

Ariel Defay proposes the following substitute bill:

Reinvestment Fee Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ariel Defay

Senate Sponsor:

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

29 **57-1-46 . Transfer fee and reinvestment fee covenants.**

30 (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:

- (A) performing routine maintenance;
- (B) landscaping;
- (C) installing signage; or
- (D) installing perimeter fencing.

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

- (i) the definition of "common areas and facilities" under Section 57-8-3; and
- (ii) the definition of "common areas" under Section 57-8a-102.

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

- (A) an association, as defined in Section 57-8a-102;
- (B) an association of unit owners, as defined in Section 57-8-3; or
- (C) a nonprofit association.

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

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

- (i) of at least 500 acres or 500 units; and
- (ii) that includes a commitment to fund, construct, develop, or maintain:
 - (A) common infrastructure;
 - (B) association facilities;
 - (C) community programming;
 - (D) resort facilities;
 - (E) open space; or
 - (F) recreation amenities.

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

- (i) is comprised of only detached single-family homes; and
- (ii) does not provide capital intensive infrastructure maintenance services to the members of the association

[~~(h)~~] (j) "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.

[**(i)**] (k) "Organizational documents" means:

- (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;
- (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

97 (iii) for a nonprofit association:

98 (A) a written instrument by which the nonprofit association exercises powers or
99 manages, maintains, or otherwise affects the property under the jurisdiction of
100 the nonprofit association; and
101 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
102 rules, and declarations of covenants, conditions, and restrictions.

103 [f)] (l) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common
104 interest association:

105 (i) upon a buyer or seller of real property;
106 (ii) upon and as a result of a transfer of the real property; and
107 (iii) that is dedicated to benefiting the common areas, including payment for:
108 (A) common planning, facilities, and infrastructure;
109 (B) obligations arising from an environmental covenant;
110 (C) community programming;
111 (D) resort facilities;
112 (E) open space;
113 (F) recreation amenities;
114 (G) charitable purposes;[-or]
115 (H) association expenses[.] ; or
116 (I) capital intensive infrastructure maintenance.

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

118 (i) affects real property; and
119 (ii) obligates a future buyer or seller of the real property to pay to a common interest
120 association, upon and as a result of a transfer of the real property, a fee that is
121 dedicated to benefitting the burdened property, including payment for:
122 (A) common planning, facilities, and infrastructure;
123 (B) obligations arising from an environmental covenant;
124 (C) community programming;
125 (D) resort facilities;
126 (E) open space;
127 (F) recreation amenities;
128 (G) charitable purposes;[-or]
129 (H) association expenses[.] ; or
130 (I) capital intensive infrastructure maintenance.

131 (n) "Reserve funds" means:

132 (i) for an association, as that term is defined in Section 57-8a-102, reserve funds as
133 that term is defined in Section 57-8a-211; and

134 (ii) for an association of unit owners, as that term is defined in Section 57-8-3,
135 reserve funds as that term is defined in Section 57-8-7.5.

136 [+] (o)(i) "Transfer fee covenant"[:]

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

139 (A) that affects real property;

140 (B) that is imposed on a future buyer or seller of real property, other than a person
141 who is a party to the covenant, restriction, agreement, or other instrument or
142 document; and

143 (C) to pay a fee upon and as a result of a transfer of the real property[; and].

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

145 (A) an obligation imposed by a court judgment, order, or decree;

146 (B) an obligation imposed by the federal government or a state or local
147 government entity; or

148 (C) a reinvestment fee covenant.

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

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

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

155 (i) the assignment or pledge is as collateral for a credit facility; and

156 (ii) the lender releases the collateral interest upon payment in full of all amounts that
157 the common interest association owes to the lender under the credit facility.

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

161 (5) [A] Unless the burdened property is part of a large master planned development, a
162 reinvestment fee covenant recorded on or after [March 16, 2010] May 6, 2026, may not
163 oblige the payment of a fee that exceeds:

164 (a) [-].5% of the value of the burdened property[; unless the burdened property is part of

165 ~~a large master planned development.] if the burdened property is located in a~~
166 ~~common interest association that is not a low-amenity association; or~~

167 (b) .25% of the value of the burdened property, if the burdened property is located in a
168 low-amenity association.

