

# SB0122S02 compared with SB0122

~~{Omitted text}~~ shows text that was in SB0122 but was omitted in SB0122S02

inserted text shows text that was not in SB0122 but was inserted into SB0122S02

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## HOA Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: A. Cory Maloy

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### LONG TITLE

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#### General Description:

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This bill amends provisions relating to ~~{the Office of the Homeowners' Association Ombudsman}~~

homeowners' associations.

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#### Highlighted Provisions:

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This bill:

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▶ defines terms;

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▶ provides the circumstances under which a homeowners' association may convey a portion

of the common areas;

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▶ requires that the Office of the Homeowners' Association Ombudsman (office) make public each advisory opinion the office issues;

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▶ requires that the office provide a list of statutes and frequently asked questions that impact persons under the jurisdiction of a homeowners' association;

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▶ requires that the office publish educational materials on the office's website;

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▶ requires that the office direct individuals making a phone call to the office to resources the office creates;

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- 18       ▶ provides that an action by an attorney employed by the office does not create an attorney-  
client relationship;
- 20       ▶ provides that the filing fee a person pays for an advisory opinion from the office is  
nonrefundable;
- 22       ▶ provides that a homeowners' association may not require a person to engage in binding  
arbitration before obtaining an advisory opinion from the office;
- 24       ▶ provides the requirements for the contents of a request for an advisory opinion from the  
office;
- 26       ▶ 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  
driveway;
- 30       ▶ provides that a homeowners' association's declaration may not contain certain provisions;
- 16       ▶ amends the circumstances under which a lot owner may continue renting a lot in a homeowners'  
association without a fee; {and}
- 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 advisory  
opinion;
- 36       ▶ establishes the conditions under which Title 57, Chapter 8, Condominium Ownership Act,  
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  
association;
- 40       ▶ removes the requirement that a board member and president of an association provide a  
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  
person shall provide the document to the association upon request;
- 45       ▶ provides that a declarant may sell a part of the common areas during the period of  
administrative control to certain persons; and
- 18       ▶ makes technical changes.

48 **Money Appropriated in this Bill:**

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49 None

50 **Other Special Clauses:**

51 None

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **10-20-809 , as renumbered and amended by Laws of Utah 2025, First Special Session,  
Chapter 15**

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56 **13-79-103 , as enacted by Laws of Utah 2025, Chapter 226**

57 **13-79-104 , as enacted by Laws of Utah 2025, Chapter 226**

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58 **17-79-709 , as renumbered and amended by Laws of Utah 2025, First Special Session,  
Chapter 14**

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60 **57-1-46 , as last amended by Laws of Utah 2025, Chapter 226**

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61 **57-8-2 , as enacted by Laws of Utah 1963, Chapter 111**

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62 **57-8-3 , as last amended by Laws of Utah 2025, Chapter 291**

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63 **57-8-6.1 , as enacted by Laws of Utah 2020, Chapter 75**

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64 **57-8-8.1 , as last amended by Laws of Utah 2025, First Special Session, Chapter 16**

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65 **57-8-10 , as last amended by Laws of Utah 2014, Chapter 397**

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66 **57-8-13.1 , as last amended by Laws of Utah 2025, Chapter 226**

67 **57-8-16.5 , as last amended by Laws of Utah 2016, Chapter 210**

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68 **57-8-17 , as last amended by Laws of Utah 2025, Chapters 197, 226**

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69 **57-8-32 , as last amended by Laws of Utah 2025, First Special Session, Chapter 15**

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70 **57-8a-102 , as last amended by Laws of Utah 2025, First Special Session, Chapter 15**

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71 **57-8a-103 , as enacted by Laws of Utah 2004, Chapter 153**

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72 **57-8a-105 , as last amended by Laws of Utah 2025, Chapter 226**

73 **57-8a-105.1 , as enacted by Laws of Utah 2020, Chapter 75**

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74 **57-8a-209 , as last amended by Laws of Utah 2025, First Special Session, Chapter 15**

75 **57-8a-212 , as last amended by Laws of Utah 2013, Chapter 152**

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76 **57-8a-215 , as enacted by Laws of Utah 2011, Chapter 355**

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77 **57-8a-218 , as last amended by Laws of Utah 2025, First Special Session, Chapter 15**

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78 **57-8a-227 , as last amended by Laws of Utah 2025, Chapters 197, 226**

79 **57-8a-232 , as last amended by Laws of Utah 2025, First Special Session, Chapter 15**

80 ENACTS:

81 **57-8-7.6 , Utah Code Annotated 1953**

82  
83 *Be it enacted by the Legislature of the state of Utah:*

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

85 **10-20-809. Common area parcels on a plat -- No separate ownership -- Ownership interest  
equally divided among other parcels on plat and included in description of other parcels.**

88 (1) As used in this section:

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

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

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

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

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

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

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

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

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

98 [~~(e)~~] (f) "Declaration," regarding a common area and facility, means the same as that term is defined in  
Section 57-8-3.

100 [~~(f)~~] (g) "Period of administrative control" means the same as that term is defined in:

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

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

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

105 (2) A person may not separately own, convey, or modify a parcel designated as a common area or  
common area and facility, on a plat recorded in compliance with this part, independent of the other  
lots, units, or parcels created by the plat unless:

108 (a) an association holds in trust the parcel designated as a common area for the owners of the other lots,  
units, or parcels created by the plat; [~~or~~]

110 (b) the conveyance or modification is approved under Subsection (5) [-] ; or

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- 111 (c) the conveyance or modification is made in accordance with Subsection (6).
- 112 (3) If a conveyance or modification of a common area or common area and facility is approved in  
accordance with Subsection (5), the person who presents the instrument of conveyance to a county  
recorder shall:
- 115 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of  
conveyance; or
- 117 (b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a  
separate document.
- 119 (4) When a plat contains a common area or common area and facility:
- 120 (a) for purposes of assessment, each parcel that the plat creates has an equal ownership interest in the  
common area or common area and facility within the plat, unless the plat or an accompanying  
recorded document indicates a different division of interest for assessment purposes; and
- 124 (b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly  
includes the ownership interest in the common area or common area and facility, even if that  
ownership interest is not explicitly stated in the instrument.
- 128 (5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a  
common area or common area and facility if the following approve the conveyance or modification:
- 131 (a) the local government;
- 132 (b)
- 134 (i) for a common area that an association owns, 67% of the voting interests in the association; or  
(ii) for a common area that an association does not own, or for a common area and facility, 67% of the  
owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which  
the common area or common area and facility is included; and
- 138 (c) during the period of administrative control, the declarant.
- 139 (6)
- (a) Notwithstanding Subsection (2), an individual that the association's board designates by a vote,  
may convey a portion of a common area or a common area and facility in accordance with Section  
57-8-32 or 57-8a-232, if:
- 142 (i) the individual makes the conveyance to a condemnor; and
- 143 (ii) the common area or common area and facility is under threat of condemnation.
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(b) If an individual makes a conveyance in accordance with Subsection (6)(a), no lot owner or unit owner is required to approve the conveyance or modification.

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

147 **13-79-103. Duties and jurisdiction of office.**

33 (1) The attorneys of the office shall:

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

37 (b) upon request:

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

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

42 (2)

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

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

48 (3) Except as provided in ~~[Section 13-75-105]~~ Subsection 13-79-104(10), evidence of a review by the  
office and the opinions, writings, findings, and determinations of the office are not admissible as  
evidence in a judicial action or arbitration.

51 (4) The office~~[:]~~

52 ~~[(a)]~~ shall:

53 (a) ~~[-]~~analyze a complaint and issue an advisory opinion only for issues relating to a violation of a state  
statute;~~[-and]~~

55 (b) make public each advisory opinion the office issues in accordance with Subsection (4)(a);

57 (c) provide, on the office's website:

58 (i) a list of statutes that impact unit owners, lot owners, associations of lot owners, and associations of  
unit owners; and

60 (ii) a list of frequently asked questions that the office receives and answers to those questions;

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(d) publish educational materials on the office's website providing, in simple and easy to understand language, a brief overview of state law governing associations of unit owners and associations of lot owners, including:

65 (i) a description of the rights and responsibilities provided in Title 57, Chapter 8, Condominium Ownership Act, to a party under the jurisdiction of Title 57, Chapter 8, Condominium Ownership Act;

68 (ii) a description of the rights and responsibilities provided in Title 57, Chapter 8a, Community Association Act, to a party under the jurisdiction of Title 57, Chapter 8a, Community Association Act; and

71 (iii) instructions regarding how an association of unit owners or an association of lot owners may be organized and dismantled in accordance with this chapter; and

73 (e) direct an individual that makes a phone call to the office to the resources described in this Subsection (4).

75 [(b)] (5) The office may not provide any service that requires interpreting the governing documents of an association of lot owners or the governing documents of an association of unit owners, including determining whether a provision of the governing documents is reasonable.

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

197 (a) a lot owner;

198 (b) a unit owner;

199 (c) an association of lot owners; or

200 (d) an association of unit owners.

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

202 **13-79-104. Advisory opinion -- Process of advisory opinions.**

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

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

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

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

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- 209 (b) at any time before the commencement of:
- 210 (i) an action in a court with jurisdiction; or
- 211 (ii) binding arbitration.
- 212 (2)
- (a) A person making a request for an advisory opinion described in Subsection (1) shall:
- 214 (i) file the request with the office;
- 215 (ii) pay a nonrefundable filing fee of \$150;[~~and~~]
- 216 (iii)
- (A) file the request no later than one year after the day on which the person making the request knew or should have known about the alleged act that is the subject of the advisory opinion; and
- 219 (B) include in the request facts that demonstrate that the person submits the request no later than a year after the day on which the person making the request knew or should have known about the alleged act that is the subject of the advisory opinion[~~;~~] ; and
- 223 (iv) in the request for an advisory opinion, describe:
- 224 (A) the alleged act that is the subject of the advisory opinion; and
- 225 (B) the impact of the alleged act that is the subject of the advisory opinion on the person making the request.
- 227 (b) A person making a request under this Subsection (2) may allege actual damages as a result of the alleged act that is the subject of the advisory opinion.
- 229 (3) The office may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee described in Subsection (2)(a)(ii).
- 231 (4)
- (a) [~~The~~] Except as provided in Subsection (4)(b), the office may not issue an advisory opinion unless the person requesting an advisory opinion exhausts all existing dispute resolution procedures provided in:
- 234 (i) the governing documents of an association of lot owners, if the dispute involves a lot owner; or
- 236 (ii) the governing documents of an association of unit owners, if the dispute involves a unit owner.
- 238 (b) An association of unit owners or an association of lot owners may not require that a person engage in binding arbitration before requesting an advisory opinion from the office.
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~~[(b)]~~ (c) A person requesting an advisory opinion shall include in the person's complaint a description of how that person ~~[exhausted all existing procedures provided in the applicable governing documents]~~ complied with this Subsection (4).

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

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

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

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

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

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

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

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

258 (7)

(a) The office shall issue a written statement declining to issue an advisory opinion when, in the opinion of the office:

260 (i) the issues are not ripe for review;

261 (ii) the person bringing the request has not exhausted all existing procedures provided in the applicable governing documents; or

263 (iii) the issues raised are beyond the scope of the office's statutory duty to review.

264 (b) Notwithstanding Subsection (7)(a), the office shall issue a written statement declining to review a request, if the request deals solely with a contractual dispute.

266 (8)

(a)

(i) If in the process of issuing an advisory opinion, the office determines that a person knowingly filed a false or fraudulent request for an advisory opinion, the office shall prohibit that person from filing a complaint with the office for two years after the day on which the office makes the determination.

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- 270 (ii) The office may impose a civil penalty of up to \$1,000 against a person if the office determines  
under this Subsection (8)(a) that the person filed a false or fraudulent request for an advisory  
opinion.
- 273 (b)
- (i) The office may designate a person as a vexatious filer if the person has filed a request for three or  
more advisory opinions and for each request the office:
- 275 (A) determines that the person requesting the advisory opinion has not exhausted all existing  
procedures, as described in Subsection (4)(a);
- 277 (B) declines to issue an advisory opinion, as described in Subsection (7)(a); or
- 278 (C) determines that the request deals solely with a contractual dispute, as described in Subsection  
(7)(b).
- 280 (ii) If the office designates a person as a vexatious filer under this Subsection (8)(b), the office may not  
accept a request by the person unless:
- 282 (A) the person submits a written copy of the request to the executive director of the department; and
- 284 (B) the executive director of the department authorizes the person to file the request for the advisory  
opinion with the office.
- 286 ~~[(9) The party that requests the advisory opinion shall pay the filing fee described in Subsection (2)  
(a)(ii), unless the office issues an advisory opinion in favor of the party that requests the advisory  
opinion, in which case all necessary parties shall share the cost of the filing fee equally.]~~
- 290 ~~[(10)]~~ (9) An advisory opinion issued under this section is neither binding on any party to, nor  
admissible as evidence in, a dispute involving an association of lot owners or an association of unit  
owners, except as provided in Subsection ~~[(11)]~~ (10).
- 293 ~~[(11)]~~ (10)
- (a) As used in this Subsection ~~[(11)]~~ (10), "qualifying conditions" means:
- 294 (i) the office issues an advisory opinion described in this section;
- 295 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated in court; and
- 297 (iii) the court rules in favor of the same party as the advisory opinion in a final judgment.
- 299 (b) If the qualifying conditions are met, the court may award the substantially prevailing party:
- 301 (i) reasonable attorney fees and court costs relating to the development of the cause of action from the  
date the office delivers the advisory opinion to the date of the court's resolution; and
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(ii) if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action, a civil penalty of [~~\$250 for each day described in Subsection (12)~~] up to \$5,000.

