

R. Neil Walter proposes the following substitute bill:

Homeowners' Association Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- defines terms;
- provides the circumstances under which a homeowners' association may convey a portion of the common areas;
- requires that the Office of the Homeowners' Association Ombudsman (office) make public each advisory opinion the office issues;
- requires that the office publish educational materials on the office's website;
- provides that a homeowners' association's declaration may not contain certain provisions;
- provides that an action by an attorney employed by the office does not create an attorney-client relationship;
- provides that the filing fee a person pays for an advisory opinion from the office is nonrefundable;
- provides that a homeowners' association may not require a person to engage in binding arbitration before obtaining an advisory opinion from the office;
- provides the requirements for the contents of a request for an advisory opinion;
- amends the amount of the civil penalty a court may issue after qualifying conditions are met;
- repeals the requirement that the parties to an advisory opinion split the cost of the advisory opinion;
- provides that an association transfer fee may not exceed \$200;
- establishes the conditions under which Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act, applies;

- 29 ▸ requires that an association of unit owners prepare and adopt an annual budget for the
30 association;
- 31 ▸ amends provisions relating to the applicability of Title 57, Chapter 8, Condominium
32 Ownership Act, or Title 57, Chapter 8a, Community Association Act;
- 33 ▸ removes the requirement that a board member and president of an association provide a
34 physical address to the Department of Commerce for registration;
- 35 ▸ provides that certain documents are considered property of an association;
- 36 ▸ provides that if a person maintains a document considered property of an association, the
37 person shall provide the document to the association upon request;
- 38 ▸ provides that a declarant may sell a part of the common areas during the period of
39 administrative control to certain persons; and
- 40 ▸ makes technical changes.

Money Appropriated in this Bill:

42 None

Other Special Clauses:

44 None

Utah Code Sections Affected:

AMENDS:

47 **10-20-809**, as renumbered and amended by Laws of Utah 2025, First Special Session,
48 Chapter 15

49 **13-79-103**, as enacted by Laws of Utah 2025, Chapter 226

50 **13-79-104**, as enacted by Laws of Utah 2025, Chapter 226

51 **17-79-709**, as renumbered and amended by Laws of Utah 2025, First Special Session,
52 Chapter 14

53 **57-1-46**, as last amended by Laws of Utah 2025, Chapter 226

54 **57-8-2**, as enacted by Laws of Utah 1963, Chapter 111

55 **57-8-3**, as last amended by Laws of Utah 2025, Chapter 291

56 **57-8-6.1**, as enacted by Laws of Utah 2020, Chapter 75

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

58 **57-8-13.1**, as last amended by Laws of Utah 2025, Chapter 226

59 **57-8-16.5**, as last amended by Laws of Utah 2016, Chapter 210

60 **57-8-17**, as last amended by Laws of Utah 2025, Chapters 197, 226

61 **57-8-32**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15

62 **57-8a-103**, as enacted by Laws of Utah 2004, Chapter 153

63 **57-8a-105**, as last amended by Laws of Utah 2025, Chapter 226
 64 **57-8a-105.1**, as enacted by Laws of Utah 2020, Chapter 75
 65 **57-8a-212**, as last amended by Laws of Utah 2013, Chapter 152
 66 **57-8a-215**, as enacted by Laws of Utah 2011, Chapter 355
 67 **57-8a-227**, as last amended by Laws of Utah 2025, Chapters 197, 226
 68 **57-8a-232**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15

69 ENACTS:

70 **57-8-7.6**, Utah Code Annotated 1953

71

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

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

74 **10-20-809 . Common area parcels on a plat -- No separate ownership --**
 75 **Ownership interest equally divided among other parcels on plat and included in**
 76 **description of other parcels.**

77 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

89 [(f)] (g) "Period of administrative control" 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 (h) "Under threat of condemnation" means the same as that term is defined in Section
 93 78B-6-520.3.

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

- 97 (a) an association holds in trust the parcel designated as a common area for the owners
98 of the other lots, units, or parcels created by the plat;~~[-or]~~
- 99 (b) the conveyance or modification is approved under Subsection (5)~~[-]~~ ; or
- 100 (c) the conveyance or modification is made in accordance with Subsection (6).
- 101 (3) If a conveyance or modification of a common area or common area and facility is
102 approved in accordance with Subsection (5), the person who presents the instrument of
103 conveyance to a county recorder shall:
- 104 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the
105 document of conveyance; or
- 106 (b) record a notice of the approval described in Subsection (5) concurrently with the
107 conveyance as a separate document.
- 108 (4) When a plat contains a common area or common area and facility:
- 109 (a) for purposes of assessment, each parcel that the plat creates has an equal ownership
110 interest in the common area or common area and facility within the plat, unless the
111 plat or an accompanying recorded document indicates a different division of interest
112 for assessment purposes; and
- 113 (b) each instrument describing a parcel on the plat by the parcel's identifying plat
114 number implicitly includes the ownership interest in the common area or common
115 area and facility, even if that ownership interest is not explicitly stated in the
116 instrument.
- 117 (5) Notwithstanding Subsection (2), a person may modify the size or location of or
118 separately convey a common area or common area and facility if the following approve
119 the conveyance or modification:
- 120 (a) the local government;
- 121 (b)(i) for a common area that an association owns, 67% of the voting interests in the
122 association; or
- 123 (ii) for a common area that an association does not own, or for a common area and
124 facility, 67% of the owners of lots, units, and parcels designated on a plat that is
125 subject to a declaration and on which the common area or common area and
126 facility is included; and
- 127 (c) during the period of administrative control, the declarant.
- 128 (6)(a) Notwithstanding Subsection (2), an individual that the association's board
129 designates by a vote, may convey a portion of a common area or a common area and
130 facility in accordance with Section 57-8-32 or 57-8a-232, if:

- 131 (i) the individual makes the conveyance to a condemnor; and
 132 (ii) the common area or common area and facility is under threat of condemnation.
 133 (b) If an individual makes a conveyance in accordance with Subsection (6)(a), no lot
 134 owner or unit owner is required to approve the conveyance or modification.

