway;
- 2073 (c) reasonably regulate the size and time, place, and manner of posting a for-sale sign, a
- 2074 political sign, or a flag;
- 2075 (d) restrict a sex offender from accessing a protected area that is maintained, operated, or
- 2076 owned by the association, subject to the exceptions described in Subsection
- 2077 53-29-306(3); or
- 2078 (e) adopt a reasonable time, place, and manner restriction with respect to a religious or
- 2079 holiday sign, symbol, or decoration that is:
- 2080 (i) outside of or on the lot; or
- 2081 (ii) visible from outside the dwelling.

2082 Section 22. Section **57-8a-215** is amended to read:

2083 **57-8a-215 . Budget.**

- 2084 (1) At least once annually the board shall prepare and adopt a budget for the association.
- 2085 (2) The board shall present the adopted budget to association members at a meeting of the
- 2086 members.
- 2087 (3) A budget is disapproved if within 45 days after the date of the meeting under Subsection
- 2088 (2) at which the board presents the adopted budget:
- 2089 (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of
- 2090 the lot owners in the association; and
- 2091 (b) the vote is taken at a special meeting called for that purpose by lot owners under the
- 2092 declaration, articles, or bylaws.
- 2093 (4) If a budget is disapproved under Subsection (3)~~;~~ or not adopted under Subsection (1),
- 2094 then the budget that the board last adopted [that was not disapproved by members]
- 2095 continues as the budget until [and unless the board presents another budget to members
- 2096 and that budget is not disapproved] the board prepares and adopts a new budget for the
- 2097 association.
- 2098 ~~[(5) During the period of administrative control, association members may not disapprove a~~
- 2099 ~~budget.]~~

2100 Section 23. Section **57-8a-218** is amended to read:

2101 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**

2102 **design criteria.**

2103 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
2104 owners similarly.

2105 (b) A rule may:

2106 (i) vary according to the level and type of service that the association provides to lot
2107 owners;

2108 (ii) differ between residential and nonresidential uses; and

2109 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
2110 limit on the number of individuals who may use the common areas and facilities
2111 as guests of the lot tenant or lot owner.

2112 (2)(a) Except as provided in Subsection (2)(b), if a lot owner owns a rental lot and is in
2113 compliance with the association's governing documents and any rule that the
2114 association adopts under Subsection (4), a rule may not treat the lot owner differently
2115 because the lot owner owns a rental lot.

2116 (b) A rule may:

2117 (i) limit or prohibit a rental lot owner from using the common areas for purposes
2118 other than attending an association meeting or managing the rental lot;

2119 (ii) if the rental lot owner retains the right to use the association's common areas,
2120 even occasionally:

2121 (A) charge a rental lot owner a fee to use the common areas; or

2122 (B) for a lot that an owner leases for a term of less than 30 days, impose a
2123 reasonable limit on the number of individuals who may use the common areas
2124 and facilities as guests of the lot tenant or lot owner; or

2125 (iii) include a provision in the association's governing documents that:

2126 (A) requires each tenant of a rental lot to abide by the terms of the governing
2127 documents; and

2128 (B) holds the tenant and the rental lot owner jointly and severally liable for a
2129 violation of a provision of the governing documents.

2130 (3)(a) Except as provided in Subsection (3)(b), a rule may not abridge the rights of a lot
2131 owner to display a religious or holiday sign, symbol, or decoration on:

2132 (i) a lot;

2133 (ii) the exterior of the dwelling, unless the association has an ownership interest in, or
2134 a maintenance, repair, or replacement obligation for, the exterior; or

2135 (iii) the front yard of the dwelling, unless the association has an ownership interest in,

