

1

Reinvestment Fee Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ariel Defay

Senate Sponsor:

2

LONG TITLE

3

General Description:

4

This bill amends provisions relating to reinvestment fees in homeowners' associations.

5

Highlighted Provisions:

6

This bill:

7

- ▶ defines terms;
- ▶ amends the expenses for which a homeowners' association may use a reinvestment fee;
- ▶ amends the amount of a reinvestment fee that a homeowners' association may impose;
- ▶ requires that a homeowners' association deposit 50% of a reinvestment fee into reserve funds;
- ▶ provides that when a homeowners' association registers with the Department of Commerce, the homeowners' association shall provide certain information relating to a reinvestment fee or a transfer fee; and
- ▶ makes technical changes.

8

Money Appropriated in this Bill:

9

None

10

Other Special Clauses:

11

None

12

Utah Code Sections Affected:

13

AMENDS:

14

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

15

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

16

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

17

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

18

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

19

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

20

(1) As used in this section:

- 31 (a) "Association expenses" means expenses incurred by a common interest association
32 for:
33 (i) the purchase, ownership, leasing, construction, operation, use, administration,
34 maintenance, improvement, repair, or replacement of association facilities,
35 including expenses for taxes, insurance, operating reserves, capital reserves, and
36 emergency funds;
37 (ii) providing, establishing, creating, or managing a facility, activity, service, or
38 program for the benefit of property owners, tenants, common areas, the burdened
39 property, or property governed by the common interest association; or
40 (iii) other facilities, activities, services, or programs that are required or permitted
41 under the common interest association's organizational documents.
- 42 (b) "Association facilities" means any real property, improvements on real property, or
43 personal property owned, leased, constructed, developed, managed, or used by a
44 common interest association, including common areas.
- 45 (c) "Association transfer fee" means a fee, charge, or payment that is:
46 (i) related to the sale of real property; and
47 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
48 (A) a common interest association; or
49 (B) a person acting on behalf of the common interest association.
- 50 (d) "Burdened property" means the real property that is subject to a reinvestment fee
51 covenant or transfer fee covenant.
- 52 (e)(i) "Capital-intensive infrastructure maintenance" means maintenance of
53 infrastructure or facilities that a common interest association owns, operates, or
54 maintains that:
55 (A) have a projected useful life exceeding five years after the day on which
56 construction on the infrastructure or facilities finishes;
57 (B) require periodic replacement, reconstruction, or major rehabilitation; and
58 (C) reasonably require advance funding through capital reserves, replacement
59 reserves, or special assessments.
60 (ii) "Capital-intensive infrastructure maintenance" does not include the following
61 activities done to infrastructure or facilities that a common interest association
62 owns, operates, or maintains:
63 (A) performing routine maintenance;
64 (B) landscaping;

65 (C) installing signage; or

66 (D) installing perimeter fencing.

67 [(e)] (f) "Common areas" means areas described within:

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

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

70 [(f)] (g)(i) "Common interest association" means:

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

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

73 (C) a nonprofit association.

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

76 [(g)] (h) "Large master planned development" means an approved development:

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

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

79 (A) common infrastructure;

80 (B) association facilities;

81 (C) community programming;

82 (D) resort facilities;

83 (E) open space; or

84 (F) recreation amenities.

85 (i) "Low-amenity association" means a common interest association that:

86 (i) is comprised of only detached single-family homes; and

87 (ii) provides only the following services to the members of the association:

88 (A) landscaping; and

89 (B) snow removal.

90 (j) "Mid-amenity association" means a common interest association that:

91 (i) is comprised of:

92 (A) condominiums; or

93 (B) single family dwellings that share at least one wall with one or more single
94 family dwellings; and

95 (ii) provides only the following services to members of the association:

96 (A) landscaping; and

97 (B) snow removal.

98 [(h)] (k) "Nonprofit association" means a nonprofit corporation organized under Title 16,

99 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
100 govern, manage, or maintain burdened property.