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

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

- 174 (i) state the name and address of the common interest association to which the fee
175 under the reinvestment fee covenant is required to be paid;
- 176 (ii) include the notarized signature of the common interest association's authorized
177 representative;
- 178 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
179 land and to bind successors in interest and assigns;
- 180 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
181 of an additional reinvestment fee covenant on the burdened property;
- 182 (v) state the duration of the reinvestment fee covenant;
- 183 (vi) state the purpose of the fee required to be paid under the reinvestment fee
184 covenant; and
- 185 (vii) state that the fee required to be paid under the reinvestment fee covenant is
186 required to benefit the burdened property.

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

189 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
190 2010, is not enforceable after May 31, 2010, unless:

- 191 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
192 the office of the recorder of each county in which any of the burdened property is
193 located; or
- 194 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
195 Subsection (7)(b), is recorded in the office of the recorder of each county in which
196 any of the burdened property is located.

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

- 198 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant

or transfer fee covenant, or the beneficiary's authorized representative;

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

(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

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

(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.

(d) A notice under Subsection (7)(b):

(i) that is recorded after May 31, 2010, is not enforceable; and

(ii) shall comply with the requirements of Section 57-1-47.

(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.

(8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:

(a) an involuntary transfer;

(b) a transfer that results from a court order;

(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;

(d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or

(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.

(9) An association transfer 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.

(10) On or after May 7, 2025 May 6, 2026, an association may not impose a reinvestment fee unless:

(a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant;[-and]

(b) a majority of voting interests in the association, or a higher percentage if required in

233 the organizational documents, approves the reinvestment fee[.] ; and
234 (c) the association deposits at least 50% of the reinvestment fee into reserve funds.

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

239 (12) Members of the association may remove or amend a reinvestment fee by holding a
240 vote at a special meeting:
241 (a) called by the members for the purpose of removing or amending the reinvestment
242 fee; and
243 (b) at which:
244 (i) at least 51% of the voting interests attend and vote; and
245 (ii) a majority of the voting interests that attend vote to remove or amend the
246 reinvestment fee.

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

248 **57-8-13.1 . Registration with Department of Commerce -- Department
249 publication of educational materials.**

250 (1) As used in this section[.] :
251 (a) ["department"] "Department" means the Department of Commerce created in Section
252 13-1-2.
253 (b) "Office" means the Office of the Homeowners' Association Ombudsman created in
254 Section 13-79-102.
255 (2) No later than 90 days after the recording of a declaration, an association of unit owners
256 shall register with the department in the manner established by the department.
257 (3) The department shall require an association of unit owners registering as required in this
258 section to provide with each registration:
259 (a) the name and address of the association of unit owners;
260 (b) the name, address, telephone number, and, if applicable, email address of the
261 president of the association of unit owners;
262 (c) the name and address of each manager or management committee member;
263 (d) the name, address, telephone number, and, if the contact person wishes to use email
264 or facsimile transmission for communicating payoff information, the email address or
265 facsimile number, as applicable, of a primary contact person who has association
266 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~~]

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

(f) if the association of unit owners 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 of unit owners imposes.

(4)(a) An association of unit owners shall annually renew the registration of the association of unit owners 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.

(5) An association of unit owners that has registered under Subsection (2) shall submit to the department an update to the association of unit owners' registration information, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(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):

(i) a lien may not arise under Section 57-8-44; and

(ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.

(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.

(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 the department under Subsection (2).

(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 the department under Subsection (5).

(e) Except as described in Subsection (6)(f), beginning on the date an association of unit owners ends a period of noncompliance:

(i) a lien may arise under Section 57-8-44 for any event that:

301 (A) occurred during the period of noncompliance; and
302 (B) would have given rise to a lien under Section 57-8-44 had the association of
303 unit owners been in compliance with the registration requirements described in
304 this section; and
305 (ii) an association of unit owners may enforce a lien described in Subsection (6)(c) or
306 a lien that existed before the period of noncompliance.

307 (f) If an owner's unit is conveyed to an independent third party during a period of
308 noncompliance described in this Subsection (6):
309 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
310 final is extinguished when the conveyance of the unit becomes final; and
311 (ii) an event that occurred before the conveyance of the unit became final, and that
312 would have given rise to a lien under Section 57-8-44 had the association of unit
313 owners been in compliance with the registration requirements of this section, may
314 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
315 final before the association of unit owners ends the period of noncompliance.