- 2136 or a maintenance, repair, or replacement obligation for, the yard.
- 2137 (b) The association may adopt a reasonable time, place, and manner restriction with
2138 respect to a display that is:
- 2139 (i) outside a dwelling on:
- 2140 (A) a lot;
- 2141 (B) the exterior of the dwelling; or
- 2142 (C) the front yard of the dwelling; and
- 2143 (ii) visible from outside the lot.
- 2144 (4)(a) A rule may not prohibit a lot owner from displaying a political sign or flag on:
- 2145 (i) a lot;
- 2146 (ii) the exterior of the dwelling, regardless of whether the association has an
2147 ownership interest in the exterior; or
- 2148 (iii) the front yard of the dwelling, regardless of whether the association has an
2149 ownership interest in the yard.
- 2150 (b) Except as provided in Subsection (4)(c), a rule may not regulate the content of a
2151 political sign or flag.
- 2152 (c) A rule may restrict a political sign or flag that contains obscene, profane, or
2153 commercial content.
- 2154 (d) A rule may reasonably regulate the time, place, and manner of posting a political
2155 sign or flag.
- 2156 (e) An association design provision may not establish design criteria for a political sign
2157 or flag.
- 2158 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign on:
- 2159 (i) a lot;
- 2160 (ii) the exterior of the dwelling, regardless of whether the association has an
2161 ownership interest in the exterior; or
- 2162 (iii) the front yard of the dwelling, regardless of whether the association has an
2163 ownership interest in the yard.
- 2164 (b) A rule may reasonably regulate the time, place, and manner of posting a for-sale sign.
- 2165 (6)(a) Except as provided in Subsection (6)(b), a rule may not interfere with the freedom
2166 of a lot owner to determine the composition of the lot owner's household.
- 2167 (b) An association may:
- 2168 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
2169 or

- 2170 (ii) limit the total number of occupants permitted in each residential dwelling on the
2171 basis of the residential dwelling's:
2172 (A) size and facilities; and
2173 (B) fair use of the common areas.
- 2174 (7)(a) Except as provided in Subsection (7)(b), a rule may not interfere with a reasonable
2175 activity of a lot owner within the confines of a dwelling or lot, including backyard
2176 landscaping or amenities, to the extent that the activity is in compliance with local
2177 laws and ordinances, including nuisance laws and ordinances.
- 2178 (b) A rule may prohibit an activity within the confines of a dwelling or lot, including
2179 backyard landscaping or amenities, if the activity:
2180 (i) is not normally associated with a project restricted to residential use; or
2181 (ii)(A) creates monetary costs for the association or other lot owners;
2182 (B) creates a danger to the health or safety of occupants of other lots;
2183 (C) generates excessive noise or traffic;
2184 (D) creates unsightly conditions visible to an individual standing outside the
2185 dwelling;
2186 (E) creates an unreasonable source of annoyance to persons outside the lot; or
2187 (F) if there are attached dwellings, creates the potential for smoke to enter another
2188 lot owner's dwelling, the common areas, or limited common areas.
- 2189 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
2190 that affect the use of or behavior inside the dwelling.
- 2191 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
2192 objection to the board, alter the allocation of financial burdens among the various lots.
- 2193 (b) An association may:
2194 (i) change the common areas available to a lot owner;
2195 (ii) adopt generally applicable rules for the use of common areas; or
2196 (iii) deny use privileges to a lot owner who:
2197 (A) is delinquent in paying assessments;
2198 (B) abuses the common areas; or
2199 (C) violates the governing documents.
- 2200 (c) This Subsection (8) does not permit a rule that:
2201 (i) alters the method of levying assessments; or
2202 (ii) increases the amount of assessments as provided in the declaration.
- 2203 (9) A rule may not:

- 2204 (a) prohibit the transfer of a lot; or
2205 (b) require the consent of the association or board to transfer a lot.
- 2206 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
2207 on a lot before the adoption of the rule or design criteria if the personal property was
2208 in compliance with all rules and other governing documents previously in force.
- 2209 (b) The exemption in Subsection (10)(a):
2210 (i) applies during the period of the lot owner's ownership of the lot; and
2211 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
2212 of the rule described in Subsection (10)(a).
- 2213 (11) A rule or action by the association or action by the board may not unreasonably
2214 impede a declarant's ability to satisfy existing development financing for community
2215 improvements and right to develop:
2216 (a) the project; or
2217 (b) other properties in the vicinity of the project.
- 2218 (12) A rule or association or board action may not interfere with:
2219 (a) the use or operation of an amenity that the association does not own or control; or
2220 (b) the exercise of a right associated with an easement.
- 2221 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
2222 completed application for design review, or to proceed in accordance with another
2223 approval process, under the terms of the governing documents in existence at the time
2224 the completed application was submitted by the owner for review.
- 2225 (14) Unless otherwise provided in the declaration, an association may by rule:
2226 (a) regulate the use, maintenance, repair, replacement, and modification of common
2227 areas;
2228 (b) impose and receive any payment, fee, or charge for:
2229 (i) the use, rental, or operation of the common areas, except limited common areas;
2230 and
2231 (ii) a service provided to a lot owner;
2232 (c) impose a charge for a late payment of an assessment; or
2233 (d) provide for the indemnification of the association's officers and board consistent with
2234 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 2235 (15)(a) For any area for which one or more lot owners, but not the association, are
2236 responsible for landscape maintenance of any landscaping within the lot owner's lot
2237 or the common areas, the association shall adopt rules supporting water wise

- 2238 landscaping as defined in Section 57-8a-231 including:
- 2239 (i) low water use requirements on lawns during drought conditions;
- 2240 (ii) design criterion for water wise landscaping; and
- 2241 (iii) limiting permissible plant material to specific water wise plant material.
- 2242 (b) A rule may not:
- 2243 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
- 2244 as defined in Section 57-8a-231; or
- 2245 (ii) prohibit low water use on lawns during drought conditions.
- 2246 (16)(a) Except as provided in Subsection (16)(b), a rule may not prohibit the owner of a
- 2247 residential lot from constructing an internal accessory dwelling unit, as defined in
- 2248 Section 10-21-101 or 17-80-101, within the owner's residential lot.
- 2249 (b) Subsection (16)(a) does not apply if the construction would violate:
- 2250 (i) a local land use ordinance;
- 2251 (ii) a building code;
- 2252 (iii) a health code; or
- 2253 (iv) a fire code.
- 2254 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
- 2255 residential lot from making modifications, consistent with industry standards, for
- 2256 radon mitigation.
- 2257 (b) Subsection (17)(a) does not apply if the modifications would violate:
- 2258 (i) a local land use ordinance;
- 2259 (ii) a building code;
- 2260 (iii) a health code; or
- 2261 (iv) a fire code.
- 2262 (c) A rule governing the placement or external appearance of modifications for radon
- 2263 mitigation does not apply to a lot owner's modifications if the rule would:
- 2264 (i) unreasonably interfere with the modifications' functionality; or
- 2265 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 2266 modifications.
- 2267 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 2268 (i) demonstrate or provide proof of radon contamination; and
- 2269 (ii) provide proof that the modifications and any related construction will be
- 2270 performed by a licensed person.
- 2271 (18) A rule may restrict a sex offender from accessing a protected area that is maintained,

2272 operated, or owned by the association, subject to the exceptions described in Subsection
2273 53-29-306(3).

2274 (19)(a) As used in this Subsection (19), "vegetable garden" means a plot of ground or
2275 elevated soil bed where vegetables, herbs, fruits, flowers, pollinator plants, leafy
2276 greens, or other edible plants are cultivated.

2277 (b) A rule may not prohibit a vegetable garden on the rear yard of a lot on which the
2278 association does not have an ownership interest or a maintenance responsibility.

2279 (c) A rule may:

2280 (i) impose reasonable regulations that do not significantly increase the cost of
2281 cultivating a vegetable garden or significantly decrease the efficiency of
2282 cultivating a vegetable garden, including reasonable regulations on plant height,
2283 water use, fertilizer use, and weed maintenance; and

2284 (ii) prohibit the cultivation of invasive or unlawful species.