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

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

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

310 [~~(ii) the day on which the substantially prevailing party or opposing party filed the action in court; and]~~

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

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

314 **17-79-709. Common area parcels on a plat -- No separate ownership -- Ownership interest  
equally divided among other parcels on plat and included in description of other parcels.**

317 (1) As used in this section:

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

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

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

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

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

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

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

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

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

327 [~~(e)~~] (f) "Declaration," regarding a common area and facility, means the same as that term is defined in  
Section 57-8-3.

329 [~~(f)~~] (g) "Period of administrative control" means the same as that term is defined in:

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

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

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

334 (2) A person may not separately own, convey, or modify a parcel designated as a common area or  
common area and facility on a plat recorded in compliance with this part, independent of the other  
lots, units, or parcels created by the plat unless:

337 (a) an association holds in trust the parcel designated as a common area for the owners of the other lots,  
units, or parcels created by the plat; [~~or~~]

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- 339 (b) the conveyance or modification is approved under Subsection (5)[-] ; or  
340 (c) the conveyance or modification is made in accordance with Subsection (6).
- 341 (3) If a conveyance or modification of a common area or common area and facility is approved in  
accordance with Subsection (5), the person who presents the instrument of conveyance to a county  
recorder shall:
- 344 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of  
conveyance; or
- 346 (b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a  
separate document.
- 348 (4) When a plat contains a common area or common area and facility:
- 349 (a) each parcel that the plat creates has an equal ownership interest in the common area or common  
area and facility within the plat, unless the plat or an accompanying recorded document indicates a  
different division of interest for assessment purposes; and
- 353 (b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly  
includes the ownership interest in the common area or common area and facility within the plat,  
even if that ownership interest is not explicitly stated in the instrument.
- 357 (5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a  
common area or common area and facility if the following approve the conveyance or modification:
- 360 (a) the local government;
- 361 (b)
- (i) for a common area that an association owns, 67% of the voting interests in the association; or
- 363 (ii) for a common area that an association does not own, or for a common area and facility, 67% of the  
owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which  
the common area or common area and facility is included; and
- 367 (c) during the period of administrative control, the declarant.
- 368 (6)
- (a) Notwithstanding Subsection (2), an individual that the association's board designates by a vote,  
may convey a portion of a common area or a common area and facility in accordance with Section  
57-8-32 or 57-8a-232, if:
- 371 (i) the individual makes the conveyance to a condemnor; and
- 372 (ii) the common area or common area and facility is under threat of condemnation.

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373 (b) If an individual makes a conveyance in accordance with Subsection (6)(a), no lot owner or unit  
374 owner is required to approve the conveyance or modification.

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

376 **57-1-46. Transfer fee and reinvestment fee covenants.**

377 (1) As used in this section:

378 (a) "Administrative setup fee" means a fee, charge, or payment that is:

379 (i) related to the sale of real property; and

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

381 (A) a common interest association; or

382 (B) a person acting on behalf of the common interest association.

383 ~~[(a)]~~ (b) "Association expenses" means expenses incurred by a common interest association for:

385 (i) the purchase, ownership, leasing, construction, operation, use, administration, maintenance,  
improvement, repair, or replacement of association facilities, including expenses for taxes,  
insurance, operating reserves, capital reserves, and emergency funds;

389 (ii) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit  
of property owners, tenants, common areas, the burdened property, or property governed by the  
common interest association; or

392 (iii) other facilities, activities, services, or programs that are required or permitted under the common  
interest association's organizational documents.

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

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

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

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

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

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

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

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

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

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- 406 (ii) the definition of "common areas" under Section 57-8a-102.  
407 (f)
- (i) "Common interest association" means:
- 408 (A) an association, as defined in Section 57-8a-102;  
409 (B) an association of unit owners, as defined in Section 57-8-3; or  
410 (C) a nonprofit association.
- 411 (ii) "Common interest association" includes a person authorized by an association, association of unit owners, or nonprofit association.
- 413 (g) "Large master planned development" means an approved development:
- 414 (i) of at least 500 acres or 500 units; and  
415 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 416 (A) common infrastructure;  
417 (B) association facilities;  
418 (C) community programming;  
419 (D) resort facilities;  
420 (E) open space; or  
421 (F) recreation amenities.
- 422 (h) "Nonprofit association" means a nonprofit corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern, manage, or maintain burdened property.
- 425 (i) "Organizational documents" means:
- 426 (i) for an association, as that term is defined in Section 57-8a-102, governing documents as that term is defined in Section 57-8a-102;  
428 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a declaration as that term is defined in Section 57-8-3; and  
430 (iii) for a nonprofit association:
- 431 (A) a written instrument by which the nonprofit association exercises powers or manages, maintains, or otherwise affects the property under the jurisdiction of the nonprofit association; and  
434 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and declarations of covenants, conditions, and restrictions.
- 436 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:

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- 438 (i) upon a buyer or seller of real property;
- 439 (ii) upon and as a result of a transfer of the real property; and
- 440 (iii) that is dedicated to benefiting the common areas, including payment for:
- 441 (A) common planning, facilities, and infrastructure;
- 442 (B) obligations arising from an environmental covenant;
- 443 (C) community programming;
- 444 (D) resort facilities;
- 445 (E) open space;
- 446 (F) recreation amenities;
- 447 (G) charitable purposes; or
- 448 (H) association expenses.
- 449 (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 450 (i) affects real property; and
- 451 (ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon  
and as a result of a transfer of the real property, a fee that is dedicated to benefiting the burdened  
property, including payment for:
- 454 (A) common planning, facilities, and infrastructure;
- 455 (B) obligations arising from an environmental covenant;
- 456 (C) community programming;
- 457 (D) resort facilities;
- 458 (E) open space;
- 459 (F) recreation amenities;
- 460 (G) charitable purposes; or
- 461 (H) association expenses.
- 462 (l) "Transfer fee covenant":
- 463 (i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other  
instrument or document:
- 465 (A) that affects real property;
- 466 (B) that is imposed on a future buyer or seller of real property, other than a person who is a party to the  
covenant, restriction, agreement, or other instrument or document; and
- 469 (C) to pay a fee upon and as a result of a transfer of the real property; and

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- 470 (ii) does not include:
- 471 (A) an obligation imposed by a court judgment, order, or decree;
- 472 (B) an obligation imposed by the federal government or a state or local government entity; or
- 474 (C) a reinvestment fee covenant.
- 475 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 476 (3)
- (a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a common interest association that was formed to benefit the burdened property.
- 479 (b) A common interest association may assign or pledge to a lender the right to receive payment under a reinvestment fee covenant if:
- 481 (i) the assignment or pledge is as collateral for a credit facility; and
- 482 (ii) the lender releases the collateral interest upon payment in full of all amounts that the common interest association owes to the lender under the credit facility.
- 484 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if the reinvestment fee covenant is intended to affect property that is the subject of a previously recorded transfer fee covenant or reinvestment fee covenant.
- 487 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the payment of a fee that exceeds .5% of the value of the burdened property, unless the burdened property is part of a large master planned development.
- 490 (6)
- (a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment fee covenant, is recorded in the office of the recorder of each county in which any of the burdened property is located.
- 494 (b) A notice under Subsection (6)(a) shall:
- 495 (i) state the name and address of the common interest association to which the fee under the reinvestment fee covenant is required to be paid;
- 497 (ii) include the notarized signature of the common interest association's authorized representative;
- 499 (iii) state that the burden of the reinvestment fee covenant is intended to run with the land and to bind successors in interest and assigns;

501

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- (iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property;
- 503 (v) state the duration of the reinvestment fee covenant;
- 504 (vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and
- 506 (vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the burdened property.
- 508 (c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of Subsection (6)(b) is valid and effective.
- 510 (7)
- (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not enforceable after May 31, 2010, unless:
- 512 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in the office of the recorder of each county in which any of the burdened property is located; or
- 515 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in Subsection (7)(b), is recorded in the office of the recorder of each county in which any of the burdened property is located.
- 518 (b) A notice under Subsection (7)(a)(ii) shall:
- 519 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee covenant, or the beneficiary's authorized representative;
- 521 (ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer fee covenant;
- 523 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is intended to run with the land and to bind successors in interest and assigns; and
- 525 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 526 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that substantially complies with the requirements of Subsection (7)(b) is valid and effective.
- 529 (d) A notice under Subsection (7)(b):
- 530 (i) that is recorded after May 31, 2010, is not enforceable; and
- 531 (ii) shall comply with the requirements of Section 57-1-47.
- 532 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010, seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is not an enforceable amendment.

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- 535 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:
- 537 (a) an involuntary transfer;
- 538 (b) a transfer that results from a court order;
- 539 (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who,  
before the transfer, provides adequate proof of consanguinity;
- 541 (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of  
distribution; or
- 543 (e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment  
fee covenant requires the payment of a common interest association's costs directly related to the  
transfer of the burdened property, not to exceed \$250.
- 547 (9)
- (a) An ~~[association transfer fee]~~ administrative setup fee imposed on or after May 7, 2025, is void and  
unenforceable unless the association uses the fee only to pay expenses related to the transfer of real  
property.
- 550 (b) No later than December 31 each year, if a manager collects an administrative setup fee, the manager  
shall provide to the association an annual accounting of each administrative setup fee the manager  
collects in a calendar year.
- 553 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
- 554 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant; and
- 556 (b) a majority of voting interests in the association, or a higher percentage if required in the  
organizational documents, approves the reinvestment fee.
- 558 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an association may set  
the amount of a reinvestment fee only:
- 560 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
- 561 (b) upon providing notice in accordance with Section 57-8a-214.
- 562 (12) Members of the association may remove or amend a reinvestment fee by holding a vote at a special  
meeting:
- 564 (a) called by the members for the purpose of removing or amending the reinvestment fee; and
- 566 (b) at which:
- 567 (i) at least 51% of the voting interests attend and vote; and
- 568 (ii) a majority of the voting interests that attend vote to remove or amend the reinvestment fee.

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

571 **57-8-2. Applicability of chapter.**

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

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

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

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

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

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

581 **57-8-3. Definitions.**

As used in this chapter:

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

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

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

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

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

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

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

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

594 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

596 (a) the land included within the condominium project, whether leasehold or in fee simple;

598 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

600 (c) the basements, yards, gardens, parking areas, and storage spaces;

601 (d) the premises for lodging of janitors or persons in charge of the property;

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- 602 (e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration,  
air conditioning, and incinerating;
- 604 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and  
installations existing for common use;
- 606 (g) such community and commercial facilities as may be provided for in the declaration; and
- 608 (h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or  
normally in common use.
- 610 (6) "Common expenses" means:
- 611 (a) all sums lawfully assessed against the unit owners;
- 612 (b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;
- 614 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 615 (d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.
- 617 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the  
declaration, means the balance of all income, rents, profits, and revenues from the common areas  
and facilities remaining after the deduction of the common expenses.
- 620 (8) "Condominium" means the ownership of a single unit in a multiunit project together with an  
undivided interest in common in the common areas and facilities of the property.
- 622 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with  
Section 57-8-13.
- 624 (10)
- (a) "Condominium project" means a real estate condominium project; a plan or project whereby two  
or more units, whether contained in existing or proposed apartments, commercial or industrial  
buildings or structures, or otherwise, are separately offered or proposed to be offered for sale.
- 628 (b) ~~[-]~~ "Condominium project" ~~[also means]~~ includes the property when the context so requires.
- 630 (11)
- (a) "Condominium unit" means a unit together with the undivided interest in the common areas and  
facilities appertaining to that unit.
- 632 (b) ~~[-Any reference in this chapter to a condominium unit]~~ "Condominium unit" includes both a  
physical unit together with ~~[its]~~ the physical unit's appurtenant undivided interest in the common  
areas and facilities and a time period unit together with ~~[its]~~ the time period unit's appurtenant  
undivided interest, unless the ~~[reference]~~ term is specifically limited to a time period unit.