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

136 **13-79-103 . Duties and jurisdiction of office.**

- 137 (1) The attorneys of the office shall:
- 138 (a) develop and maintain expertise in and understanding of issues and statutes impacting
 139 unit owners, lot owners, associations of lot owners, and associations of unit owners;
 140 and
- 141 (b) upon request:
- 142 (i) analyze a complaint from a lot owner, a unit owner, an association of lot owners,
 143 or an association of unit owners regarding the conduct of a lot owner, a unit
 144 owner, an association of lot owners, or an association of unit owners; and
 145 (ii) provide an advisory opinion as described in Section 13-79-104.
- 146 (2)(a) Neither the office nor the office's attorneys may represent private parties, state
 147 agencies, local governments, or any other individual or entity in a legal action that
 148 arises from or relates to a matter addressed in this chapter.
- 149 (b) No attorney of the office may be compelled to testify in a civil action filed
 150 concerning the subject matter of any review or advisory opinion arranged through the
 151 office.
- 152 (3) Except as provided in [~~Section 13-75-105~~] Subsection 13-79-104(10), evidence of a
 153 review by the office and the opinions, writings, findings, and determinations of the
 154 office are not admissible as evidence in a judicial action or arbitration.
- 155 (4) The office[~~;~~]
 156 ~~[(a)]~~ shall:
- 157 (a) [~~-~~]analyze a complaint and issue an advisory opinion only for issues relating to a
 158 violation of a state statute;~~[-and]~~
- 159 (b) make public each advisory opinion the office issues in accordance with Subsection
 160 (4)(a); and
- 161 (c) publish educational materials on the office's website providing, in simple and easy to
 162 understand language, a brief overview of state law governing associations of unit
 163 owners and associations of lot owners, including:
- 164 (i) a description of the rights and responsibilities provided in Title 57, Chapter 8,

165 Condominium Ownership Act, to a party under the jurisdiction of Title 57,
 166 Chapter 8, Condominium Ownership Act;
 167 (ii) a description of the rights and responsibilities provided in Title 57, Chapter 8a,
 168 Community Association Act, to a party under the jurisdiction of Title 57, Chapter
 169 8a, Community Association Act; and
 170 (iii) instructions regarding how an association of unit owners or an association of lot
 171 owners may be organized and dismantled in accordance with this chapter.

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

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

- 179 (a) a lot owner;
- 180 (b) a unit owner;
- 181 (c) an association of lot owners; or
- 182 (d) an association of unit owners.

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

184 **13-79-104 . Advisory opinion -- Process of advisory opinions.**

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

- 187 (a) from the office to determine compliance with:
 - 188 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a,
 - 189 Community Association Act; or
 - 190 (ii) other applicable statutes of this state; and
- 191 (b) at any time before the commencement of:
 - 192 (i) an action in a court with jurisdiction; or
 - 193 (ii) binding arbitration.

194 (2)(a) A person making a request for an advisory opinion described in Subsection (1)
 195 shall:

- 196 (i) file the request with the office;
- 197 (ii) pay a nonrefundable filing fee of \$150;~~and~~
- 198 (iii)(A) file the request no later than one year after the day on which the person

- 199 making the request knew or should have known about the alleged act that is the
200 subject of the advisory opinion; and
- 201 (B) include in the request facts that demonstrate that the person submits the
202 request no later than a year after the day on which the person making the
203 request knew or should have known about the alleged act that is the subject of
204 the advisory opinion[-] ; and
- 205 (iv) in the request for an advisory opinion, describe:
- 206 (A) the alleged act that is the subject of the advisory opinion; and
207 (B) the impact of the alleged act that is the subject of the advisory opinion on the
208 person making the request.
- 209 (b) A person making a request under this Subsection (2) may allege actual damages as a
210 result of the alleged act that is the subject of the advisory opinion.
- 211 (3) The office may establish policies providing for partial fee waivers for a person who is
212 financially unable to pay the entire fee described in Subsection (2)(a)(ii).
- 213 (4)(a) ~~[The]~~ Except as provided in Subsection (4)(b), the office may not issue an advisory
214 opinion unless the person requesting an advisory opinion exhausts all existing dispute
215 resolution procedures provided in:
- 216 (i) the governing documents of an association of lot owners, if the dispute involves a
217 lot owner; or
- 218 (ii) the governing documents of an association of unit owners, if the dispute involves
219 a unit owner.
- 220 (b) An association of unit owners or an association of lot owners may not require that a
221 person engage in binding arbitration before requesting an advisory opinion from the
222 office.
- 223 ~~[(b)]~~ (c) A person requesting an advisory opinion shall include in the person's complaint
224 a description of how that person ~~[exhausted all existing procedures provided in the~~
225 ~~applicable governing documents]~~ complied with this Subsection (4).
- 226 (5) Upon receipt of a request for an advisory opinion, the office shall:
- 227 (a) inquire of all parties if there are other necessary parties to the dispute;
- 228 (b) determine whether the person bringing the request has ~~[exhausted all existing~~
229 ~~procedures provided in the applicable governing documents]~~ complied with
230 Subsections (1) through (4); and
- 231 (c) deliver notice of the request to the opposing parties indicated in the request and any
232 other necessary party identified in accordance with Subsection (5)(a).