2285 (20)(a) Except as provided in Subsection (20)(b), a rule may not restrict an individual
2286 from parking an operable vehicle in a driveway where the vehicle has a legal right to
2287 park, unless the vehicle is:

2288 (i) a commercial vehicle, as defined in Section 72-9-102;

2289 (ii) a motor home, as defined in Section 13-20-2;~~[-or]~~

2290 (iii) a recreational vehicle trailer, as defined in Section 13-20-2~~[-]~~ ;

2291 (iv) a trailer, as that term is defined in Section 41-1a-102;

2292 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;

2293 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or

2294 (vii) a motorboat, as that term is defined in Section 73-18-2.

2295 (b) A rule may require that an individual park in a garage appurtenant to a dwelling
2296 before parking elsewhere.

2297 (21)(a) Except as provided in Subsection (21)(b), a rule may not restrict an individual
2298 from operating a vehicle that is not a commercial vehicle, as defined in Section
2299 72-9-102, in conformance with state traffic laws.

2300 (b) A rule may enforce a reduced speed limit on a private roadway.

2301 (22) A rule may not:

2302 (a) prohibit a lot owner from installing a personal security camera immediately adjacent
2303 to the entryway, window, or other outside entry point of the owner's dwelling unit;

2304 (b) impose a requirement or restriction on:

2305 (i) a dwelling's interior, except as reasonably necessary for the safety of adjacent lots

- 2306 and the occupants of those lots; or
- 2307 (ii) the use of a public street, as defined in Section 10-20-102;
- 2308 (c) restrict an individual from:
- 2309 (i) installing, displaying, or storing an item that the individual has a legal right to
- 2310 store if the item is not visible to an individual standing outside the lot;
- 2311 (ii) installing or keeping a properly maintained basketball standard on the individual's
- 2312 driveway or property if the driveway or property where the basketball standard is
- 2313 located is:
- 2314 (A) privately owned and maintained; and
- 2315 (B) abutting a public street; or
- 2316 (iii) hiring a contractor or worker solely because the contractor or worker:
- 2317 (A) is not on the association's preferred vendor list; or
- 2318 (B) does not have a professional or occupational license, unless the license is
- 2319 required by law; or
- 2320 (d) be inconsistent with a provision of the association's declaration, bylaws, or articles of
- 2321 incorporation.
- 2322 (23) A rule shall be reasonable.
- 2323 (24) A declaration, or an amendment to a declaration, may [~~vary any of the requirements of~~
- 2324 ~~Subsections (1), (2), (6), and (8) through (14), except] not vary the requirements of~~
- 2325 Subsection (1)(b)(ii).
- 2326 (25) This section applies to an association regardless of when the association is created.
- 2327 Section 24. Section **57-8a-227** is amended to read:
- 2328 **57-8a-227 . Records -- Availability for examination.**
- 2329 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association is
- 2330 incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an
- 2331 association shall keep and make available to lot owners:
- 2332 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner
- 2333 described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605,
- 2334 16-6a-1606, and 16-6a-1610; and
- 2335 (ii) a copy of the association's:
- 2336 (A) governing documents;
- 2337 (B) most recent approved minutes;
- 2338 (C) most recent annual budget and financial statement;
- 2339 (D) most recent reserve analysis;

