

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:

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

(1) As used in this section:

(a) "Association expenses" means expenses incurred by a common interest association for:

(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;

(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

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

(b) "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.

(c) "Association transfer fee" means a fee, charge, or payment that is:

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

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

(A) a common interest association; or

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

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

(e)(i) "Capital-intensive infrastructure maintenance" means maintenance of infrastructure or facilities that a common interest association owns, operates, or maintains that:

(A) have a projected useful life exceeding five years after the day on which construction on the infrastructure or facilities finishes;

(B) require periodic replacement, reconstruction, or major rehabilitation; and

(C) reasonably require advance funding through capital reserves, replacement reserves, or special assessments.

(ii) "Capital-intensive infrastructure maintenance" does not include the following activities done to infrastructure or facilities that a common interest association 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) does not provide capital intensive infrastructure maintenance services to the
88 members of the association.
- 89 [~~(h)~~] (j) "Nonprofit association" means a nonprofit corporation organized under Title 16,
90 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
91 govern, manage, or maintain burdened property.
- 92 [~~(i)~~] (k) "Organizational documents" means:
93 (i) for an association, as that term is defined in Section 57-8a-102, governing
94 documents as that term is defined in Section 57-8a-102;
95 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a
96 declaration as that term is defined in Section 57-8-3; and

(iii) for a nonprofit association:

(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

(B) articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and declarations of covenants, conditions, and restrictions.

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

(i) upon a buyer or seller of real property;

(ii) upon and as a result of a transfer of the real property; and

(iii) that is dedicated to benefiting the common areas, 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~~[-]~~ ; or

(I) capital intensive infrastructure maintenance.

~~[(k)]~~ (m) "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~~[-]~~ ; or

(I) capital intensive infrastructure maintenance.

(n) "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; and

(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.

[~~(t)~~] (o)(i) "Transfer fee covenant"[:]

[~~(t)~~] means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other instrument or document:

(A) that affects real property;

(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

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

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

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

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

(C) a reinvestment fee covenant.

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

(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.

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

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

(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.

(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.

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

(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

- 199 or transfer fee covenant, or the beneficiary's authorized representative;
- 200 (ii) state the name and current address of the beneficiary under the reinvestment fee
- 201 covenant or transfer fee covenant;
- 202 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
- 203 intended to run with the land and to bind successors in interest and assigns; and
- 204 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 205 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
- 206 substantially complies with the requirements of Subsection (7)(b) is valid and
- 207 effective.
- 208 (d) A notice under Subsection (7)(b):
- 209 (i) that is recorded after May 31, 2010, is not enforceable; and
- 210 (ii) shall comply with the requirements of Section 57-1-47.
- 211 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
- 212 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
- 213 not an enforceable amendment.
- 214 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
- 215 upon:
- 216 (a) an involuntary transfer;
- 217 (b) a transfer that results from a court order;
- 218 (c) a bona fide transfer to a family member of the seller within three degrees of
- 219 consanguinity who, before the transfer, provides adequate proof of consanguinity;
- 220 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
- 221 decree of distribution; or
- 222 (e) the transfer of burdened property by a financial institution, except to the extent that
- 223 the reinvestment fee covenant requires the payment of a common interest
- 224 association's costs directly related to the transfer of the burdened property, not to
- 225 exceed \$250.
- 226 (9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable
- 227 unless the association uses the fee only to pay expenses related to the transfer.
- 228 (10) On or after [~~May 7, 2025~~] May 6, 2026, an association may not impose a reinvestment
- 229 fee unless:
- 230 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
- 231 covenant;[~~and~~]
- 232 (b) a majority of voting interests in the association, or a higher percentage if required in

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

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

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

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

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

- (1) As used in this section[-] :

- (a) [-"department"] "Department" means the Department of Commerce created in Section 13-1-2.
- (b) "Office" means the Office of the Homeowners' Association Ombudsman created in Section 13-79-102.

- (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 the department.

- (3) The department shall require an association of unit owners registering as required in this section to provide with each registration:

- (a) the name and address of the association of unit owners;
- (b) the name, address, telephone number, and, if applicable, email address of the president of the association of unit owners;
- (c) the name and address of each manager or management committee member;
- (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]

(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:

- (A) occurred during the period of noncompliance; and
- (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
- (ii) an association of unit owners may enforce a lien described in Subsection (6)(c) or a lien that existed before the period of noncompliance.
- (f) If an owner's unit is conveyed to an independent third party during a period of noncompliance described in this Subsection (6):
- (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
- (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.
- (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:
- (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
- (b) instructions regarding how an association of unit owners may be organized and dismantled in accordance with this chapter.
- (8) On the office's website, the office shall provide a disclaimer that states that a person may not rely upon the disclosure of a reinvestment fee or transfer fee that an association of unit owners makes in accordance with Subsection (3)(f) when creating a document associated with the purchase of real property burdened by the reinvestment fee or transfer fee.
- Section 3. Section **57-8a-105** is amended to read:
- 57-8a-105 . Registration with Department of Commerce -- Department publication of educational materials.**
- (1) As used in this section[;] :
- (a) ["department"] "Department" means the Department of Commerce created in Section 13-1-2.
- (b) "Office" means the Office of the Homeowners' Association Ombudsman created in

Section 13-79-102.

- (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.
- (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.
- (3) 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.
- (4)(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.
- (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).
- (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):

- 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

governing associations, including:

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

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

(8)(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.

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

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

Section 4. Effective Date.

This bill takes effect on May 6, 2026.