- 233 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:
- 234 (a) issue a written advisory opinion addressing the issues described in the request for an
- 235 advisory opinion;
- 236 (b) include in the advisory opinion a statement of the facts and law supporting the
- 237 opinion's conclusions; and
- 238 (c) deliver copies of the advisory opinion to all necessary parties identified in
- 239 accordance with Subsection (5)(a).
- 240 (7)(a) The office shall issue a written statement declining to issue an advisory opinion
- 241 when, in the opinion of the office:
- 242 (i) the issues are not ripe for review;
- 243 (ii) the person bringing the request has not exhausted all existing procedures provided
- 244 in the applicable governing documents; or
- 245 (iii) the issues raised are beyond the scope of the office's statutory duty to review.
- 246 (b) Notwithstanding Subsection (7)(a), the office shall issue a written statement
- 247 declining to review a request, if the request deals solely with a contractual dispute.
- 248 (8)(a)(i) If in the process of issuing an advisory opinion, the office determines that a
- 249 person knowingly filed a false or fraudulent request for an advisory opinion, the
- 250 office shall prohibit that person from filing a complaint with the office for two
- 251 years after the day on which the office makes the determination.
- 252 (ii) The office may impose a civil penalty of up to \$1,000 against a person if the
- 253 office determines under this Subsection (8)(a) that the person filed a false or
- 254 fraudulent request for an advisory opinion.
- 255 (b)(i) The office may designate a person as a vexatious filer if the person has filed a
- 256 request for three or more advisory opinions and for each request the office:
- 257 (A) determines that the person requesting the advisory opinion has not exhausted
- 258 all existing procedures, as described in Subsection (4)(a);
- 259 (B) declines to issue an advisory opinion, as described in Subsection (7)(a); or
- 260 (C) determines that the request deals solely with a contractual dispute, as
- 261 described in Subsection (7)(b).
- 262 (ii) If the office designates a person as a vexatious filer under this Subsection (8)(b),
- 263 the office may not accept a request by the person unless:
- 264 (A) the person submits a written copy of the request to the executive director of
- 265 the department; and
- 266 (B) the executive director of the department authorizes the person to file the

- 267 request for the advisory opinion with the office.
- 268 [~~(9)~~ The party that requests the advisory opinion shall pay the filing fee described in
- 269 Subsection ~~(2)(a)(ii)~~, unless the office issues an advisory opinion in favor of the party
- 270 that requests the advisory opinion, in which case all necessary parties shall share the cost
- 271 of the filing fee equally.]
- 272 [~~(10)~~ (9) An advisory opinion issued under this section is neither binding on any party to,
- 273 nor admissible as evidence in, a dispute involving an association of lot owners or an
- 274 association of unit owners, except as provided in Subsection [~~(11)~~] (10).
- 275 [~~(11)~~] (10)(a) As used in this Subsection [~~(11)~~] (10), "qualifying conditions" means:
- 276 (i) the office issues an advisory opinion described in this section;
- 277 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated
- 278 in court; and
- 279 (iii) the court rules in favor of the same party as the advisory opinion in a final
- 280 judgment.
- 281 (b) If the qualifying conditions are met, the court may award the substantially prevailing
- 282 party:
- 283 (i) reasonable attorney fees and court costs relating to the development of the cause
- 284 of action from the date the office delivers the advisory opinion to the date of the
- 285 court's resolution; and
- 286 (ii) if the court finds that the opposing party knowingly and intentionally violated the
- 287 law governing the cause of action, a civil penalty of [~~\$250 for each day described~~
- 288 ~~in Subsection (12):~~] \$5,000.
- 289 [~~(12)~~ The civil penalty described in Subsection ~~(11)(b):~~]
- 290 [(a) begins to accrue on the later of:]
- 291 [(i) 30 days after the day on which the office delivers the advisory opinion; or]
- 292 [(ii) the day on which the substantially prevailing party or opposing party filed the
- 293 action in court; and]
- 294 [(b) ends the day on which the court enters a final judgment.]
- 295 Section 4. Section ~~17-79-709~~ is amended to read:
- 296 **17-79-709 . Common area parcels on a plat -- No separate ownership --**
- 297 **Ownership interest equally divided among other parcels on plat and included in**
- 298 **description of other parcels.**
- 299 (1) As used in this section:
- 300 (a) "Association" means the same as that term is defined in:

- 301 (i) regarding a common area, Section 57-8a-102; and
 302 (ii) regarding a common area and facility, Section 57-8-3.
- 303 (b) "Common area" means the same as that term is defined in Section 57-8a-102.
 304 (c) "Common area and facility" means the same as that term is defined in Section 57-8-3.
 305 (d) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
- 306 ~~[(d)]~~ (e) "Declarant" means the same as that term is defined in:
 307 (i) regarding a common area, Section 57-8a-102; and
 308 (ii) regarding a common area and facility, Section 57-8-3.
- 309 ~~[(e)]~~ (f) "Declaration," regarding a common area and facility, means the same as that
 310 term is defined in Section 57-8-3.
- 311 ~~[(f)]~~ (g) "Period of administrative control" means the same as that term is defined in:
 312 (i) regarding a common area, Section 57-8a-102; and
 313 (ii) regarding a common area and facility, Section 57-8-3.
- 314 (h) "Under threat of condemnation" means the same as that term is defined in Section
 315 78B-6-520.3.
- 316 (2) A person may not separately own, convey, or modify a parcel designated as a common
 317 area or common area and facility on a plat recorded in compliance with this part,
 318 independent of the other lots, units, or parcels created by the plat unless:
 319 (a) an association holds in trust the parcel designated as a common area for the owners
 320 of the other lots, units, or parcels created by the plat;~~[-or]~~
 321 (b) the conveyance or modification is approved under Subsection (5)~~[-]~~ ; or
 322 (c) the conveyance or modification is made in accordance with Subsection (6).
- 323 (3) If a conveyance or modification of a common area or common area and facility is
 324 approved in accordance with Subsection (5), the person who presents the instrument of
 325 conveyance to a county recorder shall:
 326 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the
 327 document of conveyance; or
 328 (b) record a notice of the approval described in Subsection (5) concurrently with the
 329 conveyance as a separate document.
- 330 (4) When a plat contains a common area or common area and facility:
 331 (a) each parcel that the plat creates has an equal ownership interest in the common area
 332 or common area and facility within the plat, unless the plat or an accompanying
 333 recorded document indicates a different division of interest for assessment purposes;
 334 and

335 (b) each instrument describing a parcel on the plat by the parcel's identifying plat
 336 number implicitly includes the ownership interest in the common area or common
 337 area and facility within the plat, even if that ownership interest is not explicitly stated
 338 in the instrument.

