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Wrongful Lien Act Amendments
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Don L. Ipson
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill amends provisions related to wrongful liens.

Highlighted Provisions:

This bill:

- expands the definition of "wrongful lien";
- provides that if a notice of transfer fee covenant is a wrongful lien, the notice of transfer fee covenant is invalid;
- provides that a county recorder is not required to determine whether a notice of transfer fee covenant is a wrongful lien under certain circumstances; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 38-9-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 57-1-46**, as last amended by Laws of Utah 2025, Chapter 226
- 57-1-47**, as enacted by Laws of Utah 2024, Chapter 431

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

Section 1. Section **38-9-102** is amended to read:

38-9-102 . Definitions.

As used in this chapter:

- 28 (1) "Affected person" means:
- 29 (a) a person who is a record interest holder of the real property that is the subject of a
- 30 recorded nonconsensual common law document; or
- 31 (b) the person against whom a recorded nonconsensual common law document purports
- 32 to reflect or establish a claim or obligation.
- 33 (2) "Document sponsor" means a person who, personally or through a designee, signs or
- 34 submits for recording a document that is, or is alleged to be, a nonconsensual common
- 35 law document.
- 36 (3) "Interest holder" means a person who holds or possesses a present, lawful property
- 37 interest in [~~certain~~]real property, including an owner, a title holder, a mortgagee, a
- 38 trustee, or a beneficial owner.
- 39 (4) "Lien claimant" means a person claiming an interest in real property who offers a
- 40 document for recording or filing with [~~any~~] a county recorder in the state asserting a lien,
- 41 or notice of interest, or other claim of interest in [~~certain~~]real property.
- 42 (5) "Nonconsensual common law document" means a document that is submitted to a
- 43 county recorder's office for recording against public official property that:
- 44 (a) purports to create a lien or encumbrance on or a notice of interest in the real property;
- 45 (b) at the time the document is recorded, is not:
- 46 (i) expressly authorized by this chapter or a state or federal statute;
- 47 (ii) authorized by or contained in an order or judgment of a court [~~of competent~~] with
- 48 jurisdiction; or
- 49 (iii) signed by or expressly authorized by a document signed by the owner of the real
- 50 property; and
- 51 (c) is submitted in relation to the public official's status or capacity as a public official.
- 52 (6) "Owner" means a person who has a vested ownership interest in real property.
- 53 (7) "Political subdivision" means a county, city, town, school district, special improvement
- 54 or taxing district, special district, special service district, or other governmental
- 55 subdivision or public corporation.
- 56 (8) "Public official" means:
- 57 (a) a current or former:
- 58 (i) member of the Legislature;
- 59 (ii) member of Congress;
- 60 (iii) judge;
- 61 (iv) member of law enforcement;

- 62 (v) corrections officer;
- 63 (vi) active member of the Utah State Bar; or
- 64 (vii) member of the Board of Pardons and Parole;
- 65 (b) an individual currently or previously appointed or elected to an elected position in:
- 66 (i) the executive branch of state or federal government; or
- 67 (ii) a political subdivision;
- 68 (c) an individual currently or previously appointed to or employed in a position in a
- 69 political subdivision, or state or federal government that:
- 70 (i) is a policymaking position; or
- 71 (ii) involves:
- 72 (A) purchasing or contracting decisions;
- 73 (B) drafting legislation or making rules;
- 74 (C) determining rates or fees; or
- 75 (D) making adjudicative decisions; or
- 76 (d) an immediate family member of a person described in Subsections (8)(a) through (c).
- 77 (9) "Public official property" means real property that has at least one record interest holder
- 78 who is a public official.
- 79 (10)(a) "Record interest holder" means a person who holds or possesses a present, lawful
- 80 property interest in real property, including an owner, titleholder, mortgagee, trustee,
- 81 or beneficial owner, and whose name and interest in that real property appears in the
- 82 county recorder's records for the county in which the property is located.
- 83 (b) "Record interest holder" includes ~~[any]~~ a grantor in the chain of the title in real
- 84 property.
- 85 (11) "Record owner" means an owner whose name and ownership interest in ~~[certain]~~ real
- 86 property is recorded or filed in the county recorder's records for the county in which the
- 87 property is located.
- 88 (12)(a) "Wrongful lien" means ~~[any]~~ a document that purports to create a lien, notice of
- 89 interest, or encumbrance on an owner's interest in ~~[certain]~~ real property and at the
- 90 time ~~[it]~~ the document is recorded is not:
- 91 (i) expressly authorized by this chapter or another state or federal statute;
- 92 (ii) authorized by or contained in an order or judgment of a court ~~[of competent]~~ with
- 93 jurisdiction in the state; or
- 94 (iii) signed by or authorized in accordance with a document signed by the owner of
- 95 the real property.