101 [¶] (l) "Organizational documents" means:

- 102 (i) for an association, as that term is defined in Section 57-8a-102, governing
103 documents as that term is defined in Section 57-8a-102;
104 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a
105 declaration as that term is defined in Section 57-8-3; and
106 (iii) for a nonprofit association:
107 (A) a written instrument by which the nonprofit association exercises powers or
108 manages, maintains, or otherwise affects the property under the jurisdiction of
109 the nonprofit association; and
110 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
111 rules, and declarations of covenants, conditions, and restrictions.

112 [¶] (m) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common
113 interest association:

- 114 (i) upon a buyer or seller of real property;
115 (ii) upon and as a result of a transfer of the real property; and
116 (iii) that is dedicated to benefiting the common areas, including payment for:
117 [(A) common planning, facilities, and infrastructure;]
118 [(B) obligations arising from an environmental covenant;]
119 [(C) community programming;]
120 [(D) resort facilities;]
121 [(E) open space;]
122 [(F) recreation amenities;]
123 [(G) charitable purposes; or]
124 [(H) association expenses.]
125 (A) private roads, bridges, or tunnels;
126 (B) a centralized water, wastewater, stormwater, or irrigation system, if a
127 reasonable monetary estimate of the replacement cost of the centralized water,
128 wastewater, stormwater, or irrigation system exceeds the common interest
129 association's annual budget;
130 (C) a flood control, drainage, or environmental mitigation system, if a reasonable
131 monetary estimate of the replacement cost of the flood control, drainage, or
132 environmental mitigation system exceeds the common interest association's

annual budget;

- (D) recreational facilities, including pools, clubhouses, fitness centers, or sports courts; or
 - (E) capital-intensive infrastructure maintenance.

[**(k)**] (n) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

- (i) affects real property; and
 - (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 benefitting the burdened property, including payment for:

[**(A)** common planning, facilities, and infrastructure;]

[~~(B) obligations arising from an environmental covenant;~~]

[~~(C) community programming;~~]

~~(D) resort facilities;~~

[~~(E)~~ open space;]

[~~(F) recreation amenities;~~]

[(G) charitable purposes; or

[~~(H)~~ association expenses.]

(A) private roads, bridges, or tunnels;

(B) a centralized water, wastewater, stormwater, or irrigation system, if a

reasonable monetary estimate of the replacement cost of the centralized water, wastewater, stormwater, or irrigation system exceeds the common interest association's annual budget;

(C) a flood control, drainage, or environmental mitigation system, if a reasonable monetary estimate of the replacement cost of the flood control, drainage, or environmental mitigation system exceeds the common interest association's annual budget;

(D) recreational facilities, including pools, clubhouses, fitness centers, or sports courts; or

(E) capital-intensive infrastructure maintenance.

(o) "Reserve funds" means:

- (i) for an association, as that term is defined in Section 57-8a-102, reserve funds as that term is defined in Section 57-8a-211;
 - (ii) for an association of unit owners, as that term is defined in Section 57-8-3, reserve funds as that term is defined in Section 57-8-7.5.

167 (p) "Resort community association" means a large master planned development that
168 contains:

- 169 (i) a ski resort; or
170 (ii) a golf course.

171 [+] (q)(i) "Transfer fee covenant"[:]

172 [+] means an obligation, however denominated, expressed in a covenant, restriction,
173 agreement, or other instrument or document:

- 174 (A) that affects real property;
175 (B) that is imposed on a future buyer or seller of real property, other than a person
176 who is a party to the covenant, restriction, agreement, or other instrument or
177 document; and
178 (C) to pay a fee upon and as a result of a transfer of the real property[; and].

179 (ii) "Transfer fee covenant" does not include:

- 180 (A) an obligation imposed by a court judgment, order, or decree;
181 (B) an obligation imposed by the federal government or a state or local
182 government entity; or
183 (C) a reinvestment fee covenant.

184 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.

185 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be
186 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a
187 common interest association that was formed to benefit the burdened property.

188 (b) A common interest association may assign or pledge to a lender the right to receive
189 payment under a reinvestment fee covenant if:

- 190 (i) the assignment or pledge is as collateral for a credit facility; and
191 (ii) the lender releases the collateral interest upon payment in full of all amounts that
192 the common interest association owes to the lender under the credit facility.