- 2340 (E) certificate of insurance for each insurance policy the association holds;
- 2341 (F) board meeting minutes from the previous three calendar years;
- 2342 (G) [~~a~~]profit and loss statement for the previous three fiscal years; and
- 2343 (H) [~~a~~]balance sheet for the previous three fiscal years[;] .
- 2344 (b) An association may redact the following information from any document the
- 2345 association produces for inspection or copying:
- 2346 (i) a Social Security number;
- 2347 (ii) a bank account number; or
- 2348 (iii) any communication subject to attorney-client privilege.
- 2349 (c) The following are considered property of the association:
- 2350 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 2351 (ii) the funds contained in an account described in Section 57-8a-230.
- 2352 (d) If a person other than the association has control over or possession of a record
- 2353 described in Subsection (1)(a)(i) or (ii), the person shall, upon the association's
- 2354 request, provide the record to the association without charge.
- 2355 (2)(a) In addition to the requirements described in Subsection (1), an association shall:
- 2356 (i) make documents available to lot owners in accordance with the association's
- 2357 governing documents; and
- 2358 (ii)(A) if the association has an active website, make the documents described in
- 2359 Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge,
- 2360 through the website; or
- 2361 (B) if the association does not have an active website, make physical copies of the
- 2362 documents described in Subsections (1)(a)(ii)(A) through (C) available to lot
- 2363 owners during regular business hours at the association's address registered
- 2364 with the Department of Commerce under Section 57-8a-105.
- 2365 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 2366 (c) If a provision of an association's governing documents conflicts with a provision of
- 2367 this section, the provision of this section governs.
- 2368 (3) In a written request to inspect or copy documents:
- 2369 (a) a lot owner shall include:
- 2370 (i) the association's name;
- 2371 (ii) the lot owner's name;
- 2372 (iii) the lot owner's property address;
- 2373 (iv) the lot owner's email address;

- 2374 (v) a description of the documents requested; and
2375 (vi) any election or request described in Subsection (3)(b); and
2376 (b) a lot owner may:
- 2377 (i) elect whether to inspect or copy the documents;
 - 2378 (ii) if the lot owner elects to copy the documents, request hard copies or electronic
2379 scans of the documents; or
 - 2380 (iii) subject to Subsection (4), request that:
 - 2381 (A) the association make the copies or electronic scans of the requested
2382 documents;
 - 2383 (B) a recognized third party duplicating service make the copies or electronic
2384 scans of the requested documents;
 - 2385 (C) the lot owner be allowed to bring any necessary imaging equipment to the
2386 place of inspection and make copies or electronic scans of the documents while
2387 inspecting the documents; or
 - 2388 (D) the association email the requested documents to an email address provided in
2389 the request.
- 2390 (4)(a) An association shall comply with a request described in Subsection (3) within [
2391 ~~two weeks~~] 10 business days after the day on which the association receives the
2392 request.
- 2393 (b) If an association produces the copies or electronic scans:
- 2394 (i) the copies or electronic scans shall be legible and accurate;
 - 2395 (ii) the lot owner shall pay the association the reasonable cost of the copies and for
2396 time spent meeting with the lot owner, which may not exceed:
 - 2397 (A) the actual cost that the association paid to a recognized third party duplicating
2398 service to make the copies or electronic scans; or
 - 2399 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other
2400 agent's time; and
 - 2401 (iii) the association may not charge the lot owner for any costs associated with
2402 fulfilling a request for electronic transmission of the documents described in
2403 Subsection (3).
- 2404 (c) If a lot owner requests a recognized third party duplicating service make the copies
2405 or electronic scans:
- 2406 (i) the association shall arrange for the delivery and pick up of the original
2407 documents; and

- 2408 (ii) the lot owner shall pay the duplicating service directly.
- 2409 (d) If a lot owner requests to bring imaging equipment to the inspection, the association
2410 shall provide the necessary space, light, and power for the imaging equipment.
- 2411 (e) An association may fulfill the request described in Subsection (3) by posting the
2412 documents described in Subsection (3) to the association's website or online owner
2413 portal.
- 2414 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy
2415 documents, an association fails to comply with a provision of this section, the
2416 association shall pay:
- 2417 (a) the reasonable costs of inspecting and copying the requested documents;
- 2418 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner
2419 who made the request for each day the request continues unfulfilled, beginning the [
2420 ~~sixth~~] eleventh business day after the day on which the lot owner made the request;
2421 and
- 2422 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the
2423 inspection and copies of the requested documents.
- 2424 (6)(a) In addition to any remedy in the association's governing documents or otherwise
2425 provided by law, a lot owner may file an action in court against the association under
2426 this section if:
- 2427 (i) subject to Subsection (9), an association fails to make documents available to the
2428 lot owner in accordance with this section, the association's governing documents,
2429 or as otherwise provided by law; and
- 2430 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 2431 (b) In an action described in Subsection (6)(a):
- 2432 (i) the lot owner may request:
- 2433 (A) injunctive relief requiring the association to comply with the provisions of this
2434 section;
- 2435 (B) \$1,000 or actual [~~damage~~] damages, whichever is greater; or
- 2436 (C) any other relief provided by law; and
- 2437 (ii) the court may award costs and reasonable attorney fees to the prevailing party,
2438 including any reasonable attorney fees incurred before the action was filed that
2439 relate to the request that is the subject of the action.
- 2440 (c)(i) In an action described in Subsection (6)(a), upon motion by the lot owner made
2441 in accordance with Subsection (6)(b), notice to the association, and a hearing in