339 (5) Notwithstanding Subsection (2), a person may modify the size or location of or
 340 separately convey a common area or common area and facility if the following approve
 341 the conveyance or modification:

342 (a) the local government;

343 (b)(i) for a common area that an association owns, 67% of the voting interests in the
 344 association; or

345 (ii) for a common area that an association does not own, or for a common area and
 346 facility, 67% of the owners of lots, units, and parcels designated on a plat that is
 347 subject to a declaration and on which the common area or common area and
 348 facility is included; and

349 (c) during the period of administrative control, the declarant.

350 (6)(a) Notwithstanding Subsection (2), an individual that the association's board
 351 designates by a vote, may convey a portion of a common area or a common area and
 352 facility in accordance with Section 57-8-32 or 57-8a-232, if:

353 (i) the individual makes the conveyance to a condemnor; and

354 (ii) the common area or common area and facility is under threat of condemnation.

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

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

358 **57-1-46 . Transfer fee and reinvestment fee covenants.**

359 (1) As used in this section:

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

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

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

- 369 (iii) other facilities, activities, services, or programs that are required or permitted
370 under the common interest association's organizational documents.
- 371 (b) "Association facilities" means any real property, improvements on real property, or
372 personal property owned, leased, constructed, developed, managed, or used by a
373 common interest association, including common areas.
- 374 (c) "Association transfer fee" means a fee, charge, or payment that is:
375 (i) related to the sale of real property; and
376 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
377 (A) a common interest association; or
378 (B) a person acting on behalf of the common interest association.
- 379 (d) "Burdened property" means the real property that is subject to a reinvestment fee
380 covenant or transfer fee covenant.
- 381 (e) "Common areas" means areas described within:
382 (i) the definition of "common areas and facilities" under Section 57-8-3; and
383 (ii) the definition of "common areas" under Section 57-8a-102.
- 384 (f)(i) "Common interest association" means:
385 (A) an association, as defined in Section 57-8a-102;
386 (B) an association of unit owners, as defined in Section 57-8-3; or
387 (C) a nonprofit association.
388 (ii) "Common interest association" includes a person authorized by an association,
389 association of unit owners, or nonprofit association.
- 390 (g) "Large master planned development" means an approved development:
391 (i) of at least 500 acres or 500 units; and
392 (ii) that includes a commitment to fund, construct, develop, or maintain:
393 (A) common infrastructure;
394 (B) association facilities;
395 (C) community programming;
396 (D) resort facilities;
397 (E) open space; or
398 (F) recreation amenities.
- 399 (h) "Nonprofit association" means a nonprofit corporation organized under Title 16,
400 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
401 govern, manage, or maintain burdened property.
- 402 (i) "Organizational documents" means:

- 403 (i) for an association, as that term is defined in Section 57-8a-102, governing
404 documents as that term is defined in Section 57-8a-102;
- 405 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a
406 declaration as that term is defined in Section 57-8-3; and
- 407 (iii) for a nonprofit association:
- 408 (A) a written instrument by which the nonprofit association exercises powers or
409 manages, maintains, or otherwise affects the property under the jurisdiction of
410 the nonprofit association; and
- 411 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
412 rules, and declarations of covenants, conditions, and restrictions.
- 413 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest
414 association:
- 415 (i) upon a buyer or seller of real property;
- 416 (ii) upon and as a result of a transfer of the real property; and
- 417 (iii) that is dedicated to benefiting the common areas, including payment for:
- 418 (A) common planning, facilities, and infrastructure;
- 419 (B) obligations arising from an environmental covenant;
- 420 (C) community programming;
- 421 (D) resort facilities;
- 422 (E) open space;
- 423 (F) recreation amenities;
- 424 (G) charitable purposes; or
- 425 (H) association expenses.
- 426 (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 427 (i) affects real property; and
- 428 (ii) obligates a future buyer or seller of the real property to pay to a common interest
429 association, upon and as a result of a transfer of the real property, a fee that is
430 dedicated to benefitting the burdened property, including payment for:
- 431 (A) common planning, facilities, and infrastructure;
- 432 (B) obligations arising from an environmental covenant;
- 433 (C) community programming;
- 434 (D) resort facilities;
- 435 (E) open space;
- 436 (F) recreation amenities;

- 437 (G) charitable purposes; or
438 (H) association expenses.
- 439 (l) "Transfer fee covenant":
- 440 (i) means an obligation, however denominated, expressed in a covenant, restriction,
441 agreement, or other instrument or document:
- 442 (A) that affects real property;
443 (B) that is imposed on a future buyer or seller of real property, other than a person
444 who is a party to the covenant, restriction, agreement, or other instrument or
445 document; and
446 (C) to pay a fee upon and as a result of a transfer of the real property; and
- 447 (ii) does not include:
- 448 (A) an obligation imposed by a court judgment, order, or decree;
449 (B) an obligation imposed by the federal government or a state or local
450 government entity; or
451 (C) a reinvestment fee covenant.
- 452 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 453 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be
454 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a
455 common interest association that was formed to benefit the burdened property.
- 456 (b) A common interest association may assign or pledge to a lender the right to receive
457 payment under a reinvestment fee covenant if:
- 458 (i) the assignment or pledge is as collateral for a credit facility; and
459 (ii) the lender releases the collateral interest upon payment in full of all amounts that
460 the common interest association owes to the lender under the credit facility.
- 461 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if
462 the reinvestment fee covenant is intended to affect property that is the subject of a
463 previously recorded transfer fee covenant or reinvestment fee covenant.
- 464 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the
465 payment of a fee that exceeds .5% of the value of the burdened property, unless the
466 burdened property is part of a large master planned development.
- 467 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
468 unenforceable unless a notice of reinvestment fee covenant, separate from the
469 reinvestment fee covenant, is recorded in the office of the recorder of each county in
470 which any of the burdened property is located.