- 96 (b) "Wrongful lien" includes:
- 97 (i) [-] a document recorded in violation of Subsection 10-20-508(2)(d)[-] ; or
- 98 (ii) a document that purports to be a notice of transfer fee covenant described in
- 99 Subsection 57-1-46(7) or Section 57-1-47 or a document that purports to create,
- 100 continue, or reestablish a transfer fee covenant as a lien or encumbrance on an
- 101 owner's interest in real property, if at the time the document was recorded the
- 102 transfer fee covenant was not enforceable due to the:
- 103 (A) foreclosure of a trust deed or mortgage that has priority over the transfer fee
- 104 covenant;
- 105 (B) absence of a previously recorded notice of transfer fee covenant required by
- 106 Subsection 57-1-46(7) or Section 57-1-47; or
- 107 (C) existence of a recorded rescission, termination, release, waiver, or other
- 108 document terminating the transfer fee covenant.

109 Section 2. Section **57-1-46** is amended to read:

110 **57-1-46 . Transfer fee and reinvestment fee covenants.**

111 (1) As used in this section:

- 112 (a) "Association expenses" means expenses incurred by a common interest association
- 113 for:
- 114 (i) the purchase, ownership, leasing, construction, operation, use, administration,
- 115 maintenance, improvement, repair, or replacement of association facilities,
- 116 including expenses for taxes, insurance, operating reserves, capital reserves, and
- 117 emergency funds;
- 118 (ii) providing, establishing, creating, or managing a facility, activity, service, or
- 119 program for the benefit of property owners, tenants, common areas, the burdened
- 120 property, or property governed by the common interest association; or
- 121 (iii) other facilities, activities, services, or programs that are required or permitted
- 122 under the common interest association's organizational documents.
- 123 (b) "Association facilities" means any real property, improvements on real property, or
- 124 personal property owned, leased, constructed, developed, managed, or used by a
- 125 common interest association, including common areas.
- 126 (c) "Association transfer fee" means a fee, charge, or payment that is:
- 127 (i) related to the sale of real property; and
- 128 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
- 129 (A) a common interest association; or

- 130 (B) a person acting on behalf of the common interest association.
- 131 (d) "Burdened property" means the real property that is subject to a reinvestment fee
132 covenant or transfer fee covenant.
- 133 (e) "Common areas" means areas described within:
- 134 (i) the definition of "common areas and facilities" under Section 57-8-3; and
135 (ii) the definition of "common areas" under Section 57-8a-102.
- 136 (f)(i) "Common interest association" means:
- 137 (A) an association, as defined in Section 57-8a-102;
138 (B) an association of unit owners, as defined in Section 57-8-3; or
139 (C) a nonprofit association.
- 140 (ii) "Common interest association" includes a person authorized by an association,
141 association of unit owners, or nonprofit association.
- 142 (g) "Large master planned development" means an approved development:
- 143 (i) of at least 500 acres or 500 units; and
144 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 145 (A) common infrastructure;
146 (B) association facilities;
147 (C) community programming;
148 (D) resort facilities;
149 (E) open space; or
150 (F) recreation amenities.
- 151 (h) "Nonprofit association" means a nonprofit corporation organized under Title 16,
152 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
153 govern, manage, or maintain burdened property.
- 154 (i) "Organizational documents" means:
- 155 (i) for an association, as defined in Section 57-8a-102, governing documents as
156 defined in Section 57-8a-102;
157 (ii) for an association of unit owners, as defined in Section 57-8-3, a declaration as
158 defined in Section 57-8-3; and
159 (iii) for a nonprofit association:
- 160 (A) a written instrument by which the nonprofit association exercises powers or
161 manages, maintains, or otherwise affects the property under the jurisdiction of
162 the nonprofit association; and
163 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's