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- 637 (12)
- (a) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter.
- 640 (b) ~~[-If] "Contractible condominium" does not include a condominium project where the withdrawal described in Subsection (12)(a) can occur only by the expiration or termination of one or more leases[-, then the condominium project is not a contractible condominium within the meaning of this chapter.] .~~
- 644 (13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.
- 647 (14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.
- 650 (15)
- (a) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed.~~[-From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition.]~~
- 655 (b) ~~[-Any successors of the persons referred to in this subsection who come-]~~ "Declarant" includes:
- 657 (i) a person that executes an amendment to the declaration expanding an expandable condominium;
- 659 (ii) a person on whose behalf a person executes an amendment described in Subsection (15)(b)(i); and
- 661 (iii) a successor of a person described in Subsection (15)(a) that comes to stand in the same relation to the condominium project as [their predecessors also come within this definition] the person's predecessor.
- 664 (16) "Declaration" means the instrument by which the property is submitted to the provisions of this ~~[aet]~~ chapter, as ~~[it]~~ the declaration from time to time may be lawfully amended.
- 667 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 668 (18) "Expandable condominium" means a condominium project to which additional land or an interest in ~~[it]~~ the condominium project may be added in accordance with the declaration and this chapter.
- 671 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

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- 672 (20) "Governing documents":
- 673 (a) means a written instrument by which an association of unit owners may:
- 674 (i) exercise powers; or
- 675 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit  
owners; and
- 677 (b) includes:
- 678 (i) articles of incorporation;
- 679 (ii) bylaws;
- 680 (iii) a plat;
- 681 (iv) a declaration of covenants, conditions, and restrictions; and
- 682 (v) rules of the association of unit owners.
- 683 (21) "Independent third party" means a person that:
- 684 (a) is not related to the unit owner;
- 685 (b) shares no pecuniary interests with the unit owner; and
- 686 (c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.
- 688 (22) "Judicial foreclosure" means a foreclosure of a unit:
- 689 (a) for the nonpayment of an assessment;
- 690 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 691 (c) as provided in this chapter.
- 692 (23)
- 696 (a) "Leasehold condominium" means a condominium project in all or any portion of which each unit  
owner owns an estate for years in [his] the unit owner's unit, or in the land upon which that unit is  
situated, or both, with all those leasehold interests to expire naturally at the same time.
- 699 (b) [~~A~~] "Leasehold condominium" does not include a condominium project including leased land,  
or an interest in the land, upon which no units are situated or to be situated[~~is not a leasehold  
condominium within the meaning of this chapter~~].
- 702 (24) "Limited common areas and facilities" means [~~those~~] the common areas and facilities designated  
in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.
- 702 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful  
amendments to the declaration, means the owners of more than 50% in the aggregate in interest of  
the undivided ownership of the common areas and facilities.

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- 706 (26) "Management committee" means the committee as provided in the declaration charged with and  
having the responsibility and authority to make and to enforce all of the reasonable rules covering  
the operation and maintenance of the property.
- 709 (27) "Management committee meeting" means a gathering of a management committee, whether in  
person or by means of electronic communication, at which the management committee can take  
binding action.
- 712 (28) "Manager" means a person with whom the management committee enters into a contract for the  
person to:
- 714 (a) provide administrative or financial services for the association; or
- 715 (b) act on behalf of the association in accordance with this chapter.
- 716 [(28)] (29)
- (a) "Means of electronic communication" means an electronic system that allows individuals to  
communicate orally in real time.
- 718 (b) "Means of electronic communication" includes:
- 719 (i) web conferencing;
- 720 (ii) video conferencing; and
- 721 (iii) telephone conferencing.
- 722 [(29)] (30) "Mixed-use condominium project" means a condominium project that has both residential  
and commercial units in the condominium project.
- 724 [(30)] (31) "Nonjudicial foreclosure" means the sale of a unit:
- 725 (a) for the nonpayment of an assessment;
- 726 (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- 728 (c) as provided in this chapter.
- 729 [(31)] (32) "Par value" means a number of dollars or points assigned to each unit by the declaration[-]  
in accordance with the following:
- 731 (a) [~~Substantially~~] the declaration shall assign substantially identical units [shall be assigned] the same  
par value[-] ;
- 733 (b) [~~but~~] units located at substantially different heights above the ground, or having substantially  
different views, or having substantially different amenities or other characteristics that might result  
in differences in market value, may be considered substantially identical [within the meaning of this  
subsection.] for purposes of Subsection (32)(a);[-] and

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- 738 (c) ~~[H]~~ if the declaration states par value ~~[is stated-]~~ in terms of dollars~~[, that statement]~~ ;
- 739 (i) the dollar amount may not be considered to reflect or control the sales price or fair market value of  
[~~any~~] a unit~~[-]~~ ; and
- 741 (ii) ~~[no]~~ an opinion, an appraisal, or a fair market transaction at a different figure may not affect;
- 743 (A) ~~[-]~~the par value of [~~any~~] a unit~~[-]~~ ; or
- 744 (B) ~~[-any]~~ an undivided interest in the common areas and facilities, voting rights in the unit owners'  
association, liability for common expenses, or right to common profits, ~~[assigned]~~ that the  
declaration assigns on the basis ~~[thereof]~~ of the par value.
- 748 ~~[(32)]~~ (33) "Period of administrative control" means the period of control described in Subsection  
57-8-16.5(1).
- 750 ~~[(33)]~~ (34) "Person" means an individual, corporation, partnership, association, trustee, or other legal  
entity.
- 752 ~~[(34)]~~ (35) "Political sign" means [~~any~~] a sign or document that advocates for:
- 753 (a) the election or defeat of a candidate for public office; or
- 754 (b) the approval or defeat of a ballot proposition.
- 755 ~~[(35)]~~ (36) "Property" means:
- 756 (a) ~~[-]~~the land, whether leasehold or in fee simple~~[-]~~ ;
- 757 (b) ~~[-]~~the building, if any~~[-]~~ ;
- 758 (c) ~~[-]~~all improvements and structures ~~[thereon,]~~ on the land;
- 759 (d) ~~[-]~~all easements, rights, and appurtenances belonging ~~[thereto,]~~ to the land; and
- 760 (e) ~~[-]~~all articles of personal property intended for use in connection ~~[therewith]~~ with the land.
- 762 ~~[(36)]~~ (37) "Protected area" means the same as that term is defined in Section 53-29-306.
- 763 ~~[(37)]~~ (38) "Record," "recording," "recorded," and "recorder" ~~[have the meaning stated]~~ mean the same  
as the terms are defined in Chapter 3, Recording of Documents.
- 765 ~~[(38)]~~ (39) "Rentals" or "rental unit" means:
- 766 (a) a unit that:
- 767 (i) is not owned by an entity or trust; and
- 768 (ii) ~~[is occupied by]~~an individual occupies while the unit owner is not occupying the unit as the unit  
owner's primary residence; or
- 770 (b) an occupied unit ~~[owned by]~~ that an entity or trust owns, regardless of who occupies the unit.
- 772 ~~[(39)]~~ (40)

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- (a) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within [each] a unit as computed by reference to the record of survey map and rounded off to a whole number.
- 775 (b) [~~Certain spaces~~] "Size" does not include the following within [~~the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.~~] a unit, if when making the calculation described in Subsection (40)(a), the following are omitted or partially discounted by the use of a ratio, the same basis of calculation is employed for all units in the condominium project, and that basis is described in the declaration:
- 783 (i) an attic;
- 784 (ii) a basement; or
- 785 (iii) a garage space.
- 786 [(40)] (41) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as that term is defined in Section 57-19-2.
- 789 [(41)] (42) "Unconstructed unit" means a unit that:
- 790 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and
- 792 (b) is not constructed.
- 793 [(42)] (43)
- (a) "Unit" means a separate part of the property intended for any type of independent use, which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.
- 796 (b) "Unit" includes:
- 797 (i) one or more rooms or spaces located in one or more floors or a portion of a floor in a building[-] ;  
and
- 799 [(e)] (ii) [~~"Unit" includes~~] a convertible space, in accordance with Subsection 57-8-13.4(3).
- 801 [(43)] (44) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.
- 803 [(44)] (45) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or

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persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

808 [(45)] (46) "Water wise landscaping" means:

809 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:

810 (i) remain healthy with minimal irrigation once established; or

811 (ii) be maintained without the use of overhead spray irrigation;

812 (b) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

814 (c) use of other landscape design features that:

815 (i) minimize the landscape's need for supplemental water from irrigation;

816 (ii) reduce the landscape area dedicated to lawn or turf; or

817 (iii) encourage vegetative coverage.

818 [(46)] (47) "Water wise plant material" means a plant material suited to water wise landscaping.

820 Section 8. Section 57-8-6.1 is amended to read:

821 **57-8-6.1. Information required before sale to independent third party.**

822 (1) Before the sale of ~~any~~ a unit under the jurisdiction of an association of unit owners to an independent third party, the grantor shall provide to the independent third party:

824 (a) a copy of the association of unit owners' recorded governing documents; and

825 (b) a link or other access point to the ~~department's~~ educational materials described in Subsection ~~[57-8-13.1(6)]~~ 13-79-103(4).

827 (2) The grantor shall provide the information described in Subsection (1) before closing.

828 (3) The association of unit owners shall, upon request by the grantor, provide to the grantor the information described in Subsection (1).

830 (4) This section applies to each association of unit owners, regardless of when the association of unit owners is formed.

832 Section 9. Section 9 is enacted to read:

833 **57-8-7.6. Budget.**

834 (1) At least once annually a management committee shall prepare and adopt a budget for the association.

836 (2) The management committee shall present the adopted budget to association members at a meeting of the members.

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- 838 (3) A budget is disapproved if within 45 days after the date of the meeting under Subsection(2) at which  
the management committee presents the adopted budget:
- 840 (a) at least 51% of all the allocated voting interests of the unit owners in the association vote to  
disapprove the adopted budget; and
- 842 (b) the vote is taken at a special meeting called by unit owners under the declaration, articles, or bylaws  
to disapprove the budget.
- 844 (4) If a budget is disapproved under Subsection (3) or not adopted under Subsection (1), the budget that  
the management committee last adopted continues as the budget until the management committee  
prepares and adopts a new budget for the association.

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

848 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

- 849 (1)
- (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.
- 851 (b) A rule may:
- 852 (i) vary according to the level and type of service that the association of unit owners provides to unit  
owners;
- 854 (ii) differ between residential and nonresidential uses; or
- 855 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the  
number of individuals that may use the common areas and facilities as the rental unit tenant's guest  
or as the unit owner's guest.
- 858 (2)
- (a) Except as provided in Subsection (2)(b), if a unit owner owns a rental unit and is in compliance with  
the association of unit owners' governing documents and any rule that the association of unit owners  
adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner  
owns a rental unit.
- 862 (b) A rule may:
- 863 (i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other  
than attending an association meeting or managing the rental unit;
- 865 (ii) if the rental unit owner retains the right to use the association of unit owners' common areas and  
facilities, even occasionally:
- 867 (A) charge a rental unit owner a fee to use the common areas and facilities; and

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- 868 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the  
number of individuals that may use the common areas and facilities as the rental unit tenant's guest  
or as the unit owner's guest; or
- 871 (iii) include a provision in the association of unit owners' governing documents that:
- 872 (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
- 874 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision  
of the governing documents.
- 876 (3)
- (a) Except as provided in Subsection (3)(b), a rule may not interfere with the freedom of a unit owner to  
determine the composition of the unit owner's household.
- 878 (b) An association of unit owners may:
- 879 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 881 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the  
residential dwelling's:
- 883 (A) size and facilities; and
- 884 (B) fair use of the common areas and facilities.
- 885 (4) Subject to Subsection (14), an association of unit owners may by rule:
- 886 (a) unless otherwise provided in the declaration:
- 887 (i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;  
and
- 889 (ii) impose and receive any payment, fee, or charge for:
- 890 (A) the use, rental, or operation of the common areas, except limited common areas and facilities; or
- 892 (B) a service provided to a unit owner;
- 893 (b) impose, for a late payment of an assessment:
- 894 (i) a late fee, not to exceed the greater of:
- 895 (A) 10% of the assessment amount; or
- 896 (B) \$50; and
- 897 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 898 (c) provide for the indemnification of the association of unit owners' officers and management  
committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 901 (5)

## SB0122 compared with SB0122S02

- 904 (a) Except as provided in Subsection (5)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.
- 906 (b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.
- 908 (6)
- 910 (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.
- 912 (b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.
- 914 (7)
- 916 (a) A rule may not:
- 918 (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
- 920 (A) a for-sale sign;
- 922 (B) a political sign; or
- 924 (C) a flag; or
- 926 (ii) except as provided Subsection (7)(b), regulate the content or establish specific design criteria for the content of a political sign or flag.
- 928 (b) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.
- 930 (c) A rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign, a political sign, or a flag.
- 932 (8) For any area for which one or more unit owners, but not the association, are responsible for landscape maintenance, the association of unit owners:
- 934 (a) shall adopt rules supporting water wise landscaping, including:
- 936 (i) low water use requirements on lawns during drought conditions;
- 938 (ii) design criterion for water wise landscaping; and
- 940 (iii) limiting permissible plant material to specific water wise plant material;
- 942 (b) may not prohibit low water use on lawns during drought conditions; and
- 944 (c) except where reasonably necessary for erosion control, may not prohibit or restrict the conversion of a grass park strip of less than 8 feet wide to water-efficient landscaping.

## SB0122 compared with SB0122S02

(9) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 53-29-306(3).

935 (10)

(a) Except as provided in this Subsection (10), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.

937 (b) Subsection (10)(a) does not apply if the modifications would violate:

938 (i) a local land use ordinance;

939 (ii) a building code;

940 (iii) a health code; or

941 (iv) a fire code.

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

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

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

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

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

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

952 (11)

(a) Except as provided in Subsection (11)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:

955 (i) a commercial vehicle, as that term is defined in Section 72-9-102;

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

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

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

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

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

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

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

964 (12)

## SB0122 compared with SB0122S02

(a) Except as provided in Subsection (12)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as that term is defined in Section 72-9-102, in conformance with state traffic laws.