- 471 (b) A notice under Subsection (6)(a) shall:
- 472 (i) state the name and address of the common interest association to which the fee
- 473 under the reinvestment fee covenant is required to be paid;
- 474 (ii) include the notarized signature of the common interest association's authorized
- 475 representative;
- 476 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
- 477 land and to bind successors in interest and assigns;
- 478 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
- 479 of an additional reinvestment fee covenant on the burdened property;
- 480 (v) state the duration of the reinvestment fee covenant;
- 481 (vi) state the purpose of the fee required to be paid under the reinvestment fee
- 482 covenant; and
- 483 (vii) state that the fee required to be paid under the reinvestment fee covenant is
- 484 required to benefit the burdened property.
- 485 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
- 486 requirements of Subsection (6)(b) is valid and effective.
- 487 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
- 488 2010, is not enforceable after May 31, 2010, unless:
- 489 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
- 490 the office of the recorder of each county in which any of the burdened property is
- 491 located; or
- 492 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
- 493 Subsection (7)(b), is recorded in the office of the recorder of each county in which
- 494 any of the burdened property is located.
- 495 (b) A notice under Subsection (7)(a)(ii) shall:
- 496 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
- 497 or transfer fee covenant, or the beneficiary's authorized representative;
- 498 (ii) state the name and current address of the beneficiary under the reinvestment fee
- 499 covenant or transfer fee covenant;
- 500 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
- 501 intended to run with the land and to bind successors in interest and assigns; and
- 502 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 503 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
- 504 substantially complies with the requirements of Subsection (7)(b) is valid and

- 505 effective.
- 506 (d) A notice under Subsection (7)(b):
- 507 (i) that is recorded after May 31, 2010, is not enforceable; and
- 508 (ii) shall comply with the requirements of Section 57-1-47.
- 509 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
- 510 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
- 511 not an enforceable amendment.
- 512 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
- 513 upon:
- 514 (a) an involuntary transfer;
- 515 (b) a transfer that results from a court order;
- 516 (c) a bona fide transfer to a family member of the seller within three degrees of
- 517 consanguinity who, before the transfer, provides adequate proof of consanguinity;
- 518 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
- 519 decree of distribution; or
- 520 (e) the transfer of burdened property by a financial institution, except to the extent that
- 521 the reinvestment fee covenant requires the payment of a common interest
- 522 association's costs directly related to the transfer of the burdened property, not to
- 523 exceed \$250.
- 524 (9)(a) An association transfer fee imposed on or after May 7, 2025, is void and
- 525 unenforceable unless the association uses the fee only to pay expenses related to the
- 526 transfer.
- 527 (b) An association transfer fee imposed in accordance with this Subsection (9) may not
- 528 exceed \$200.
- 529 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
- 530 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
- 531 covenant; and
- 532 (b) a majority of voting interests in the association, or a higher percentage if required in
- 533 the organizational documents, approves the reinvestment fee.
- 534 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
- 535 association may set the amount of a reinvestment fee only:
- 536 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
- 537 (b) upon providing notice in accordance with Section 57-8a-214.
- 538 (12) Members of the association may remove or amend a reinvestment fee by holding a

539 vote at a special meeting:

540 (a) called by the members for the purpose of removing or amending the reinvestment
541 fee; and

542 (b) at which:

543 (i) at least 51% of the voting interests attend and vote; and

544 (ii) a majority of the voting interests that attend vote to remove or amend the
545 reinvestment fee.

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

547 **57-8-2 . Applicability of chapter.**

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

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

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

553 (b) the association amends the association's declaration to state that this chapter applies
554 in accordance with Section 57-8-10.5.

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

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

557 **57-8-3 . Definitions.**

558 As used in this chapter:

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

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

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

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

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

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

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

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

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

572 (a) the land included within the condominium project, whether leasehold or in fee

- 573 simple;
- 574 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
575 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 576 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 577 (d) the premises for lodging of janitors or persons in charge of the property;
- 578 (e) installations of central services such as power, light, gas, hot and cold water, heating,
579 refrigeration, air conditioning, and incinerating;
- 580 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
581 apparatus and installations existing for common use;
- 582 (g) such community and commercial facilities as may be provided for in the declaration;
583 and
- 584 (h) all other parts of the property necessary or convenient to its existence, maintenance,
585 and safety, or normally in common use.
- 586 (6) "Common expenses" means:
- 587 (a) all sums lawfully assessed against the unit owners;
- 588 (b) expenses of administration, maintenance, repair, or replacement of the common areas
589 and facilities;
- 590 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 591 (d) expenses declared common expenses by this chapter, or by the declaration or the
592 bylaws.
- 593 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
594 to the declaration, means the balance of all income, rents, profits, and revenues from the
595 common areas and facilities remaining after the deduction of the common expenses.
- 596 (8) "Condominium" means the ownership of a single unit in a multiunit project together
597 with an undivided interest in common in the common areas and facilities of the property.
- 598 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
599 accordance with Section 57-8-13.
- 600 (10)(a) "Condominium project" means a real estate condominium project; a plan or
601 project whereby two or more units, whether contained in existing or proposed
602 apartments, commercial or industrial buildings or structures, or otherwise, are
603 separately offered or proposed to be offered for sale.
- 604 (b) [-] "Condominium project" [~~also means-~~] includes the property when the context so
605 requires.
- 606 (11)(a) "Condominium unit" means a unit together with the undivided interest in the

607 common areas and facilities appertaining to that unit.