316 (7) The department shall publish educational materials on the department's website
317 providing, in simple and easy to understand language, a brief overview of state law
318 governing associations of unit owners, including:
319 (a) a description of the rights and responsibilities provided in this chapter to any party
320 under the jurisdiction of an association of unit owners; and
321 (b) instructions regarding how an association of unit owners may be organized and
322 dismantled in accordance with this chapter.

323 (8) On the office's website, the office shall provide a disclaimer that states that a person
324 may not rely upon the disclosure of a reinvestment fee or transfer fee that an association
325 of unit owners makes in accordance with Subsection (3)(f) when creating a document
326 associated with the purchase of real property burdened by the reinvestment fee or
327 transfer fee.

328 Section 3. Section **57-8a-105** is amended to read:

329 **57-8a-105 . Registration with Department of Commerce -- Department**
330 **publication of educational materials.**

331 (1) As used in this section[.] :
332 (a) ["department"] "Department" means the Department of Commerce created in Section
333 13-1-2.
334 (b) "Office" means the Office of the Homeowners' Association Ombudsman created in

Section 13-79-102.

335 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
336 and restrictions establishing an association, the association shall register with the
337 department in the manner established by the department.
338 (b) An association existing under a declaration of covenants, conditions, and restrictions
339 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
340 department in the manner established by the department.
341 (3) The department shall require an association registering as required in this section to
342 provide with each registration:
343 (a) the name and address of the association;
344 (b) the name, address, telephone number, and, if applicable, email address of the chair of
345 the association board;
346 (c) contact information for the manager;
347 (d) the name, address, telephone number, and, if the contact person wishes to use email
348 or facsimile transmission for communicating payoff information, the email address or
349 facsimile number, as applicable, of a primary contact person who has association
350 payoff information that a closing agent needs in connection with the closing of a lot
351 owner's financing, refinancing, or sale of the owner's lot;[-and]
352 (e) a registration fee [set by] that the department sets in accordance with Section
353 63J-1-504[.]; and
354 (f) if the association imposes a reinvestment fee or a transfer fee in accordance with
355 Section 57-1-46, the amount of the reinvestment fee or transfer fee that an association
356 imposes.

357 (4)(a) An association shall annually renew the association's registration described in
358 Subsection (2).
359 (b) The department may impose and set the amount of a renewal registration fee in
360 accordance with Section 63J-1-504.
361 (5) An association that has registered under Subsection (2) shall submit to the department
362 an update to the association's registration information, in the manner established by the
363 department, within 90 days after a change in any of the information provided under
364 Subsection (3).
365 (6)(a) During any period of noncompliance with the registration requirement described
366 in Subsection (2) or the requirement for an updated registration described in
367 Subsection (5):

369 (i) a lien may not arise under Section 57-8a-301; and
370 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

371 (b) A period of noncompliance with the registration requirement of Subsection (2) or
372 with the updated registration requirement of Subsection (5) does not begin until after
373 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.

374 (c) An association that is not in compliance with the registration requirement described
375 in Subsection (2) may end the period of noncompliance by registering with the
376 department in the manner established by the department under Subsection (2).

377 (d) An association that is not in compliance with the updated registration requirement
378 described in Subsection (5) may end the period of noncompliance by submitting to
379 the department an updated registration in the manner established by the department
380 under Subsection (5).

381 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a
382 period of noncompliance:
383 (i) a lien may arise under Section 57-8a-301 for any event that:
384 (A) occurred during the period of noncompliance; and
385 (B) would have given rise to a lien under Section 57-8a-301 had the association
386 been in compliance with the registration requirements described in this section;
387 and
388 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that
389 existed before the period of noncompliance.

390 (f) If an owner's residential lot is conveyed to an independent third party during a period
391 of noncompliance described in this Subsection (6):
392 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
393 lot became final is extinguished when the conveyance of the residential lot
394 becomes final; and
395 (ii) an event that occurred before the conveyance of the residential lot became final,
396 and that would have given rise to a lien under Section 57-8a-301 had the
397 association been in compliance with the registration requirements of this section,
398 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
399 residential lot becomes final before the association ends the period of
400 noncompliance.

401 (7) The department shall publish educational materials on the department's website
402 providing, in simple and easy to understand language, a brief overview of state law

403 governing associations, including:

404 (a) a description of the rights and responsibilities provided in this chapter to any party
405 under the jurisdiction of an association; and

406 (b) instructions regarding how an association may be organized and dismantled in
407 accordance with this chapter.

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

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

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

416 **Section 4. Effective Date.**

417 This bill takes effect on May 6, 2026.