- 2442 which the court finds a likelihood that the association failed to comply with a
2443 provision of this section, the court shall order the association to immediately
2444 comply with the provision.
- 2445 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
2446 after the day on which the lot owner files the motion.
- 2447 (d) At least 10 days before the day on which a lot owner files an action described in
2448 Subsection (6)(a), the lot owner shall deliver a written notice to the association that
2449 states:
- 2450 (i) the lot owner's name, address, telephone number, and email address;
2451 (ii) each requirement of this section with which the association has failed to comply;
2452 (iii) a demand that the association comply with each requirement with which the
2453 association has failed to comply; and
2454 (iv) a date by which the association shall remedy the association's noncompliance
2455 that is at least 10 days after the day on which the lot owner delivers the notice to
2456 the association.
- 2457 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association.
- 2458 (b) The provisions of this section apply regardless of any conflicting provision in Title
2459 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 2460 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the
2461 lot owner has under this section.
- 2462 (9) An association is not liable for identifying or providing a document in error, if the
2463 association identified or provided the erroneous document in good faith.
- 2464 Section 25. Section **57-8a-232** is amended to read:
- 2465 **57-8a-232 . Sale of common areas.**
- 2466 (1) As used in this section:
- 2467 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
2468 (b) "Under threat of condemnation" means the same as that term is defined in Section
2469 78B-6-520.3.
- 2470 [(+) (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in
2471 the governing documents, an association may by an affirmative vote of at least 67% of
2472 the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose
2473 of all or part of the common areas.
- 2474 [(2)] (3) An affirmative vote described in Subsection [(+)] (2) is binding upon all lot owners,
2475 and each lot owner shall execute and deliver the appropriate instruments and perform all

2476 acts as necessary to effect the sale, conveyance, transfer, or other disposition of the
2477 common areas.

2478 ~~[(3)]~~ (4) The general easement of ingress, egress, and use of the common areas and facilities
2479 granted to an association and lot owners through recorded governing documents is
2480 extinguished in any portion of the common areas the association sells, conveys,
2481 transfers, or otherwise disposes of, if:

2482 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
2483 portion of the common areas, comply with:

2484 (i) the provisions of this section; and

2485 (ii) Section 10-20-809 or 17-79-709; and

2486 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
2487 areas results in a person other than the association owning the portion of the common
2488 areas.

2489 ~~[(4)]~~ (5) This section applies to an association regardless of when the association is created.

2490 ~~[(5)]~~ (6) A declarant may not sell or otherwise encumber any part of the common areas
2491 during the period of administrative control, except:

2492 (a) ~~[-]as provided in Section 10-20-809 or 17-79-709[-] ;~~ or

2493 (b) if the declarant sells or otherwise encumbers a part of the common areas and
2494 facilities that are under threat of condemnation to a condemnor.

2495 ~~[(6)]~~ (7) Unless otherwise prohibited by the association's governing documents, an
2496 authorized representative of the association may act as attorney-in-fact for the
2497 association's lot owners in executing a sale, conveyance, transfer, or other disposition of
2498 the common areas following an affirmative vote described in Subsection ~~[(4)]~~ (2).