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

968 (13) A rule may not:

969 (a) impose a requirement or restriction on the use of a public street, as that term is defined in Section 10-20-102; or

971 (b) restrict an individual from:

972 (i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the unit; or

974 (ii) hiring a contractor or worker solely because the contractor or worker:

975 (A) is not on the association's preferred vendor list; or

976 (B) does not have a professional or occupational license, unless the license is required by law.

978 (14) A rule shall be reasonable.

979 (15) A declaration, or an amendment to a declaration, may [~~vary any of the requirements of Subsections (1) through (5), except ] not vary the requirements of Subsection (1)(b)(ii).~~

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

983 (17) Before imposing a fee under Subsection (4), an association of unit owners shall:

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

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

987 Section 11. Section 57-8-10 is amended to read:

988 **57-8-10. Contents of declaration -- Limitations on declaration.**

989 (1)

(a) Before the conveyance of [~~any~~] a unit in a condominium project, a declaration shall be recorded that contains the covenants, conditions, and restrictions relating to the project that shall be enforceable equitable servitudes, where reasonable, and which shall run with the land.

993 (b) [~~–~~]Unless otherwise provided, [~~these servitudes may be enforced by a unit owner or a unit owner's successor in interest.~~] a unit owner or a unit owner's successor in interest may enforce a servitude described in Subsection (1)(a).

## SB0122 compared with SB0122S02

- 996 (2)
- (a) For every condominium project, the declaration shall:
- 997 (i) include a description of the land or interests in real property included within the project;
- 999 (ii) contain a description of any buildings that states the number of storeys and basements, the number of units, the principal materials of which the building is or is to be constructed, and a description of all other significant improvements contained or to be contained in the project;
- 1003 (iii) contain the unit number of each unit, the square footage of each unit, and any other description or information necessary to properly identify each unit;
- 1005 (iv) describe the common areas and facilities of the project;~~and~~
- 1006 (v) describe any limited common areas and facilities and state to which units the use of the common areas and facilities is reserved[-] ; and
- 1008 (vi) include a statement that the project is:
- 1009 (A) designated as a condominium project; and
- 1010 (B) governed by this chapter.
- 1011 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other apparatus intended to serve a single unit, but located outside the boundaries of the unit, shall constitute a limited common area and facility appertaining to that unit exclusively, regardless of whether ~~or not~~ the declaration makes such a provision.
- 1015 (c) The condominium plat recorded with the declaration may provide or supplement the information required under Subsections (2)(a) and (b).
- 1017 (d)
- (i) The declaration shall include the percentage or fraction of undivided interest in the common areas and facilities appurtenant to each unit and the unit owner for all purposes, including voting, derived and allocated in accordance with Subsection 57-8-7(2).
- 1021 (ii) If any use restrictions are to apply, the declaration shall state the purposes for which the units are intended and the use restrictions that apply.
- 1023 (iii)
- (A) The declaration shall include the name and address of a person to receive service of process on behalf of the condominium project, in the cases provided by this chapter.
- 1026 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall maintain a place of business within, this state.

## SB0122 compared with SB0122S02

- 1028 (iv) The declaration shall describe the method by which the declaration may be amended consistent  
with this chapter.
- 1030 (v) Any further matters in connection with the property may be included in the declaration, which the  
person or persons executing the declaration may consider desirable, consistent with this chapter.
- 1033 [~~(vi) The declaration shall contain a statement of intention that this chapter applies to the property.~~]
- 1035 (e) The initial recorded declaration shall include:
- 1036 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv); and
- 1038 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to U.C.A. Sections  
57-1-20 and 57-8-45 to (name of trustee), with power of sale, the unit and all improvements to the  
unit for the purpose of securing payment of assessments under the terms of the declaration."
- 1042 (3)
- (a) If the condominium project contains any convertible land, the declaration shall:
- 1043 (i) contain a legal description by metes and bounds of each area of convertible land within the  
condominium project;
- 1045 (ii) state the maximum number of units that may be created within each area of convertible land;
- 1047 (iii) state, with respect to each area of convertible land, the maximum percentage of the aggregate  
land and floor area of all units that may be created and the use of which will not or may not be  
restricted exclusively to residential purposes, unless none of the units on other portions of the  
land within the project are restricted exclusively to residential use;
- 1052 (iv) state the extent to which any structure erected on any convertible land will be compatible with  
structures on other portions of the land within the condominium project in terms of quality of  
construction, the principal materials to be used, and architectural style;
- 1056 (v) describe all other improvements that may be made on each area of convertible land within the  
condominium project;
- 1058 (vi) state that any units created within each area of convertible land will be substantially identical to  
the units on other portions of the land within the project or describe in detail what other type of  
units may be created; and
- 1061 (vii) describe the declarant's reserved right, if any, to create limited common areas and facilities  
within any convertible land in terms of the types, sizes, and maximum number of the limited  
common areas within each convertible land.

1064

## SB0122 compared with SB0122S02

- (b) The condominium plat recorded with the declaration may provide or supplement the information required under Subsection (3)(a).
- 1066 (4)
- 1068 (a) If the condominium project is an expandable condominium project, the declaration shall:
- 1069 (i) contain an explicit reservation of an option to expand the project;
- 1073 (ii) include a statement of any limitations on the option to expand, including a statement as to whether the consent of any unit owners is required and, a statement as to the method by which consent shall be ascertained, or a statement that there are no such limitations;
- 1077 (iii) include a time limit, not exceeding seven years after the day on which the declaration is recorded, upon which the option to expand the condominium project expires and a statement of any circumstances that will terminate the option before expiration of the specified time limits;
- 1079 (iv) contain a legal description by metes and bounds of all land that may be added to the condominium project, which is known as additional land;
- 1080 (v) state:
- 1082 (A) if any of the additional land is added to the condominium project, whether all of it or any particular portion of it must be added;
- 1083 (B) any limitations as to what portions may be added; or
- 1084 (C) a statement that there are no such limitations;
- 1089 (vi) include a statement as to whether portions of the additional land may be added to the condominium project at different times, including any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds of these lands and regulating the order in which [~~they~~] the lands may be added to the condominium project;
- 1092 (vii) include a statement of any limitations on the locations of any improvements that may be made on any portions of the additional land added to the condominium project, or a statement that no assurances are made in that regard;
- 1094 (viii)
- 1098 (A) state the maximum number of units that may be created on the additional land;
- (B) if portions of the additional land may be added to the condominium project and the boundaries of those portions are fixed in accordance with Subsection (4)(a)(vi), state the maximum number of units that may be created on each portion added to the condominium project; and

## SB0122 compared with SB0122S02

(C) if portions of the additional land may be added to the condominium project and the boundaries of those portions are not fixed in accordance with Subsection (4)(a)(vi), state the maximum number of units per acre that may be created on any portion added to the condominium project;

1102 (ix) with respect to the additional land and to any portion of the additional land that may be added to the condominium project, state the maximum percentage of the aggregate land and floor area of all units that may be created on it, the use of which will not or may not be restricted exclusively to residential purposes, unless none of the units on the land originally within the project are restricted exclusively to residential use;

1108 (x) state the extent to which any structures erected on any portion of the additional land added to the condominium project will be compatible with structures on the land originally within the project in terms of quality of construction, the principal materials to be used, and architectural style, or that no assurances are made in those regards;

1113 (xi) describe all other improvements that will be made on any portion of the additional land added to the condominium project, including any limitations on what other improvements may be made on the additional land, or state that no assurances are made in that regard;

1117 (xii) contain a statement that any units created on any portion of the additional land added to the condominium project will be substantially identical to the units on the land originally within the project, a statement of any limitations on what types of units may be created on the additional land, or a statement that no assurances are made in that regard; and

1122 (xiii) describe the declarant's reserved right, if any, to create limited common areas and facilities within any portion of the additional land added to the condominium project, in terms of the types, sizes, and maximum number of limited common areas within each portion, or state that no assurances are made in those regards.

1126 (b) The condominium plat recorded with the declaration may provide or supplement the information required under Subsections (4)(a)(iv) through (a)(vii) and (a)(x) through (a)(xiii).

1129 (5)

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

1130 (i) contain an explicit reservation of an option to contract the condominium project;

1131 (ii) contain a statement of any limitations on the option to contract, including a statement regarding whether the consent of any unit owners is required, and if so, a statement regarding the method by which this consent shall be ascertained, or a statement that there are no such limitations;

## SB0122 compared with SB0122S02

- 1135 (iii) state the time limit, not exceeding seven years after the day on which the declaration is recorded, upon which the option to contract the condominium project expires, together with a statement of any circumstances that will terminate the option before expiration of the specified time limit;
- 1139 (iv) include a legal description by metes and bounds of all land that may be withdrawn from the condominium project, which is known as withdrawable land;
- 1141 (v) include a statement as to whether portions of the withdrawable land may be withdrawn from the condominium project at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds and regulating the order in which they may be withdrawn from the condominium project; and
- 1146 (vi) include a legal description by metes and bounds of all of the land within the condominium project to which the option to contract the project does not extend.
- 1148 (b) The condominium plat recorded with the declaration may provide or supplement the information required under Subsections (5)(a)(iv) through (vi).
- 1150 (6)
- (a) If the condominium project is a leasehold condominium, the declaration shall, with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the condominium project:
- 1153 (i) include recording information enabling the location of each lease in the official records of the county recorder;
- 1155 (ii) include the date upon which each lease is due to expire;
- 1156 (iii) state whether any land or improvements will be owned by the unit owners in fee simple;
- 1158 (iv) if there is to be fee simple ownership of any land or improvement, as described in Subsection (6)(a)(iii), include:
- 1160 (A) a description of the land or improvements, including a legal description by metes and bounds of the land; or
- 1162 (B) a statement of ~~[any rights]~~ the right the unit owners have to remove ~~[these]~~ the improvements described in Subsection (6)(a)(iv)(A) within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that ~~[they shall have no such rights]~~ the unit owners do not have that right; and
- 1167

## SB0122 compared with SB0122S02

- (v) include a statement of the ~~[rights]~~ right the unit owners have to extend or renew any of the leases or to redeem or purchase any of the reversions, or a statement that ~~[they have no such rights]~~ the unit owners do not have that right.
- 1170 (b) After the recording of the declaration, a lessor who executed the declaration, or the lessor's  
successor in interest, may not terminate any part of the leasehold interest of ~~[any]~~ a unit owner who:
- 1173 (i) makes timely payment of the unit owner's share of the rent to the persons designated in the  
declaration for the receipt of the rent; and
- 1175 (ii) otherwise complies with all covenants which would entitle the lessor to terminate the lease if the  
covenants were violated.
- 1177 (7)
- (a)
- (i) If the condominium project contains time period units, the declaration shall also contain the  
location of each condominium unit in the calendar year.
- 1179 (ii) ~~[-This information]~~ The information described in Subsection (7)(a)(i) shall be set out in a fourth  
column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the exhibit or schedule  
accompanies the declaration.
- 1182 (b) The declaration shall also put timeshare owners on notice that tax notices will be sent to the  
management committee, not each timeshare owner.
- 1184 (c) The time period units created with respect to any given physical unit shall be such that the aggregate  
of the durations involved constitute a full calendar year.
- 1186 (8)
- (a) The declaration, bylaws, and condominium plat shall be duly executed and acknowledged by all of  
the owners and any lessees of the land ~~[which]~~ that is ~~[made-]~~subject to this chapter.
- 1189 (b) As used in Subsection (8)(a), "owners and lessees" does not include~~[-in their respective  
capacities,]~~ :
- 1191 (i) ~~[-any]~~ a mortgagee~~[-];~~ ;
- 1192 (ii) ~~[-any]~~ a trustee or beneficiary under a deed of trust~~[-];~~ ;
- 1193 (iii) ~~[-]~~any other lien holder~~[-];~~ ;
- 1194 (iv) ~~[-any]~~ a person ~~[having]~~ that has an equitable interest under ~~[-any]~~ a contract for the sale or lease of  
a condominium unit~~[-];~~ ; or
- 1196

## SB0122 compared with SB0122S02

- (v) ~~any~~ a lessee whose leasehold interest does not extend to any portion of the common areas and facilities.
- 1198 (9) A declaration, or an amendment to a declaration may not:
- 1199 (a) prohibit a unit owner from displaying in a window of the owner's unit:
- 1200 (i) a for-sale sign;
- 1201 (ii) a political sign; or
- 1202 (iii) a flag;
- 1203 (b) regulate the content or establish specific design criteria for the content of a political sign or flag, except to restrict a political sign or flag that contains obscene, profane, or commercial content;
- 1206 (c) prohibit low water use on lawns during drought conditions;
- 1207 (d) except where reasonably necessary for erosion control, prohibit or restrict the conversion of a grass park strip of less than eight feet wide to water-efficient landscaping;
- 1210 (e) prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation, unless the modifications would violate:
- 1212 (i) a local land use ordinance;
- 1213 (ii) a building code;
- 1214 (iii) a health code; or
- 1215 (iv) a fire code;
- 1216 (f) restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:
- 1218 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 1219 (ii) a motor home, as that term is defined in Section 13-20-2;
- 1220 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2;
- 1221 (iv) a trailer, as that term is defined in Section 41-1a-102;
- 1222 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
- 1223 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
- 1224 (vii) a motorboat, as that term is defined in Section 73-18-2;
- 1225 (g) restrict an individual from operating a vehicle that is not a commercial vehicle, as that term is defined in Section 72-9-102, in accordance with state traffic laws;
- 1227 (h) impose a requirement or restriction on the use of a public street, as that term is defined in Section 10-20-102;