193 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if
194 the reinvestment fee covenant is intended to affect property that is the subject of a
195 previously recorded transfer fee covenant or reinvestment fee covenant.

196 (5) [A] Unless the burdened property is part of a resort community association, a
197 reinvestment fee covenant recorded on or after [March 16, 2010] May 6, 2026, may not
198 obligate the payment of a fee that exceeds:

199 (a) [-].5% of the value of the burdened property[; unless the burdened property is part of
200 a large master planned development.] if the burdened property is located in a

201 common interest association that is not a mid-amenity association or a low-amenity
202 association;

203 (b) .35% of the value of the burdened property, if the burdened property is located in a
204 mid-amenity association; or

205 (c) .25% of the value of the burdened property, if the burdened property is located in a
206 low-amenity association.

207 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
208 unenforceable unless a notice of reinvestment fee covenant, separate from the
209 reinvestment fee covenant, is recorded in the office of the recorder of each county in
210 which any of the burdened property is located.

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

- 212 (i) state the name and address of the common interest association to which the fee
213 under the reinvestment fee covenant is required to be paid;
- 214 (ii) include the notarized signature of the common interest association's authorized
215 representative;
- 216 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
217 land and to bind successors in interest and assigns;
- 218 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
219 of an additional reinvestment fee covenant on the burdened property;
- 220 (v) state the duration of the reinvestment fee covenant;
- 221 (vi) state the purpose of the fee required to be paid under the reinvestment fee
222 covenant; and
- 223 (vii) state that the fee required to be paid under the reinvestment fee covenant is
224 required to benefit the burdened property.

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

227 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
228 2010, is not enforceable after May 31, 2010, unless:

- 229 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
230 the office of the recorder of each county in which any of the burdened property is
231 located; or
- 232 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
233 Subsection (7)(b), is recorded in the office of the recorder of each county in which
234 any of the burdened property is located.

- 235 (b) A notice under Subsection (7)(a)(ii) shall:
- 236 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
237 or transfer fee covenant, or the beneficiary's authorized representative;
- 238 (ii) state the name and current address of the beneficiary under the reinvestment fee
239 covenant or transfer fee covenant;
- 240 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
241 intended to run with the land and to bind successors in interest and assigns; and
- 242 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 243 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
244 substantially complies with the requirements of Subsection (7)(b) is valid and
245 effective.
- 246 (d) A notice under Subsection (7)(b):
- 247 (i) that is recorded after May 31, 2010, is not enforceable; and
- 248 (ii) shall comply with the requirements of Section 57-1-47.
- 249 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
250 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
251 not an enforceable amendment.
- 252 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
253 upon:
- 254 (a) an involuntary transfer;
- 255 (b) a transfer that results from a court order;
- 256 (c) a bona fide transfer to a family member of the seller within three degrees of
257 consanguinity who, before the transfer, provides adequate proof of consanguinity;
- 258 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
259 decree of distribution; or
- 260 (e) the transfer of burdened property by a financial institution, except to the extent that
261 the reinvestment fee covenant requires the payment of a common interest
262 association's costs directly related to the transfer of the burdened property, not to
263 exceed \$250.
- 264 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable
265 unless the association uses the fee only to pay expenses related to the transfer.
- 266 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
- 267 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
268 covenant;[-and]

269 (b) a majority of voting interests in the association, or a higher percentage if required in
270 the organizational documents, approves the reinvestment fee[.] ; and
271 (c) the association deposits at least 50% of the reinvestment fee into reserve funds.

272 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
273 association may set the amount of a reinvestment fee only:
274 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
275 (b) upon providing notice in accordance with Section 57-8a-214.

276 (12) Members of the association may remove or amend a reinvestment fee by holding a
277 vote at a special meeting:
278 (a) called by the members for the purpose of removing or amending the reinvestment
279 fee; and
280 (b) at which:
281 (i) at least 51% of the voting interests attend and vote; and
282 (ii) a majority of the voting interests that attend vote to remove or amend the
283 reinvestment fee.