608 (b) ~~[-Any reference in this chapter to a condominium unit]~~ "Condominium unit" includes
609 both a physical unit together with ~~[its]~~ the physical unit's appurtenant undivided
610 interest in the common areas and facilities and a time period unit together with ~~[its]~~
611 the time period unit's appurtenant undivided interest, unless the ~~[reference]~~ term is
612 specifically limited to a time period unit.

613 (12)(a) "Contractible condominium" means a condominium project from which one or
614 more portions of the land within the project may be withdrawn in accordance with
615 provisions of the declaration and of this chapter.

616 (b) ~~[-If]~~ "Contractible condominium" does not include a condominium project where the
617 withdrawal described in Subsection (12)(a) can occur only by the expiration or
618 termination of one or more leases~~[-, then the condominium project is not a~~
619 ~~contractible condominium within the meaning of this chapter.]~~ .

620 (13) "Convertible land" means a building site which is a portion of the common areas and
621 facilities, described by metes and bounds, within which additional units or limited
622 common areas and facilities may be created in accordance with this chapter.

623 (14) "Convertible space" means a portion of the structure within the condominium project,
624 which portion may be converted into one or more units or common areas and facilities,
625 including limited common areas and facilities in accordance with this chapter.

626 (15)(a) "Declarant" means all persons who execute the declaration or on whose behalf
627 the declaration is executed.~~[-From the time of the recordation of any amendment to~~
628 ~~the declaration expanding an expandable condominium, all persons who execute that~~
629 ~~amendment or on whose behalf that amendment is executed shall also come within~~
630 ~~this definition.]~~

631 (b) ~~[-Any successors of the persons referred to in this subsection who come]~~ "Declarant"
632 includes:

633 (i) a person that executes an amendment to the declaration expanding an expandable
634 condominium;

635 (ii) a person on whose behalf a person executes an amendment described in
636 Subsection (15)(b)(i); and

637 (iii) a successor of a person described in Subsection (15)(a) that comes to stand in the
638 same relation to the condominium project as ~~[their predecessors also come within~~
639 ~~this definition]~~ the person's predecessor.

640 (16) "Declaration" means the instrument by which the property is submitted to the

641 provisions of this [aet] chapter, as [it] the declaration from time to time may be lawfully
642 amended.

643 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

644 (18) "Expandable condominium" means a condominium project to which additional land or
645 an interest in [it] the condominium project may be added in accordance with the
646 declaration and this chapter.

647 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

648 (20) "Governing documents":

649 (a) means a written instrument by which an association of unit owners may:

650 (i) exercise powers; or

651 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
652 association of unit owners; and

653 (b) includes:

654 (i) articles of incorporation;

655 (ii) bylaws;

656 (iii) a plat;

657 (iv) a declaration of covenants, conditions, and restrictions; and

658 (v) rules of the association of unit owners.

659 (21) "Independent third party" means a person that:

660 (a) is not related to the unit owner;

661 (b) shares no pecuniary interests with the unit owner; and

662 (c) purchases the unit in good faith and without the intent to defraud a current or future
663 lienholder.

664 (22) "Judicial foreclosure" means a foreclosure of a unit:

665 (a) for the nonpayment of an assessment;

666 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and

667 (c) as provided in this chapter.

668 (23)(a) "Leasehold condominium" means a condominium project in all or any portion of
669 which each unit owner owns an estate for years in [his] the unit owner's unit, or in the
670 land upon which that unit is situated, or both, with all those leasehold interests to
671 expire naturally at the same time.

672 (b) [~~A~~] "Leasehold condominium" does not include a condominium project including
673 leased land, or an interest in the land, upon which no units are situated or to be
674 situated[~~is not a leasehold condominium within the meaning of this chapter~~].

- 675 (24) "Limited common areas and facilities" means [~~those~~] the common areas and facilities
676 designated in the declaration as reserved for use of a certain unit or units to the exclusion
677 of the other units.
- 678 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
679 declaration or lawful amendments to the declaration, means the owners of more than
680 50% in the aggregate in interest of the undivided ownership of the common areas and
681 facilities.
- 682 (26) "Management committee" means the committee as provided in the declaration charged
683 with and having the responsibility and authority to make and to enforce all of the
684 reasonable rules covering the operation and maintenance of the property.
- 685 (27) "Management committee meeting" means a gathering of a management committee,
686 whether in person or by means of electronic communication, at which the management
687 committee can take binding action.
- 688 (28)(a) "Means of electronic communication" means an electronic system that allows
689 individuals to communicate orally in real time.
- 690 (b) "Means of electronic communication" includes:
- 691 (i) web conferencing;
- 692 (ii) video conferencing; and
- 693 (iii) telephone conferencing.
- 694 (29) "Mixed-use condominium project" means a condominium project that has both
695 residential and commercial units in the condominium project.
- 696 (30) "Nonjudicial foreclosure" means the sale of a unit:
- 697 (a) for the nonpayment of an assessment;
- 698 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
699 57-1-34; and
- 700 (c) as provided in this chapter.
- 701 (31) "Par value" means a number of dollars or points assigned to each unit by the
702 declaration[-] in accordance with the following:
- 703 (a) [~~Substantially~~] the declaration shall assign substantially identical units [~~shall be~~
704 ~~assigned~~]the same par value[-] ;
- 705 (b) [~~but~~]units located at substantially different heights above the ground, or having
706 substantially different views, or having substantially different amenities or other
707 characteristics that might result in differences in market value, may be considered
708 substantially identical [~~within the meaning of this subsection~~] for purposes of