2499 Section 26. Section **57-8a-502** is amended to read:

2500 **57-8a-502 . Period of administrative control.**

2501 (1) Unless otherwise provided for in a declaration and subject to ~~[Subsection (2)]~~
2502 Subsections (2) and (6), a period of administrative control terminates 60 days after the
2503 day on which 80% of the lots that may be created in the association are conveyed to lot
2504 owners other than a declarant.

2505 (2) Notwithstanding Subsection (1) and subject to Subsection (6), the period of
2506 administrative control terminates no later than the earlier of:

2507 (a) the day on which the declarant no longer owns any lot and no longer possesses any
2508 development right; or

2509 (b) seven years after the day on which a declarant has ceased to offer lots, including lots

- 2510 that may be created, for sale in the ordinary course of business.
- 2511 (3)(a) A declarant may voluntarily surrender the right to appoint and remove a member
2512 of the board before the period of administrative control terminates under Subsection
2513 (1).
- 2514 (b) Subject to Subsection (3)(a), the declarant may require, for the duration of the period
2515 of administrative control, that actions of the association or board, as specified in a
2516 recorded instrument executed by the declarant, be approved by the declarant before
2517 they become effective.
- 2518 (c) During a period of administrative control, except as provided in Subsection (3)(a), a
2519 declarant may appoint the declarant's officers, employees, or agents as members of
2520 the board.
- 2521 (4)(a) Upon termination of the period of administrative control, the lot owners shall elect
2522 a board consisting of an odd number of at least three members, a majority of whom
2523 shall be lot owners.
- 2524 (b) Unless the declaration provides for the election of officers by the lot owners, the
2525 board shall elect officers of the association.
- 2526 (c) The board members and officers shall take office upon election or appointment.
- 2527 (5) During the period of administrative control, the declarant shall:
- 2528 (a) use reasonable care and prudence in managing and maintaining the common areas;
2529 (b) establish a sound fiscal basis for the association by imposing and collecting
2530 assessments and establishing reserves for the maintenance and replacement of
2531 common areas;
- 2532 (c) for a service that the association is or will be obligated to provide, disclose to the lot
2533 owners the amount of money the declarant provides for or subsidizes for that service;
- 2534 (d) maintain records and account for the financial affairs of the association from the
2535 association's inception;
- 2536 (e) comply with and enforce the terms of the declaration, including design controls,
2537 land-use restrictions, and the payment of assessments; and
- 2538 (f) disclose to the lot owners all material facts and circumstances affecting:
2539 (i) the condition of the property that the association is responsible for maintaining;
2540 and
2541 (ii) the financial condition of the association, including the interest of the declarant
2542 and the declarant's affiliates in any contract, lease, or other agreement entered into
2543 by the association.

- 2544 (6)(a) As used in this Subsection (6), "large master planned development" means the
2545 same as that term is defined in Section 57-1-46.
- 2546 (b) For a large master planned development, the day on which the period of
2547 administrative control terminates under Subsection (1) or (2) may be extended by 300
2548 days to facilitate the completion of the process of turnover of governance of the
2549 association from the declarant to the lot owner-elected board if before the day on
2550 which the period of administrative control terminates under Subsection (1) or (2), the
2551 association:
- 2552 (i) establishes a committee of the board that includes one or more lot owners to
2553 facilitate turnover of governance to the lot owner-elected board; or
- 2554 (ii) sends notice to each lot owner for nomination of eligible board candidates to
2555 commence the process of turnover of governance to the lot owner-elected board.
- 2556 (c) The turnover process described in Subsection (6)(b) may include:
- 2557 (i) nominations for candidates for the lot owner-elected board;
- 2558 (ii) eligibility verification for candidates for the lot owner-elected board that is
2559 consistent with the governing documents and Subsection 57-8a-501(3);
- 2560 (iii) compliance with regular or special meeting notice requirements;
- 2561 (iv) proxy solicitation;
- 2562 (v) satisfaction of quorum requirements; or
- 2563 (vi) updating association records and accounts.

2564 **Section 27. Effective Date.**

2565 This bill takes effect on May 6, 2026.