## SB0122 compared with SB0122S02

- 1229 (i) restrict an individual from:
- 1230 (i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not  
visible to an individual standing outside the unit; or
- 1232 (ii) hiring a contractor or worker solely because the contractor or worker:
- 1233 (A) is not on the association's preferred vendor list; or
- 1234 (B) does not have a professional or occupational license, unless the license is required by law;
- 1236 (j) restrict a unit owner from displaying a religious or holiday sign, symbol, or decoration on:
- 1238 (i) the unit; or
- 1239 (ii) the exterior of the unit, unless the association has an ownership interest in, or maintenance, repair,  
or replacement obligation for the exterior;
- 1241 (k) interfere with reasonable activity of a unit owner within the confines of the unit, to the extent  
that the activity is in compliance with local laws and ordinances, including nuisance laws and  
ordinances;
- 1244 (l)
- (i) prohibit the transfer of a unit; or
- 1245 (ii) require the consent of the association or management committee to transfer a unit;
- 1246 (m) prohibit a unit owner from installing a personal security camera immediately adjacent to the  
entryway, window, or other outside entry point of the unit; or
- 1248 (n) impose a restriction on a unit interior, except as reasonably necessary for the safety of adjacent units  
and the occupants of the units.
- 1250 (10) A declaration, or an amendment to a declaration may:
- 1251 (a) require that an individual park in a garage appurtenant to a unit before parking elsewhere;
- 1253 (b) enforce a reduced speed limit on a private roadway;
- 1254 (c) reasonably regulate the size and time, place, and manner of posting a for-sale sign, a political sign,  
or a flag;
- 1256 (d) restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the  
association, subject to the exceptions described in Subsection 53-29-306(3); or
- 1259 (e) adopt a reasonable time, place, and manner restriction with respect to a religious or holiday sign,  
symbol, or decoration that is:
- 1261 (i) outside of or on the unit; or
- 1262 (ii) visible from outside the unit.

## SB0122 compared with SB0122S02

- 1263 Section 12. Section **57-8-13.1** is amended to read:
- 1264 **57-8-13.1. Registration with Department of Commerce.**
- 81 (1) As used in this section, "department" means the Department of Commerce created in Section  
13-1-2.
- 83 (2) No later than 90 days after the recording of a declaration, an association of unit owners shall register  
with the department in the manner established by that the department establishes.
- 85 (3) The department shall require an association of unit owners registering as required in this section to  
provide with each registration:
- 87 (a) the name and address of the association of unit owners;
- 88 (b) the name, address, telephone number, and, if applicable, email address of the president of the  
association of unit owners;
- 90 (c) the name and address of each manager or management committee member;
- 91 (d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile  
transmission for communicating payoff information, the email address or facsimile number, as  
applicable, of a primary contact person who has association payoff information that a closing agent  
needs in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's  
unit; and
- 96 (e) a registration fee set by that the department sets in accordance with Section 63J-1-504.
- 97 (4)
- (a) An association of unit owners shall annually renew the registration of the association of unit owners  
described in Subsection (2).
- 99 (b) The department may impose and set the amount of a renewal registration fee in accordance with  
Section 63J-1-504.
- 101 (5) An association of unit owners that has registered under that registers in accordance with  
Subsection (2) shall submit to the department an update to the association of unit owners'  
registration information, in the manner established by that the department establishes, within  
90 days after the day on which a change in any of the information provided under Subsection (3)  
occurs.
- 105 (6)
- (a) During any period of noncompliance with the registration requirement described in Subsection (2)  
or the requirement for an updated registration described in Subsection (5):

## SB0122 compared with SB0122S02

- 108 (i) a lien may not arise under Section 57-8-44; and
- 109 (ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.
- 111 (b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated  
registration requirement of Subsection (5) does not begin until after the expiration of the 90-day  
period specified in Subsection (2) or (5), respectively.
- 114 (c) An association of unit owners that is not in compliance with the registration requirement described  
in Subsection (2) may end the period of noncompliance by registering with the department in the  
manner ~~established by~~ that the department establishes under Subsection (2).
- 118 (d) An association of unit owners that is not in compliance with the updated registration requirement  
described in Subsection (5) may end the period of noncompliance by submitting to the department  
an updated registration in the manner ~~established by~~ that the department establishes under  
Subsection (5).
- 122 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit owners ends a  
period of noncompliance:
- 124 (i) a lien may arise under Section 57-8-44 for any event that:
- 125 (A) occurred during the period of noncompliance; and
- 126 (B) would have given rise to a lien under Section 57-8-44 had the association of unit owners been in  
compliance with the registration requirements described in this section; and
- 129 (ii) an association of unit owners may enforce a lien described in Subsection ~~[(6)(e)]~~ (6)(e)(i) or a lien  
that existed before the period of noncompliance.
- 131 (f) If an owner's unit is conveyed to an independent third party during a period of noncompliance  
described in this Subsection (6):
- 133 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became final is  
extinguished when the conveyance of the unit becomes final; and
- 135 (ii) an event that occurred before the conveyance of the unit became final, and that would have given  
rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with  
the registration requirements of this section, may not give rise to a lien under Section 57-8-44 if  
the conveyance of the unit becomes final before the association of unit owners ends the period of  
noncompliance.

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## SB0122 compared with SB0122S02

[~~(7) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations of unit owners, including:~~]

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

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

1334 Section 13. Section 57-8-16.5 is amended to read:

1335 **57-8-16.5. Period of administrative control -- Renewal or ratification of contracts -- Failure to establish association or committee -- Declarant responsibilities.**

1337 (1)

(a) The declaration may authorize the declarant, ~~[or] a managing agent, or [some other] a person [or persons selected or to be selected by]~~ that the declarant selects, to:

1339 (i) ~~[-] appoint and remove some or all of:~~

1340 (A) ~~[-] the members of the management committee;~~ or

1341 (B) ~~[- some or all of -] the officers of the association of unit owners[; ] ;~~ or

1342 (ii) ~~[- to -] exercise powers and responsibilities otherwise assigned by the declaration and by this [act] chapter to the association of unit owners, [its] the association's officers, or the management committee.~~

1345 (b) If the declaration authorizes the declarant to ~~[appoint or remove some or all members of the management committee or some or all of the officers of the association of unit owners]~~ conduct the actions described in Subsection (1)(a)(i) during the period of administrative control [encompassed by] described in this Subsection (1), the declarant may appoint the declarant's officers, employees or agents as members of the management committee or as officers of the association of unit owners.

1351 (c) ~~[No -] An amendment to the declaration [not consented to by all unit owners shall]~~ may not increase the scope of [this authorization] the authorization described in Subsection (1)(b), unless all unit owners unanimously consent to the amendment.

1354 (d) ~~[-, and no such authorization shall be valid after the first to occur of the following]~~ The authorization described in Subsection (1)(b) terminates on the day on which the first of the following occurs:

1357 (i) ~~[expiration of -] the time limit set by the declaration expires, [which shall] that may not exceed:~~

1359 (A) ~~[- six years in the case of -] for an expandable condominium, six years[; ] ;~~

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- 1360 (B) ~~[-four years in the case of]~~ for a condominium project containing any convertible land, four years;  
or
- 1362 (C) ~~[-three years in the case of]~~ for any other condominium project, three years;~~[-or]~~
- 1363 (ii) ~~[after]~~ units to which three-fourths of the undivided interest in the common areas and facilities  
appertain have been conveyed~~[-]~~ ; or
- 1365 (iii) ~~[-after]~~ all additional land has been added to the project and all convertible land has been converted,  
whichever last occurs.
- 1367 (2) If entered into during the period of administrative control contemplated by Subsection (1), ~~[no]~~ a  
management contract, lease of recreational areas or facilities, or any other contract or lease designed  
to benefit the declarant which was executed by or on behalf of the association of unit owners or  
the unit owners as a group ~~[shall be]~~ is not binding after ~~[such]~~ the period of administrative control  
unless ~~[then renewed or ratified by the consent of]~~ unit owners of units to which a majority of the  
votes in the association of unit owners appertains renew and ratify the management contract, lease  
of recreational areas or facilities, or any other contract or lease designed to benefit the declarant.
- 1375 (3) If the association of unit owners or management committee is not in existence or does not have  
officers at the time of the creation of a condominium project, the declarant shall, until there is an  
association or management committee with these officers, have the power and responsibility to act  
in all instances where this ~~[aet]~~ chapter or the declaration requires action by the association of unit  
owners, the management committee, or any of the officers of ~~[them]~~ the association of unit owners  
or the management committee.
- 1382 (4) This section shall be strictly construed to protect the rights of the unit owners.
- 1383 (5) During the period of administrative control, the declarant shall:
- 1384 (a) use reasonable care and prudence in managing and maintaining the common areas and facilities;
- 1386 (b) establish a sound fiscal basis for the association by imposing and collecting assessments and  
establishing reserves for the maintenance and replacement of common areas and facilities;
- 1389 (c) for a service that the association is or will be obligated to provide, disclose to the unit owners the  
amount of money the declarant provides for or subsidizes for that service;
- 1391 (d) comply with and enforce the terms of the declaration, including design controls, land-use  
restrictions, and the payment of assessments; and
- 1393 (e) disclose to the unit owners all material facts and circumstances affecting:
- 1394 (i) the condition of the property that the association is responsible for maintaining; and

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1396 (ii) the financial condition of the association, including the interest of the declarant and the declarant's  
1397 affiliates in a contract, lease, or other agreement entered into by the association.

1399 Section 14. Section 57-8-17 is amended to read:

1400 **57-8-17. Records -- Availability for examination.**

1401 (1)

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

1405 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner described in  
Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

1408 (ii) a copy of the association's:

1409 (A) governing documents;

1410 (B) most recent approved minutes;

1411 (C) most recent annual budget and financial statement;

1412 (D) most recent reserve analysis;

1413 (E) certificate of insurance for each insurance policy the association of unit owners holds;

1415 (F) management committee meeting minutes from the previous three calendar years;

1417 (G) [a-]profit and loss statement for the previous three fiscal years; and

1418 (H) [a-]balance sheet for the previous three fiscal years.

1419 (b) An association of unit owners may redact the following information from any document the  
association of unit owners produces for inspection or copying:

1421 (i) a [~~Soeial Security~~] social security number;

1422 (ii) a bank account number; or

1423 (iii) any communication subject to attorney-client privilege.

1424 (c) The following are considered property of the association:

1425 (i) a record or document described in Subsection (1)(a)(i) or (ii); and

1426 (ii) the funds contained in an account described in Section 57-8-60.

1427 (d) If a person other than the association of unit owners has control over or possession of a record  
described in Subsection (1)(a)(i) or (ii), the person shall, upon the association's request, provide the  
record to the association of unit owners without charge.