- 709 Subsection (31)(a);
- 710 (c) ~~[- If]~~ if the declaration states par value ~~[is stated]~~ in terms of dollars~~[- that statement]~~ :
- 711 (i) the dollar amount may not be considered to reflect or control the sales price or fair
- 712 market value of ~~[any]~~ a unit; and
- 713 (ii) ~~[-no]~~ an opinion, an appraisal, or a fair market transaction at a different figure may
- 714 not affect:
- 715 (A) ~~[-]~~ the par value of [any] a unit; or
- 716 (B) ~~[-any]~~ an undivided interest in the common areas and facilities, voting rights in
- 717 the unit owners' association, liability for common expenses, or right to
- 718 common profits, [assigned] that the declaration assigns on the basis [thereof] of
- 719 the par value.
- 720 (32) "Period of administrative control" means the period of control described in Subsection
- 721 57-8-16.5(1).
- 722 (33) "Person" means an individual, corporation, partnership, association, trustee, or other
- 723 legal entity.
- 724 (34) "Political sign" means ~~[any]~~ a sign or document that advocates for:
- 725 (a) the election or defeat of a candidate for public office; or
- 726 (b) the approval or defeat of a ballot proposition.
- 727 (35) "Property" means:
- 728 (a) ~~[-]~~ the land, whether leasehold or in fee simple; and
- 729 (b) ~~[-]~~ the building, if any; and
- 730 (c) ~~[-]~~ all improvements and structures [thereon,] on the land;
- 731 (d) ~~[-]~~ all easements, rights, and appurtenances belonging [thereto,] to the land; and
- 732 (e) ~~[-]~~ all articles of personal property intended for use in connection [therewith] with the
- 733 land.
- 734 (36) "Protected area" means the same as that term is defined in Section 53-29-306.
- 735 (37) "Record," "recording," "recorded," and "recorder" ~~[have the meaning stated]~~ mean the
- 736 same as the terms are defined in Chapter 3, Recording of Documents.
- 737 (38) "Rentals" or "rental unit" means:
- 738 (a) a unit that:
- 739 (i) is not owned by an entity or trust; and
- 740 (ii) ~~[is occupied by]~~ an individual occupies while the unit owner is not occupying the
- 741 unit as the unit owner's primary residence; or
- 742 (b) an occupied unit ~~[owned by]~~ that an entity or trust owns, regardless of who occupies

743 the unit.

744 (39) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association
745 that:

746 (a) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration;

747 and

748 (b) governs:

749 (i) the conduct of persons; or

750 (ii) the use, quality, type, design, or appearance of real property or personal property.

751 [(39)] (40)(a) "Size" means the number of cubic feet, or the number of square feet of
752 ground or floor space, within [each] a unit as computed by reference to the record of
753 survey map and rounded off to a whole number.

754 (b) ~~[Certain spaces]~~ "Size" does not include the following within [the units] a unit, if
755 when making the calculation described in Subsection (40)(a), the following are
756 omitted or partially discounted by the use of a ratio, the same basis of calculation is
757 employed for all units in the condominium project, and that basis is described in the
758 declaration:~~[including attic, basement, or garage space may be omitted from the~~
759 ~~calculation or be partially discounted by the use of a ratio, if the same basis of~~
760 ~~calculation is employed for all units in the condominium project and if that basis is~~
761 ~~described in the declaration].~~

762 (i) an attic;

763 (ii) a basement; or

764 (iii) a garage space.

765 [(40)] (41) "Time period unit" means an annually recurring part or parts of a year specified
766 in the declaration as a period for which a unit is separately owned and includes a
767 timeshare estate as that term is defined in Section 57-19-2.

768 [(41)] (42) "Unconstructed unit" means a unit that:

769 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
770 a building; and

771 (b) is not constructed.

772 [(42)] (43)(a) "Unit" means a separate part of the property intended for any type of
773 independent use, which is created by the recording of a declaration and a
774 condominium plat that describes the unit boundaries.

775 (b) "Unit" includes:

776 (i) one or more rooms or spaces located in one or more floors or a portion of a floor

- 777 in a building[-] ; and
 778 [(e)] (ii) ["Unit" includes] a convertible space, in accordance with Subsection
 779 57-8-13.4(3).
- 780 [(43)] (44) "Unit number" means the number, letter, or combination of numbers and letters
 781 designating the unit in the declaration and in the record of survey map.
- 782 [(44)] (45) "Unit owner" means the person or persons owning a unit in fee simple and an
 783 undivided interest in the fee simple estate of the common areas and facilities in the
 784 percentage specified and established in the declaration or, in the case of a leasehold
 785 condominium project, the person or persons whose leasehold interest or interests in the
 786 condominium unit extend for the entire balance of the unexpired term or terms.
- 787 [(45)] (46) "Water wise landscaping" means:
- 788 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
 - 789 (i) remain healthy with minimal irrigation once established; or
 - 790 (ii) be maintained without the use of overhead spray irrigation;
 - 791 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
 792 water application; or
 - 793 (c) use of other landscape design features that:
 - 794 (i) minimize the landscape's need for supplemental water from irrigation;
 - 795 (ii) reduce the landscape area dedicated to lawn or turf; or
 - 796 (iii) encourage vegetative coverage.
- 797 [(46)] (47) "Water wise plant material" means a plant material suited to water wise
 798 landscaping.
- 799 Section 8. Section **57-8-6.1** is amended to read:
- 800 **57-8-6.1 . Information required before sale to independent third party.**
- 801 (1) Before the sale of [any] a unit under the jurisdiction of an association of unit owners to
 802 an independent third party, the grantor shall provide to the independent third party:
 - 803 (a) a copy of the association of unit owners' recorded governing documents; and
 - 804 (b) a link or other access point to the [~~department's~~] educational materials described in
 805 Subsection [~~57-8-13.1(6)~~] 13-79-103(4).
 - 806 (2) The grantor shall provide the information described in Subsection (1) before closing.
 - 807 (3) The association of unit owners shall, upon request by the grantor, provide to the grantor
 808 the information described in Subsection (1).
 - 809 (4) This section applies to each association of unit owners, regardless of when the
 810 association of unit owners is formed.