284 Section 2. Section **57-8-13.1** is amended to read:

285 **57-8-13.1 . Registration with Department of Commerce -- Department
286 publication of educational materials.**

287 (1) As used in this section[.] :
288 (a) ["department"] "Department" means the Department of Commerce created in Section
289 13-1-2.
290 (b) "Office" means the Office of the Homeowners' Association Ombudsman created in
291 Section 13-79-102.
292 (2) No later than 90 days after the recording of a declaration, an association of unit owners
293 shall register with the department in the manner established by the department.
294 (3) The department shall require an association of unit owners registering as required in this
295 section to provide with each registration:
296 (a) the name and address of the association of unit owners;
297 (b) the name, address, telephone number, and, if applicable, email address of the
298 president of the association of unit owners;
299 (c) the name and address of each manager or management committee member;
300 (d) the name, address, telephone number, and, if the contact person wishes to use email
301 or facsimile transmission for communicating payoff information, the email address or
302 facsimile number, as applicable, of a primary contact person who has association

- 303 payoff information that a closing agent needs in connection with the closing of a unit
304 owner's financing, refinancing, or sale of the owner's unit;[-and]
305 (e) a registration fee [set by] that the department sets in accordance with Section
306 63J-1-504[.] ; and
307 (f) if the association of unit owners imposes a reinvestment fee or a transfer fee in
308 accordance with Section 57-1-46, the amount of the reinvestment fee or transfer fee
309 that an association of unit owners imposes.
- 310 (4)(a) An association of unit owners shall annually renew the registration of the
311 association of unit owners described in Subsection (2).
312 (b) The department may impose and set the amount of a renewal registration fee in
313 accordance with Section 63J-1-504.
- 314 (5) An association of unit owners that has registered under Subsection (2) shall submit to
315 the department an update to the association of unit owners' registration information, in
316 the manner established by the department, within 90 days after a change in any of the
317 information provided under Subsection (3).
- 318 (6)(a) During any period of noncompliance with the registration requirement described
319 in Subsection (2) or the requirement for an updated registration described in
320 Subsection (5):
321 (i) a lien may not arise under Section 57-8-44; and
322 (ii) an association of unit owners may not enforce an existing lien that arose under
323 Section 57-8-44.
324 (b) A period of noncompliance with the registration requirement of Subsection (2) or
325 with the updated registration requirement of Subsection (5) does not begin until after
326 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
327 (c) An association of unit owners that is not in compliance with the registration
328 requirement described in Subsection (2) may end the period of noncompliance by
329 registering with the department in the manner established by the department under
330 Subsection (2).
331 (d) An association of unit owners that is not in compliance with the updated registration
332 requirement described in Subsection (5) may end the period of noncompliance by
333 submitting to the department an updated registration in the manner established by the
334 department under Subsection (5).
335 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit
336 owners ends a period of noncompliance:

- 337 (i) a lien may arise under Section 57-8-44 for any event that:
- 338 (A) occurred during the period of noncompliance; and
- 339 (B) would have given rise to a lien under Section 57-8-44 had the association of
- 340 unit owners been in compliance with the registration requirements described in
- 341 this section; and
- 342 (ii) an association of unit owners may enforce a lien described in Subsection (6)(c) or
- 343 a lien that existed before the period of noncompliance.
- 344 (f) If an owner's unit is conveyed to an independent third party during a period of
- 345 noncompliance described in this Subsection (6):
- 346 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
- 347 final is extinguished when the conveyance of the unit becomes final; and
- 348 (ii) an event that occurred before the conveyance of the unit became final, and that
- 349 would have given rise to a lien under Section 57-8-44 had the association of unit
- 350 owners been in compliance with the registration requirements of this section, may
- 351 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
- 352 final before the association of unit owners ends the period of noncompliance.
- 353 (7) The department shall publish educational materials on the department's website
- 354 providing, in simple and easy to understand language, a brief overview of state law
- 355 governing associations of unit owners, including:
- 356 (a) a description of the rights and responsibilities provided in this chapter to any party
- 357 under the jurisdiction of an association of unit owners; and
- 358 (b) instructions regarding how an association of unit owners may be organized and
- 359 dismantled in accordance with this chapter.
- 360 (8) On the office's website, the office shall provide a disclaimer that states that a person
- 361 may not rely upon the disclosure of a reinvestment fee or transfer fee that an association
- 362 of unit owners makes in accordance with Subsection (3)(f) when creating a document
- 363 associated with the purchase of real property burdened by the reinvestment fee or
- 364 transfer fee.
- 365 Section 3. Section **57-8a-105** is amended to read:
- 366 **57-8a-105 . Registration with Department of Commerce -- Department**
- 367 **publication of educational materials.**
- 368 (1) As used in this section[;]:
- 369 (a) ["department"] "Department" means the Department of Commerce created in Section
- 370 13-1-2.