1431 (2)

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- 1433 (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:
- 1435 (i) make documents available to unit owners in accordance with the association of unit owners' governing documents; and
- 1435 (ii)
- (A) if the association of unit owners has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website; or
- 1438 (B) if the association of unit owners does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners during regular business hours at the association of unit owners' address registered with the Department of Commerce under Section 57-8-13.1.
- 1443 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 1444 (c) If a provision of an association of unit owners' governing documents conflicts with a provision of this section, the provision of this section governs.
- 1446 (3) In a written request to inspect or copy documents:
- 1447 (a) a unit owner shall include:
- 1448 (i) the association of unit owners' name;
- 1449 (ii) the unit owner's name;
- 1450 (iii) the unit owner's property address;
- 1451 (iv) the unit owner's email address;
- 1452 (v) a description of the documents requested; and
- 1453 (vi) ~~any~~ an election or a request described in Subsection (3)(b); and
- 1454 (b) a unit owner may:
- 1455 (i) elect whether to inspect or copy the documents;
- 1456 (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 1458 (iii) subject to Subsection (4), request that:
- 1459 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 1461 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 1463

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- (C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 1466 (D) the association of unit owners email the requested documents to an email address provided in the request.
- 1468 (4)
- (a) An association of unit owners shall comply with a request described in Subsection (3) within [~~two weeks~~] 10 business days after the day on which the association of unit owners receives the request.
- 1471 (b) If an association of unit owners produces the copies or electronic scans:
- 1472 (i) the copies or electronic scans shall be legible and accurate;
- 1473 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies and for time spent meeting with the unit owner, which may not exceed:
- 1475 (A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 1477 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans; and
- 1479 (iii) the association may not charge the unit owner for any costs associated with fulfilling a request for the electronic transmission of the documents described in Subsection (3).
- 1482 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 1484 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 1486 (ii) the unit owner shall pay the duplicating service directly.
- 1487 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.
- 1490 (e) An association may comply with a request described in Subsection (3) by posting the documents described in Subsection (3) to the association's website or online owner portal.
- 1493 (5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:
- 1496 (a) the reasonable costs of inspecting and copying the requested documents;
- 1497

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- (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner who made the request for each day the request continues unfulfilled, beginning the ~~[sixth day]~~ eleventh business day after the day on which the unit owner made the request; and
- 1501 (c) reasonable attorney fees and costs ~~[incurred by]~~ that the unit owner incurs in obtaining the inspection and copies of the requested documents.
- 1503 (6)
- (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:
- 1506 (i) subject to Subsection (9), an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and
- 1509 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6) (d).
- 1511 (b) In an action described in Subsection (6)(a):
- 1512 (i) the unit owner may request:
- 1513 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;
- 1515 (B) \$1,000 or actual ~~[damage]~~ damages, whichever is greater; or
- 1516 (C) any other relief provided by law; and
- 1517 (ii) the court may award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.
- 1520 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the unit owner made in accordance with Subsection (6)(b), notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.
- 1525 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.
- 1527 (d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

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- 1530 (i) the unit owner's name, address, telephone number, and email address;
- 1531 (ii) each requirement of this section with which the association of unit owners has failed to comply;
- 1533 (iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and
- 1535 (iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.
- 1538 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.
- 1540 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 1542 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.
- 1544 (9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.
- 1547 Section 15. Section 57-8-32 is amended to read:
- 1548 **57-8-32. Sale of property and common areas and facilities.**
- 1549 (1) As used in this section:
- 1550 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
- 1551 (b) "Under threat of condemnation" means the same as that term is defined in Section 78B-6-520.3.
- 1553 [(+) (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.
- 1558 [(2)] (3) An affirmative vote described in Subsection [(+)] (2) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to affect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.
- 1562 [(3)] (4) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any

## SB0122 compared with SB0122S02

portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

- 1566 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the  
common areas and facilities, comply with:
- 1568 (i) the provisions of this section; and
- 1569 (ii) Section 10-20-809 or 17-79-709; and
- 1570 (b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities  
results in a person other than the association owning the portion of the common areas and facilities.
- 1573 ~~[(4)]~~ (5) This section applies to an association of unit owners regardless of when the association of unit  
owners is created.
- 1575 ~~[(5)]~~ (6) A declarant may not sell or otherwise encumber any part of the common areas and facilities  
during the period of administrative control, except:
- 1577 (a) as allowed for convertible land or convertible space within a condominium project;~~[-or]~~
- 1579 (b) as provided in Section 10-20-809 or 17-79-709~~[-]~~ ; or
- 1580 (c) if the declarant sells or otherwise encumbers a part of the common areas and facilities that are under  
threat of condemnation to a condemnor.
- 1582 ~~[(6)]~~ (7) Unless otherwise prohibited by the association's declaration or bylaws, an authorized  
representative of the association may act as attorney-in-fact for the association's unit owners in  
executing a sale, conveyance, transfer, or other disposition of the common areas and facilities  
following an affirmative vote described in Subsection ~~[(1)]~~ (2).

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

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

As used in this chapter:

- 1590 (1)
- (a) "Assessment" means a charge imposed or levied:
- 1591 (i) by the association;
- 1592 (ii) on or against a lot or a lot owner; and
- 1593 (iii) in accordance with a governing document recorded with the county recorder.
- 1594 (b) "Assessment" includes:
- 1595 (i) a common expense; and
- 1596 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

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- 1597 (2)
- (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:
- 1599 (i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and
- 1601 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 1602 (A) real property taxes;
- 1603 (B) insurance premiums;
- 1604 (C) maintenance costs; or
- 1605 (D) for improvement of real property not owned by the member.
- 1606 (b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.
- 1608 (3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.
- 1610 (4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.
- 1612 (5) "Common areas" means property that the association:
- 1613 (a) owns;
- 1614 (b) maintains;
- 1615 (c) repairs; or
- 1616 (d) administers.
- 1617 (6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.
- 1619 (7) "Declarant":
- 1620 (a) means the person who executes a declaration and submits [it] the declaration for recording in the office of the recorder of the county in which the property described in the declaration is located; and
- 1623 (b) includes the person's successor and assign.
- 1624 (8) "Development right" means any right or combination of rights a declarant reserves in the declaration to:
- 1626 (a) add real estate to an association;
- 1627 (b) create lots, common elements, or limited common elements within an association;

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- 1628 (c) subdivide lots or convert lots into common elements; or  
1629 (d) withdraw real estate from an association.
- 1630 (9) "Director" means a member of the board of directors.
- 1631 (10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 1632 (11) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 1633 (12)
- (a) "Governing documents" means a written instrument by which the association may:
- 1635 (i) exercise powers; or  
1636 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.
- 1638 (b) "Governing documents" includes:
- 1639 (i) articles of incorporation;  
1640 (ii) bylaws;  
1641 (iii) a plat;  
1642 (iv) a declaration of covenants, conditions, and restrictions; and  
1643 (v) rules of the association.
- 1644 (13) "Independent third party" means a person that:
- 1645 (a) is not related to the owner of the residential lot;  
1646 (b) shares no pecuniary interests with the owner of the residential lot; and  
1647 (c) purchases the residential lot in good faith and without the intent to defraud a current or future  
lienholder.
- 1649 (14) "Judicial foreclosure" means a foreclosure of a lot:
- 1650 (a) for the nonpayment of an assessment;  
1651 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and  
1652 (c) as provided in Part 3, Collection of Assessments.
- 1653 (15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 1654 (a) by a person or persons other than the owner; and  
1655 (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or  
emolument.
- 1657 (16) "Limited common areas" means common areas described in the declaration and allocated for the  
exclusive use of one or more lot owners.
- 1659 (17) "Lot" means:

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- 1660 (a) a lot, parcel, plot, or other division of land:
- 1661 (i) designated for separate ownership or occupancy; and
- 1662 (ii)
- (A) shown on a recorded subdivision plat; or
- 1663 (B) the boundaries of which are described in a recorded governing document; or
- 1664 (b)
- (i) a unit in a condominium association if the condominium association is a part of a development; or
- 1666 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.
- 1668 (18) "Manager" means a person with whom the board enters into a contract for the person to:
- 1670 (a) provide administrative or financial services for the association; or
- 1671 (b) act on behalf of the association in accordance with this chapter.
- 1672 [~~(18)~~] (19)
- (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.
- 1674 (b) "Means of electronic communication" includes:
- 1675 (i) web conferencing;
- 1676 (ii) video conferencing; and
- 1677 (iii) telephone conferencing.
- 1678 [~~(19)~~] (20) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.
- 1680 [~~(20)~~] (21) "Nonjudicial foreclosure" means the sale of a lot:
- 1681 (a) for the nonpayment of an assessment;
- 1682 (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- 1684 (c) as provided in Part 3, Collection of Assessments.
- 1685 [~~(21)~~] (22) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:
- 1688 (a) appoint or remove members of the association's board of directors; or
- 1689 (b) exercise power or authority assigned to the association under the association's governing documents.
- 1691 [~~(22)~~] (23) "Political sign" means any sign or document that advocates:
- 1692 (a) the election or defeat of a candidate for public office; or
- 1693 (b) the approval or defeat of a ballot proposition.

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- 1694 [(23)] (24) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 1695 [(24)] (25) "Rentals" or "rental lot" means:
- 1696 (a) a lot that:
- 1697 (i) is not owned by an entity or trust; and
- 1698 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;
- 1700 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 1701 (c) an internal accessory dwelling unit as defined in Section 10-21-101 or 17-80-101.
- 1702 [(25)] (26) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.
- 1704 [(26)] (27)
- 1705 (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:
- 1706 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and
- 1707 (ii) governs:
- 1708 (A) the conduct of persons; or
- 1709 (B) the use, quality, type, design, or appearance of real property or personal property.
- 1710 (b) "Rule" does not include the internal business operating procedures of a board.
- 1711 [(27)] (28) "Sex offender" means an individual who is a sex offender as described in Subsection
- 1712 53-29-202(2)(b) if the offense that the individual committed that resulted in the individual being a
- 1713 sex offender was committed against an individual younger than 18 years old.
- 1714 [(28)] (29) "Solar energy system" means:
- 1715 (a) a system that is used to produce electric energy from sunlight; and
- 1716 (b) the components of the system described in Subsection [(28)(a)] (29)(a).
- 1717 **Section 17. Section 57-8a-103 is amended to read:**
- 1718 **57-8a-103. Scope of chapter -- Applicability of chapter.**
- 1719 (1) Remedies provided in this chapter, by law, or in equity are not mutually exclusive.
- 1720 (2) This chapter applies to an association if:
- 1721 (a) the association's declaration states that this chapter applies; or
- 1722 (b) if the association's declaration does not state whether this chapter or Chapter 8, Condominium
- 1723 Ownership Act, applies to the lot, the plats within the association are not designated as
- 1724 condominium plats.

## SB0122 compared with SB0122S02

- 1728 (3) This section applies regardless of when an association is created.
- 1729 Section 18. Section **57-8a-105** is amended to read:
- 1730 **57-8a-105. Registration with Department of Commerce.**
- 149 (1) As used in this section, "department" means the Department of Commerce created in Section  
13-1-2.
- 151 (2)
- (a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions  
establishing an association, the association shall register with the department in the manner  
established by the department.
- 154 (b) An association existing under a declaration of covenants, conditions, and restrictions recorded  
before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner  
established by the department.
- 157 (3) The department shall require an association registering as required in this section to provide with  
each registration:
- 159 (a) the name and address of the association;
- 160 (b) the name, address, telephone number, and, if applicable, email address of the chair of the  
association board;
- 162 (c) contact information for the manager;
- 163 (d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile  
transmission for communicating payoff information, the email address or facsimile number, as  
applicable, of a primary contact person who has association payoff information that a closing agent  
needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's  
lot; and
- 168 (e) a registration fee set by the department sets in accordance with Section 63J-1-504.
- 169 (4)
- (a) An association shall annually renew the association's registration described in Subsection (2).
- 171 (b) The department may impose and set the amount of a renewal registration fee in accordance with  
Section 63J-1-504.
- 173 (5) An association that has registered under Subsection (2) shall submit to the department an update to  
the association's registration information, in the manner established by the department, within 90  
days after a change in any of the information provided under Subsection (3).

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- 177 (6)
- (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection (5):
- 180 (i) a lien may not arise under Section 57-8a-301; and
- 181 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 182 (b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection (5) does not begin until after the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 185 (c) An association that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).
- 188 (d) An association that is not in compliance with the updated registration requirement described in Subsection (5) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection (5).
- 192 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a period of noncompliance:
- 194 (i) a lien may arise under Section 57-8a-301 for any event that:
- 195 (A) occurred during the period of noncompliance; and
- 196 (B) would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements described in this section; and
- 199 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that existed before the period of noncompliance.
- 201 (f) If an owner's residential lot is conveyed to an independent third party during a period of noncompliance described in this Subsection (6):
- 203 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential lot became final is extinguished when the conveyance of the residential lot becomes final; and
- 206 (ii) an event that occurred before the conveyance of the residential lot became final, and that would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8a-301 if the conveyance of the residential lot becomes final before the association ends the period of noncompliance.

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- 212 [~~(7) The department shall publish educational materials on the department's website providing, in  
simple and easy to understand language, a brief overview of state law governing associations,  
including:~~]
- 215 [~~(a) a description of the rights and responsibilities provided in this chapter to any party under the  
jurisdiction of an association; and]~~
- 217 [~~(b) instructions regarding how an association may be organized and dismantled in accordance with this  
chapter.]~~
- 219 [~~(8){ (7) }~~]
- ~~(a) Unless otherwise expressly exempted, this chapter applies to an association that registers, or renews  
or updates the association's registration, with the department under this section.]~~
- 222 [(b) This section applies to an association regardless of when the association is created.]
- 1805 Section 19. Section 57-8a-105.1 is amended to read:
- 1806 **57-8a-105.1. Information required before sale to independent third party.**
- 1807 (1) Before the sale of ~~[any]~~ a lot under the jurisdiction of an association to an independent third party,  
the grantor shall provide to the independent third party:
- 1809 (a) a copy of the association's recorded governing documents; and
- 1810 (b) a link or other access point to the ~~[department's]~~ educational materials described in Subsection  
~~[57-8a-105(6)]~~ 13-79-103(4).
- 1812 (2) The grantor shall provide the information described in Subsection (1) before closing.
- 1813 (3) The association shall, upon request by the grantor, provide to the grantor the information described  
in Subsection (1).
- 1815 (4) This section applies to each association, regardless of when the association is formed.
- 1816 Section 20. Section **57-8a-209** is amended to read:
- 1817 **57-8a-209. Rental restrictions.**
- 225 (1)
- (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
- 226 (i) create restrictions on the number and term of rentals in an association; or
- 227 (ii) prohibit rentals in the association.
- 228 (b) Except as provided in Subsection (1)(c), an association that creates a rental restriction or prohibition  
in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded

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declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