- 164 rules, and declarations of covenants, conditions, and restrictions.
- 165 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest
166 association:
- 167 (i) upon a buyer or seller of real property;
- 168 (ii) upon and as a result of a transfer of the real property; and
- 169 (iii) that is dedicated to benefiting the common areas, including payment for:
- 170 (A) common planning, facilities, and infrastructure;
- 171 (B) obligations arising from an environmental covenant;
- 172 (C) community programming;
- 173 (D) resort facilities;
- 174 (E) open space;
- 175 (F) recreation amenities;
- 176 (G) charitable purposes; or
- 177 (H) association expenses.
- 178 (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 179 (i) affects real property; and
- 180 (ii) obligates a future buyer or seller of the real property to pay to a common interest
181 association, upon and as a result of a transfer of the real property, a fee that is
182 dedicated to benefitting the burdened property, including payment for:
- 183 (A) common planning, facilities, and infrastructure;
- 184 (B) obligations arising from an environmental covenant;
- 185 (C) community programming;
- 186 (D) resort facilities;
- 187 (E) open space;
- 188 (F) recreation amenities;
- 189 (G) charitable purposes; or
- 190 (H) association expenses.
- 191 (l) "Transfer fee covenant":
- 192 (i) means an obligation, however denominated, expressed in a covenant, restriction,
193 agreement, or other instrument or document:
- 194 (A) that affects real property;
- 195 (B) that is imposed on a future buyer or seller of real property, other than a person
196 who is a party to the covenant, restriction, agreement, or other instrument or
197 document; and

- 198 (C) to pay a fee upon and as a result of a transfer of the real property; and
199 (ii) does not include:
200 (A) an obligation imposed by a court judgment, order, or decree;
201 (B) an obligation imposed by the federal government or a state or local
202 government entity; or
203 (C) a reinvestment fee covenant.
- 204 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 205 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be
206 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a
207 common interest association that was formed to benefit the burdened property.
- 208 (b) A common interest association may assign or pledge to a lender the right to receive
209 payment under a reinvestment fee covenant if:
210 (i) the assignment or pledge is as collateral for a credit facility; and
211 (ii) the lender releases the collateral interest upon payment in full of all amounts that
212 the common interest association owes to the lender under the credit facility.
- 213 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if
214 the reinvestment fee covenant is intended to affect property that is the subject of a
215 previously recorded transfer fee covenant or reinvestment fee covenant.
- 216 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the
217 payment of a fee that exceeds .5% of the value of the burdened property, unless the
218 burdened property is part of a large master planned development.
- 219 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
220 unenforceable unless a notice of reinvestment fee covenant, separate from the
221 reinvestment fee covenant, is recorded in the office of the recorder of each county in
222 which any of the burdened property is located.
- 223 (b) A notice under Subsection (6)(a) shall:
224 (i) state the name and address of the common interest association to which the fee
225 under the reinvestment fee covenant is required to be paid;
226 (ii) include the notarized signature of the common interest association's authorized
227 representative;
228 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
229 land and to bind successors in interest and assigns;
230 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
231 of an additional reinvestment fee covenant on the burdened property;

- 232 (v) state the duration of the reinvestment fee covenant;
- 233 (vi) state the purpose of the fee required to be paid under the reinvestment fee
- 234 covenant; and
- 235 (vii) state that the fee required to be paid under the reinvestment fee covenant is
- 236 required to benefit the burdened property.
- 237 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
- 238 requirements of Subsection (6)(b) is valid and effective.
- 239 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
- 240 2010, is not enforceable after May 31, 2010, unless:
- 241 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
- 242 the office of the recorder of each county in which any of the burdened property is
- 243 located; or
- 244 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
- 245 Subsection (7)(b), is recorded in the office of the recorder of each county in which
- 246 any of the burdened property is located.
- 247 (b) A notice under Subsection (7)(a)(ii) shall:
- 248 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
- 249 or transfer fee covenant, or the beneficiary's authorized representative;
- 250 (ii) state the name and current address of the beneficiary under the reinvestment fee
- 251 covenant or transfer fee covenant;
- 252 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
- 253 intended to run with the land and to bind successors in interest and assigns; and
- 254 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 255 (c)(i) A recorded notice of reinvestment fee covenant or transfer fee covenant that
- 256 substantially complies with the requirements of Subsection (7)(b) is valid and
- 257 effective, unless the notice of transfer fee covenant is a wrongful lien as that term
- 258 is defined in Section 38-9-102.
- 259 (ii) A county recorder is not required to determine whether a notice of transfer fee
- 260 covenant is a wrongful lien for purposes of this Subsection (7)(c).
- 261 (d) A notice under Subsection (7)(b):
- 262 (i) that is recorded after May 31, 2010, is not enforceable; and
- 263 (ii) shall comply with the requirements of Section 57-1-47.
- 264 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
- 265 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is