- (b) "Office" means the Office of the Homeowners' Association Ombudsman created in Section 13-79-102.

(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.

(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.

The department shall require an association registering as required in this section to provide with each registration:

(a) the name and address of the association;

(b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;

(c) contact information for the manager;

(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]

(e) a registration fee [set by] that the department sets in accordance with Section 63J-1-504[.] ; and

(f) if the association imposes a reinvestment fee or a transfer fee in accordance with Section 57-1-46, the amount of the reinvestment fee or transfer fee that an association imposes.

(a) An association shall annually renew the association's registration described in Subsection (2).

(b) The department may impose and set the amount of a renewal registration fee in accordance with Section 63J-1-504.

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).

(a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in

405 Subsection (5):

- 406 (i) a lien may not arise under Section 57-8a-301; and
 - 407 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
 - 408 (b) A period of noncompliance with the registration requirement of Subsection (2) or
 - 409 with the updated registration requirement of Subsection (5) does not begin until after
 - 410 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
 - 411 (c) An association that is not in compliance with the registration requirement described
 - 412 in Subsection (2) may end the period of noncompliance by registering with the
 - 413 department in the manner established by the department under Subsection (2).
 - 414 (d) An association that is not in compliance with the updated registration requirement
 - 415 described in Subsection (5) may end the period of noncompliance by submitting to
 - 416 the department an updated registration in the manner established by the department
 - 417 under Subsection (5).
 - 418 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a
 - 419 period of noncompliance:
 - 420 (i) a lien may arise under Section 57-8a-301 for any event that:
 - 421 (A) occurred during the period of noncompliance; and
 - 422 (B) would have given rise to a lien under Section 57-8a-301 had the association
 - 423 been in compliance with the registration requirements described in this section;
 - 424 and
 - 425 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that
 - 426 existed before the period of noncompliance.
 - 427 (f) If an owner's residential lot is conveyed to an independent third party during a period
 - 428 of noncompliance described in this Subsection (6):
 - 429 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
 - 430 lot became final is extinguished when the conveyance of the residential lot
 - 431 becomes final; and
 - 432 (ii) an event that occurred before the conveyance of the residential lot became final,
 - 433 and that would have given rise to a lien under Section 57-8a-301 had the
 - 434 association been in compliance with the registration requirements of this section,
 - 435 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
 - 436 residential lot becomes final before the association ends the period of
 - 437 noncompliance.
- 438 (7) The department shall publish educational materials on the department's website

439 providing, in simple and easy to understand language, a brief overview of state law
440 governing associations, including:

- 441 (a) a description of the rights and responsibilities provided in this chapter to any party
442 under the jurisdiction of an association; and
443 (b) instructions regarding how an association may be organized and dismantled in
444 accordance with this chapter.

445 (8)(a) Unless otherwise expressly exempted, this chapter applies to an association that
446 registers, or renews or updates the association's registration, with the department
447 under this section.

448 (b) This section applies to an association regardless of when the association is created.

449 (9) On the office's website, the office shall provide a disclaimer that states that a person
450 may not rely upon the disclosure of a reinvestment fee or transfer fee that an association
451 makes in accordance with Subsection (3)(f) when creating a document associated with
452 the purchase of real property burdened by the reinvestment fee or transfer fee.

453 **Section 4. Effective Date.**

454 This bill takes effect on May 6, 2026.