- 233 (c) An association may establish, by rule, a minimum lease term of six months or less.
- 234 (2) If an association prohibits or imposes a restriction on the number and term of rentals or charges a fee described in Subsection (9)(c), the association shall:
- 236 (a) exempt the following from the prohibition, restriction, or fee:
- 237 (i) a lot owner in the military for the period of the lot owner's deployment;
- 238 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 239 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
- 240 (iv) a lot owned by an entity that is occupied by an individual who:
- 241 (A) has voting rights under the entity's organizing documents; and
- 242 (B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or
- 244 (v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:
- 246 (A) the estate of a current resident of the lot; or
- 247 (B) the parent, child, or sibling of the current resident of the lot;
- 248 (b) allow a lot owner who has a rental in the association before the time the rental restriction described in Subsection ~~[(1)(a) is recorded with the county recorder of the county in which the association is located]~~ (1) becomes effective to continue renting without a fee described in Subsection (9)(c) until:
- 252 (i) the lot owner occupies the lot;
- 253 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or
- 256 (iii) the lot is transferred; and
- 257 (c) create, by rule or resolution, procedures to:
- 258 (i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and
- 260 (ii) ensure consistent administration and enforcement of any rental prohibition, restriction, or fee.
- 262 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:
- 264 (a) the conveyance, sale, or other transfer of a lot by deed;
- 265 (b) the granting of a life estate in the lot; or

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- 266 (c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity,  
the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or  
partnership interests in a 12-month period.
- 269 (4) This section does not limit or affect residency age requirements for an association that complies  
with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.
- 272 (5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of  
covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial  
declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and  
procedures required under Subsection (2).
- 276 (6)
- (a) Subsections (1) through (5) do not apply to:
- 277 (i) an association that contains a time period unit as defined in Section 57-8-3;
- 278 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
- 279 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or  
after May 12, 2015, the association:
- 281 (A) adopts a rental restriction or prohibition; or
- 282 (B) amends an existing rental restriction or prohibition.
- 283 (b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition  
before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).
- 286 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception  
described in Subsection (2) if:
- 288 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
- 289 (b) when the restriction or prohibition requires an amendment to the association's recorded declaration  
of covenants, conditions, and restrictions, the association fulfills all other requirements for  
amending the recorded declaration of covenants, conditions, and restrictions described in the  
association's governing documents.
- 293 (8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental  
lot to:
- 295 (a) obtain the association's approval of a prospective renter;
- 296 (b) give the association:
- 297 (i) a copy of a rental application;

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- 298 (ii) a copy of a renter's or prospective renter's credit information or credit report;  
299 (iii) a copy of a renter's or prospective renter's background check; or  
300 (iv) documentation to verify the renter's age;
- 301 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;  
302 (d) use a lease agreement provided by the association; or  
303 (e) obtain the association's approval of a lease agreement.
- 304 (9)
- (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 307 (b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:
- 311 (i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and  
314 (ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.
- 317 (c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental lot a fee of up to \$200 once every 12 months to defray the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in a notice described in Subsection (12).
- 321 (d) An association may require a lot owner who owns a rental lot and the renter of the lot owner's rental lot to sign an addendum to a lease agreement provided by the association.
- 324 (e) Before an association may charge a fee described in Subsection (9)(c), an association shall:
- 326 (i) provide notice to each lot owner in the association of a board meeting described in Subsection (9)(e)  
(ii) 15 days before the day on which the association holds the board meeting;
- 329 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
- 330 (A) the new administrative expenses that the association intends to cover using the funds from the fee;  
and  
332 (B) the circumstances that require the association to impose or increase the fee; and

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- 334 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board approves the fee  
by a majority vote.
- 336 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an  
internal accessory dwelling unit, as defined in Section 10-21-101 or 17-80-101, constructed within a  
lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:
- 340 (a) land use ordinances;
- 341 (b) building codes;
- 342 (c) health codes; and
- 343 (d) fire codes.
- 344 (11) The provisions of Subsections (8) through (10) apply to an association regardless of when the  
association is created.
- 346 (12) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c),  
an association shall provide to each lot owner impacted by the fee a notice describing:
- 349 (a) the new administrative expenses that the association intends to cover using the funds from the fee;  
and
- 351 (b) the circumstances that require the association to impose or increase the fee.
- 352 (13)
- (a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the association a  
written request that the association waive the fee if:
- 354 (i) the association fails to provide the notice described in Subsection (12) within 30 days after the  
day on which the association imposes the fee; or
- 356 (ii) the notice the association provides to the lot owner does not contain the information required in  
Subsection (12).
- 358 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written request, an  
association of lot owners shall waive the fee if:
- 360 (i) the association does not provide the notice described in Subsection (12) to the lot owner; or
- 362 (ii) a notice provided by the association does not contain the information required in Subsection (12).
- 364 (14)
- (a) A lot owner of a rental lot may designate, in a written notice to the association, a primary contact  
individual who is not the lot owner with whom the association may communicate as though the  
primary contact individual is the lot owner.

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367 (b) If a lot owner designates a primary contact individual under this Subsection (14), the association  
shall provide the lot owner a written notice that confirms the association has changed the  
1964 association's records to identify the primary contact individual designated by the lot owner.

1964 Section 21. Section 57-8a-212 is amended to read:

1965 **57-8a-212. Content of a declaration.**

1966 (1) An initial declaration [~~recorded on or after May 10, 2011~~] shall contain:

1967 (a) the name of the project;

1968 (b) the name of the association;

1969 (c) a statement that the project is not a cooperative;

1970 (d) a statement indicating any portions of the project that contain condominiums governed by Chapter  
8, Condominium Ownership Act;

1972 (e) a statement that the project is governed by this chapter;

1973 [~~(e)~~] (f) if the declarant desires to reserve the option to expand the project, a statement reserving the  
option to expand the project;

1975 [~~(f)~~] (g) the name of each county in which any part of the project is located;

1976 [~~(g)~~] (h) a legally sufficient description of the real estate included in the project;

1977 [~~(h)~~] (i) a description of any limited common areas and any real estate that is or is required to become  
common areas;

1979 [~~(i)~~] (j) any restriction on the alienation of a lot, including a restriction on leasing; and

1980 [~~(j)~~] (k)

(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv); and

1982 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to U.C.A. Sections  
57-1-20 and 57-8a-302 to (name of trustee), with power of sale, the lot and all improvements to the  
lot for the purpose of securing payment of assessments under the terms of the declaration."

1986 (2) A declaration may contain any other information the declarant considers appropriate, including  
[~~any~~] a restriction on the use of a lot, the number of persons who may occupy a lot, or other  
qualifications of a person who may occupy a lot.

1989 (3) The location of a limited common area or real estate described in Subsection (1)(g) may be shown  
on a subdivision plat.

1991 (4) A declaration, or an amendment to a declaration may not:

1992 (a) prohibit a lot owner from displaying in a window of the owner's lot:

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- 1993 (i) a for-sale sign;
- 1994 (ii) a political sign; or
- 1995 (iii) a flag;
- 1996 (b) regulate the content or establish specific design criteria for the content of a political sign or flag, except to restrict a political sign or flag that contains obscene, profane, or commercial content;
- 1999 (c) prohibit low water use on lawns during drought conditions;
- 2000 (d) except where reasonably necessary for erosion control, prohibit or restrict the conversion of a grass park strip of less than eight feet wide to water-efficient landscaping;
- 2003 (e) prohibit a lot owner from making modifications, consistent with industry standards, for radon mitigation, unless the modifications would violate:
- 2005 (i) a local land use ordinance;
- 2006 (ii) a building code;
- 2007 (iii) a health code; or
- 2008 (iv) a fire code;
- 2009 (f) restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:
- 2011 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 2012 (ii) a motor home, as that term is defined in Section 13-20-2;
- 2013 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2;
- 2014 (iv) a trailer, as that term is defined in Section 41-1a-102;
- 2015 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
- 2016 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
- 2017 (vii) a motorboat, as that term is defined in Section 73-18-2;
- 2018 (g) restrict an individual from operating a vehicle that is not a commercial vehicle, as that term is defined in Section 72-9-102, in accordance with state traffic laws;
- 2020 (h) impose a requirement or restriction on the use of a public street, as that term is defined in Section 10-20-102;
- 2022 (i) restrict an individual from:
- 2023 (i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the unit; or
- 2025 (ii) hiring a contractor or worker solely because the contractor or worker:

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- 2026 (A) is not on the association's preferred vendor list; or
- 2027 (B) does not have a professional or occupational license, unless the license is required by law;
- 2029 (j) restrict a lot owner from displaying a religious or holiday sign, symbol, or decoration on:
- 2031 (i) the lot; or
- 2032 (ii) the exterior of the lot, unless the association has an ownership interest in, or maintenance, repair, or replacement obligation for the exterior;
- 2034 (k) interfere with reasonable activity of a lot owner within the confines of the lot, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances;
- 2037 (l)
- 2038 (i) prohibit the transfer of a lot; or
- 2038 (ii) require the consent of the association or management committee to transfer a lot;
- 2039 (m) prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the lot; or
- 2041 (n) impose a restriction on the interior of a dwelling, except as reasonably necessary for the safety of adjacent lots and the occupants of the lots.
- 2043 (5) A declaration, or an amendment to a declaration may:
- 2044 (a) require that an individual park in a garage appurtenant to a unit before parking elsewhere;
- 2046 (b) enforce a reduced speed limit on a private roadway;
- 2047 (c) reasonably regulate the size and time, place, and manner of posting a for-sale sign, a political sign, or a flag;
- 2049 (d) restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 53-29-306(3); or
- 2052 (e) adopt a reasonable time, place, and manner restriction with respect to a religious or holiday sign, symbol, or decoration that is:
- 2054 (i) outside of or on the lot; or
- 2055 (ii) visible from outside the dwelling.
- 2056 **Section 22. Section 57-8a-215 is amended to read:**
- 2057 **57-8a-215. Budget.**
- 2058 (1) At least once annually the board shall prepare and adopt a budget for the association.
- 2059 (2) The board shall present the adopted budget to association members at a meeting of the members.
- 2061

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(3) A budget is disapproved if within 45 days after the date of the meeting under Subsection (2) at which the board presents the adopted budget:

2063 (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and

2065 (b) the vote is taken at a special meeting called for that purpose by lot owners under the declaration, articles, or bylaws.

2067 (4) If a budget is disapproved under Subsection (3)~~[,]~~ or not adopted under Subsection (1), then the budget that the board last adopted [that was not disapproved by members] continues as the budget until [and unless the board presents another budget to members and that budget is not disapproved] the board prepares and adopts a new budget for the association.

2072 [~~(5) During the period of administrative control, association members may not disapprove a budget.~~]

2074 Section 23. Section 57-8a-218 is amended to read:

2075 **57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.**

2077 (1)

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

2079 (b) A rule may:

2080 (i) vary according to the level and type of service that the association provides to lot owners;

2082 (ii) differ between residential and nonresidential uses; and

2083 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

2086 (2)

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

2090 (b) A rule may:

2091 (i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

2093 (ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

2095 (A) charge a rental lot owner a fee to use the common areas; or

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- 2096 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or
- 2099 (iii) include a provision in the association's governing documents that:
- 2100 (A) requires each tenant of a rental lot to abide by the terms of the governing documents; and
- 2102 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.
- 2104 (3)
- (a) Except as provided in Subsection (3)(b), a rule may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration on:
- 2106 (i) a lot;
- 2107 (ii) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or
- 2109 (iii) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.
- 2111 (b) The association may adopt a reasonable time, place, and manner restriction with respect to a display that is:
- 2113 (i) outside a dwelling on:
- 2114 (A) a lot;
- 2115 (B) the exterior of the dwelling; or
- 2116 (C) the front yard of the dwelling; and
- 2117 (ii) visible from outside the lot.
- 2118 (4)
- (a) A rule may not prohibit a lot owner from displaying a political sign or flag on:
- 2119 (i) a lot;
- 2120 (ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or
- 2122 (iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.
- 2124 (b) Except as provided in Subsection (4)(c), a rule may not regulate the content of a political sign or flag.