- 266 not an enforceable amendment.
- 267 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
268 upon:
- 269 (a) an involuntary transfer;
- 270 (b) a transfer that results from a court order;
- 271 (c) a bona fide transfer to a family member of the seller within three degrees of
272 consanguinity who, before the transfer, provides adequate proof of consanguinity;
- 273 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
274 decree of distribution; or
- 275 (e) the transfer of burdened property by a financial institution, except to the extent that
276 the reinvestment fee covenant requires the payment of a common interest
277 association's costs directly related to the transfer of the burdened property, not to
278 exceed \$250.
- 279 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable
280 unless the association uses the fee only to pay expenses related to the transfer.
- 281 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
- 282 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
283 covenant; and
- 284 (b) a majority of voting interests in the association, or a higher percentage if required in
285 the organizational documents, approves the reinvestment fee.
- 286 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
287 association may set the amount of a reinvestment fee only:
- 288 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
289 (b) upon providing notice in accordance with Section 57-8a-214.
- 290 (12) Members of the association may remove or amend a reinvestment fee by holding a
291 vote at a special meeting:
- 292 (a) called by the members for the purpose of removing or amending the reinvestment
293 fee; and
- 294 (b) at which:
- 295 (i) at least 51% of the voting interests attend and vote; and
- 296 (ii) a majority of the voting interests that attend vote to remove or amend the
297 reinvestment fee.

298 Section 3. Section **57-1-47** is amended to read:

299 **57-1-47 . Notice requirements for continuation of existing private transfer fee**

300 **obligations.**

301 (1) In addition to the requirements described in Subsection 57-1-46(7), a person required to
302 file a notice under this section shall:

303 (a)(i) file the notice described in this section on or before May 31, 2024; and

304 (ii) re-file the notice, no earlier than May 1 and no later than May 31, every three
305 years thereafter; and

306 (b) amend the notice to reflect any change in the name or address of any payee included
307 in the notice no later than the 30 days after the day on which the change occurs.

308 (2) A person who amends a notice filed under Subsection (1) shall include with the
309 amendment:

310 (a) the recording information of the original notice; and

311 (b) the legal description of the property subject to the private transfer fee obligation.

312 (3) To be effective, a notice filed under this section shall be approved in writing by every
313 person holding a majority of the beneficial interests in the private transfer fee obligation.

314 (4) If a person required to file a notice under this section fails to comply with this section:

315 (a) payment of the private transfer fee may not be a requirement for the conveyance of
316 an interest in the property to a purchaser;

317 (b) the property is not subject to further obligation under the private transfer fee
318 obligation; and

319 (c) the private transfer fee obligation is void.

320 (5)(a) A recorded notice of transfer fee covenant that complies with the requirements of
321 this section is valid and effective, unless the notice of transfer fee covenant is a
322 wrongful lien as that term is defined in Section 38-9-102.

323 (b) A county recorder is not required to determine whether a notice of transfer fee
324 covenant is a wrongful lien for purposes of this Subsection (5).

325 (6)(a) A person that is no longer subject to a private transfer fee obligation may seek
326 declaratory relief in court to address any encumbrance on real property owned by the
327 person.

328 (b) Upon a successful claim for declaratory relief, as described in Subsection (6)(a), a
329 court may award the person costs and reasonable attorney fees.

330 (7) This section does not apply to a reinvestment fee covenant, as that term is defined in
331 Section 57-1-46.

332 **Section 4. Effective Date.**

333 This bill takes effect on May 6, 2026.