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- 2126 (c) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.
- 2128 (d) A rule may reasonably regulate the time, place, and manner of posting a political sign or flag.
- 2130 (e) An association design provision may not establish design criteria for a political sign or flag.
- 2132 (5)
- (a) A rule may not prohibit a lot owner from displaying a for-sale sign on:
- 2133 (i) a lot;
- 2134 (ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or
- 2136 (iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.
- 2138 (b) A rule may reasonably regulate the time, place, and manner of posting a for-sale sign.
- 2139 (6)
- (a) Except as provided in Subsection (6)(b), a rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.
- 2141 (b) An association may:
- 2142 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 2144 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 2146 (A) size and facilities; and
- 2147 (B) fair use of the common areas.
- 2148 (7)
- (a) Except as provided in Subsection (7)(b), a rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.
- 2152 (b) A rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:
- 2154 (i) is not normally associated with a project restricted to residential use; or
- 2155 (ii)
- (A) creates monetary costs for the association or other lot owners;
- 2156 (B) creates a danger to the health or safety of occupants of other lots;

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- 2157 (C) generates excessive noise or traffic;
- 2158 (D) creates unsightly conditions visible to an individual standing outside the dwelling;
- 2160 (E) creates an unreasonable source of annoyance to persons outside the lot; or
- 2161 (F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.
- 2163 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.
- 2165 (8)
- (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.
- 2167 (b) An association may:
- 2168 (i) change the common areas available to a lot owner;
- 2169 (ii) adopt generally applicable rules for the use of common areas; or
- 2170 (iii) deny use privileges to a lot owner who:
- 2171 (A) is delinquent in paying assessments;
- 2172 (B) abuses the common areas; or
- 2173 (C) violates the governing documents.
- 2174 (c) This Subsection (8) does not permit a rule that:
- 2175 (i) alters the method of levying assessments; or
- 2176 (ii) increases the amount of assessments as provided in the declaration.
- 2177 (9) A rule may not:
- 2178 (a) prohibit the transfer of a lot; or
- 2179 (b) require the consent of the association or board to transfer a lot.
- 2180 (10)
- (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.
- 2183 (b) The exemption in Subsection (10)(a):
- 2184 (i) applies during the period of the lot owner's ownership of the lot; and
- 2185 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

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- 2187 (11) A rule or action by the association or action by the board may not unreasonably impede a  
declarant's ability to satisfy existing development financing for community improvements and right  
to develop:
- 2190 (a) the project; or
- 2191 (b) other properties in the vicinity of the project.
- 2192 (12) A rule or association or board action may not interfere with:
- 2193 (a) the use or operation of an amenity that the association does not own or control; or
- 2194 (b) the exercise of a right associated with an easement.
- 2195 (13) A rule may not divest a lot owner of the right to proceed in accordance with a completed  
application for design review, or to proceed in accordance with another approval process, under the  
terms of the governing documents in existence at the time the completed application was submitted  
by the owner for review.
- 2199 (14) Unless otherwise provided in the declaration, an association may by rule:
- 2200 (a) regulate the use, maintenance, repair, replacement, and modification of common areas;
- 2202 (b) impose and receive any payment, fee, or charge for:
- 2203 (i) the use, rental, or operation of the common areas, except limited common areas; and
- 2205 (ii) a service provided to a lot owner;
- 2206 (c) impose a charge for a late payment of an assessment; or
- 2207 (d) provide for the indemnification of the association's officers and board consistent with Title 16,  
Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 2209 (15)
- (a) For any area for which one or more lot owners, but not the association, are responsible for landscape  
maintenance of any landscaping within the lot owner's lot or the common areas, the association shall  
adopt rules supporting water wise landscaping as defined in Section 57-8a-231 including:
- 2213 (i) low water use requirements on lawns during drought conditions;
- 2214 (ii) design criterion for water wise landscaping; and
- 2215 (iii) limiting permissible plant material to specific water wise plant material.
- 2216 (b) A rule may not:
- 2217 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in  
Section 57-8a-231; or
- 2219 (ii) prohibit low water use on lawns during drought conditions.

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- 2220 (16)
- (a) Except as provided in Subsection (16)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-21-101 or 17-80-101, within the owner's residential lot.
- 2223 (b) Subsection (16)(a) does not apply if the construction would violate:
- 2224 (i) a local land use ordinance;
- 2225 (ii) a building code;
- 2226 (iii) a health code; or
- 2227 (iv) a fire code.
- 2228 (17)
- (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.
- 2231 (b) Subsection (17)(a) does not apply if the modifications would violate:
- 2232 (i) a local land use ordinance;
- 2233 (ii) a building code;
- 2234 (iii) a health code; or
- 2235 (iv) a fire code.
- 2236 (c) A rule governing the placement or external appearance of modifications for radon mitigation does not apply to a lot owner's modifications if the rule would:
- 2238 (i) unreasonably interfere with the modifications' functionality; or
- 2239 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 2241 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 2242 (i) demonstrate or provide proof of radon contamination; and
- 2243 (ii) provide proof that the modifications and any related construction will be performed by a licensed person.
- 2245 (18) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 53-29-306(3).
- 2248 (19)
- (a) As used in this Subsection (19), "vegetable garden" means a plot of ground or elevated soil bed where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

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- 2251 (b) A rule may not prohibit a vegetable garden on the rear yard of a lot on which the association does not have an ownership interest or a maintenance responsibility.
- 2253 (c) A rule may:
- 2254 (i) impose reasonable regulations that do not significantly increase the cost of cultivating a vegetable garden or significantly decrease the efficiency of cultivating a vegetable garden, including reasonable regulations on plant height, water use, fertilizer use, and weed maintenance; and
- 2258 (ii) prohibit the cultivation of invasive or unlawful species.
- 2259 (20)
- (a) Except as provided in Subsection (20)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:
- 2262 (i) a commercial vehicle, as defined in Section 72-9-102;
- 2263 (ii) a motor home, as defined in Section 13-20-2;~~[-or]~~
- 2264 (iii) a recreational vehicle trailer, as defined in Section 13-20-2~~[-]~~ ;
- 2265 (iv) a trailer, as that term is defined in Section 41-1a-102;
- 2266 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
- 2267 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
- 2268 (vii) a motorboat, as that term is defined in Section 73-18-2.
- 2269 (b) A rule may require that an individual park in a garage appurtenant to a dwelling before parking elsewhere.
- 2271 (21)
- (a) Except as provided in Subsection (21)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as defined in Section 72-9-102, in conformance with state traffic laws.
- 2274 (b) A rule may enforce a reduced speed limit on a private roadway.
- 2275 (22) A rule may not:
- 2276 (a) prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit;
- 2278 (b) impose a requirement or restriction on:
- 2279 (i) a dwelling's interior, except as reasonably necessary for the safety of adjacent lots and the occupants of those lots; or
- 2281 (ii) the use of a public street, as defined in Section 10-20-102;

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- 2282 (c) restrict an individual from:
- 2283 (i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the lot;
- 2285 (ii) installing or keeping a properly maintained basketball standard on the individual's driveway or property if the driveway or property where the basketball standard is located is:
- 2288 (A) privately owned and maintained; and
- 2289 (B) abutting a public street; or
- 2290 (iii) hiring a contractor or worker solely because the contractor or worker:
- 2291 (A) is not on the association's preferred vendor list; or
- 2292 (B) does not have a professional or occupational license, unless the license is required by law; or
- 2294 (d) be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.
- 2296 (23) A rule shall be reasonable.
- 2297 (24) A declaration, or an amendment to a declaration, may ~~[vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except]~~ not vary the requirements of Subsection (1)(b)(ii).
- 2300 (25) This section applies to an association regardless of when the association is created.
- 2301 Section 24. Section 57-8a-227 is amended to read:
- 2302 **57-8a-227. Records -- Availability for examination.**
- 2303 (1)
- (a) Subject to Subsection (1)(b) and regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association shall keep and make available to lot owners:
- 2306 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and
- 2309 (ii) a copy of the association's:
- 2310 (A) governing documents;
- 2311 (B) most recent approved minutes;
- 2312 (C) most recent annual budget and financial statement;
- 2313 (D) most recent reserve analysis;
- 2314 (E) certificate of insurance for each insurance policy the association holds;
- 2315 (F) board meeting minutes from the previous three calendar years;
- 2316 (G) ~~[a-]~~profit and loss statement for the previous three fiscal years; and

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- 2317 (H) [~~a~~]balance sheet for the previous three fiscal years[;] .
- 2318 (b) An association may redact the following information from any document the association produces for inspection or copying:
- 2320 (i) a Social Security number;
- 2321 (ii) a bank account number; or
- 2322 (iii) any communication subject to attorney-client privilege.
- 2323 (c) The following are considered property of the association:
- 2324 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 2325 (ii) the funds contained in an account described in Section 57-8a-230.
- 2326 (d) If a person other than the association has control over or possession of a record described in Subsection (1)(a)(i) or (ii), the person shall, upon the association's request, provide the record to the association without charge.
- 2329 (2)
- (a) In addition to the requirements described in Subsection (1), an association shall:
- 2330 (i) make documents available to lot owners in accordance with the association's governing documents; and
- 2332 (ii)
- (A) if the association has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge, through the website; or
- 2335 (B) if the association does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the association's address registered with the Department of Commerce under Section 57-8a-105.
- 2339 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 2340 (c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.
- 2342 (3) In a written request to inspect or copy documents:
- 2343 (a) a lot owner shall include:
- 2344 (i) the association's name;
- 2345 (ii) the lot owner's name;
- 2346 (iii) the lot owner's property address;
- 2347 (iv) the lot owner's email address;

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- 2348 (v) a description of the documents requested; and
- 2349 (vi) any election or request described in Subsection (3)(b); and
- 2350 (b) a lot owner may:
- 2351 (i) elect whether to inspect or copy the documents;
- 2352 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 2354 (iii) subject to Subsection (4), request that:
- 2355 (A) the association make the copies or electronic scans of the requested documents;
- 2357 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 2359 (C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 2362 (D) the association email the requested documents to an email address provided in the request.
- 2364 (4)
- (a) An association shall comply with a request described in Subsection (3) within [~~two weeks~~] 10 business days after the day on which the association receives the request.
- 2367 (b) If an association produces the copies or electronic scans:
- 2368 (i) the copies or electronic scans shall be legible and accurate;
- 2369 (ii) the lot owner shall pay the association the reasonable cost of the copies and for time spent meeting with the lot owner, which may not exceed:
- 2371 (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 2373 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other agent's time; and
- 2375 (iii) the association may not charge the lot owner for any costs associated with fulfilling a request for electronic transmission of the documents described in Subsection (3).
- 2378 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
- 2380 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 2382 (ii) the lot owner shall pay the duplicating service directly.
- 2383 (d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

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- 2385 (e) An association may fulfill the request described in Subsection (3) by posting the documents  
described in Subsection (3) to the association's website or online owner portal.
- 2388 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an  
association fails to comply with a provision of this section, the association shall pay:
- 2391 (a) the reasonable costs of inspecting and copying the requested documents;
- 2392 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner who made the  
request for each day the request continues unfulfilled, beginning the [sixth] eleventh business day  
after the day on which the lot owner made the request; and
- 2396 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies  
of the requested documents.
- 2398 (6)
- (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a  
lot owner may file an action in court against the association under this section if:
- 2401 (i) subject to Subsection (9), an association fails to make documents available to the lot owner in  
accordance with this section, the association's governing documents, or as otherwise provided  
by law; and
- 2404 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 2405 (b) In an action described in Subsection (6)(a):
- 2406 (i) the lot owner may request:
- 2407 (A) injunctive relief requiring the association to comply with the provisions of this section;
- 2409 (B) \$1,000 or actual damage, whichever is greater; or
- 2410 (C) any other relief provided by law; and
- 2411 (ii) the court may award costs and reasonable attorney fees to the prevailing party, including any  
reasonable attorney fees incurred before the action was filed that relate to the request that is the  
subject of the action.
- 2414 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the lot owner made in accordance with  
Subsection (6)(b), notice to the association, and a hearing in which the court finds a likelihood that  
the association failed to comply with a provision of this section, the court shall order the association  
to immediately comply with the provision.

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

2421 (d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a),  
the lot owner shall deliver a written notice to the association that states:

2424 (i) the lot owner's name, address, telephone number, and email address;

2425 (ii) each requirement of this section with which the association has failed to comply;

2426 (iii) a demand that the association comply with each requirement with which the association has failed  
to comply; and

2428 (iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days  
after the day on which the lot owner delivers the notice to the association.

2431 (7)

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

2432 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a,  
Utah Revised Nonprofit Corporation Act.

2434 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has  
under this section.

2436 (9) An association is not liable for identifying or providing a document in error, if the association  
identified or provided the erroneous document in good faith.

2438 Section 25. Section 57-8a-232 is amended to read:

2439 **57-8a-232. Sale of common areas.**

2440 (1) As used in this section:

2441 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.

2442 (b) "Under threat of condemnation" means the same as that term is defined in Section 78B-6-520.3.

2444 [(+) (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in the  
governing documents, an association may by an affirmative vote of at least 67% of the voting  
interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the  
common areas.

2448 [(2)] (3) An affirmative vote described in Subsection [(+) (2)] (2) is binding upon all lot owners, and each  
lot owner shall execute and deliver the appropriate instruments and perform all acts as necessary to  
effect the sale, conveyance, transfer, or other disposition of the common areas.

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2456 [(3)] (4) The general easement of ingress, egress, and use of the common areas and facilities granted to  
an association and lot owners through recorded governing documents is extinguished in any portion  
of the common areas the association sells, conveys, transfers, or otherwise disposes of, if:

2458 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the  
common areas, comply with:

2459 (i) the provisions of this section; and

2460 (ii) Section 10-20-809 or 17-79-709; and

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

2463 [(4)] (5) This section applies to an association regardless of when the association is created.

2464 [(5)] (6) A declarant may not sell or otherwise encumber any part of the common areas during the  
period of administrative control, except:

2466 (a) [-]as provided in Section 10-20-809 or 17-79-709[-] ; or

2467 (b) if the declarant sells or otherwise encumbers a part of the common areas and facilities that are under  
threat of condemnation to a condemnor.

2469 [(6)] (7) Unless otherwise prohibited by the association's governing documents, an authorized  
representative of the association may act as attorney-in-fact for the association's lot owners in  
executing a sale, conveyance, transfer, or other disposition of the common areas following an  
affirmative vote described in Subsection [(+)] (2).

2473 Section 26. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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