811 Section 9. Section **57-8-7.6** is enacted to read:

812 **57-8-7.6 . Budget.**

- 813 (1) At least once annually a management committee shall prepare and adopt a budget for
 814 the association.
- 815 (2) The management committee shall present the adopted budget to association members at
 816 a meeting of the members.
- 817 (3) A budget is disapproved if within 45 days after the date of the meeting under
 818 Subsection(2) at which the management committee presents the adopted budget:
 819 (a) at least 51% of all the allocated voting interests of the unit owners in the association
 820 vote to disapprove the adopted budget; and
 821 (b) the vote is taken at a special meeting called by unit owners under the declaration,
 822 articles, or bylaws to disapprove the budget.
- 823 (4) If a budget is disapproved under Subsection (3) or not adopted under Subsection (1), the
 824 budget that the management committee last adopted continues as the budget until the
 825 management committee prepares and adopts a new budget for the association.

826 Section 10. Section **57-8-10** is amended to read:

827 **57-8-10 . Contents of declaration.**

- 828 (1)(a) Before the conveyance of [~~any~~] a unit in a condominium project, a declaration
 829 shall be recorded that contains the covenants, conditions, and restrictions relating to
 830 the project that shall be enforceable equitable servitudes, where reasonable, and
 831 which shall run with the land.
- 832 (b) [~~–~~]Unless otherwise provided, [~~these servitudes may be enforced by a unit owner or~~
 833 ~~a unit owner's successor in interest.~~] a unit owner or a unit owner's successor in
 834 interest may enforce a servitude described in Subsection (1)(a).
- 835 (2)(a) For every condominium project, the declaration shall:
 836 (i) include a description of the land or interests in real property included within the
 837 project;
 838 (ii) contain a description of any buildings that states the number of storeys and
 839 basements, the number of units, the principal materials of which the building is or
 840 is to be constructed, and a description of all other significant improvements
 841 contained or to be contained in the project;
 842 (iii) contain the unit number of each unit, the square footage of each unit, and any
 843 other description or information necessary to properly identify each unit;
 844 (iv) describe the common areas and facilities of the project;[~~and~~]

- 845 (v) describe any limited common areas and facilities and state to which units the use
 846 of the common areas and facilities is reserved[-] ; and
- 847 (vi) include a statement that the project is:
- 848 (A) designated as a condominium project; and
- 849 (B) governed by this chapter.
- 850 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other
 851 apparatus intended to serve a single unit, but located outside the boundaries of the
 852 unit, shall constitute a limited common area and facility appertaining to that unit
 853 exclusively, regardless of whether [~~or not~~]the declaration makes such a provision.
- 854 (c) The condominium plat recorded with the declaration may provide or supplement the
 855 information required under Subsections (2)(a) and (b).
- 856 (d)(i) The declaration shall include the percentage or fraction of undivided interest in
 857 the common areas and facilities appurtenant to each unit and the unit owner for all
 858 purposes, including voting, derived and allocated in accordance with Subsection
 859 57-8-7(2).
- 860 (ii) If any use restrictions are to apply, the declaration shall state the purposes for
 861 which the units are intended and the use restrictions that apply.
- 862 (iii)(A) The declaration shall include the name and address of a person to receive
 863 service of process on behalf of the condominium project, in the cases provided
 864 by this chapter.
- 865 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or
 866 shall maintain a place of business within, this state.
- 867 (iv) The declaration shall describe the method by which the declaration may be
 868 amended consistent with this chapter.
- 869 (v) Any further matters in connection with the property may be included in the
 870 declaration, which the person or persons executing the declaration may consider
 871 desirable, consistent with this chapter.
- 872 [~~(vi) The declaration shall contain a statement of intention that this chapter applies to~~
 873 ~~the property-]~~
- 874 (e) The initial recorded declaration shall include:
- 875 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
 876 and
- 877 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
 878 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the

879 unit and all improvements to the unit for the purpose of securing payment of
880 assessments under the terms of the declaration."

881 (3)(a) If the condominium project contains any convertible land, the declaration shall:

882 (i) contain a legal description by metes and bounds of each area of convertible land
883 within the condominium project;

884 (ii) state the maximum number of units that may be created within each area of
885 convertible land;

886 (iii) state, with respect to each area of convertible land, the maximum percentage of
887 the aggregate land and floor area of all units that may be created and the use of
888 which will not or may not be restricted exclusively to residential purposes, unless
889 none of the units on other portions of the land within the project are restricted
890 exclusively to residential use;

891 (iv) state the extent to which any structure erected on any convertible land will be
892 compatible with structures on other portions of the land within the condominium
893 project in terms of quality of construction, the principal materials to be used, and
894 architectural style;

895 (v) describe all other improvements that may be made on each area of convertible
896 land within the condominium project;

897 (vi) state that any units created within each area of convertible land will be
898 substantially identical to the units on other portions of the land within the project
899 or describe in detail what other type of units may be created; and

900 (vii) describe the declarant's reserved right, if any, to create limited common areas
901 and facilities within any convertible land in terms of the types, sizes, and
902 maximum number of the limited common areas within each convertible land.

903 (b) The condominium plat recorded with the declaration may provide or supplement the
904 information required under Subsection (3)(a).

905 (4)(a) If the condominium project is an expandable condominium project, the
906 declaration shall:

907 (i) contain an explicit reservation of an option to expand the project;

908 (ii) include a statement of any limitations on the option to expand, including a
909 statement as to whether the consent of any unit owners is required and, a
910 statement as to the method by which consent shall be ascertained, or a statement
911 that there are no such limitations;

912 (iii) include a time limit, not exceeding seven years after the day on which the

913 declaration is recorded, upon which the option to expand the condominium project
914 expires and a statement of any circumstances that will terminate the option before
915 expiration of the specified time limits;

916 (iv) contain a legal description by metes and bounds of all land that may be added to
917 the condominium project, which is known as additional land;

918 (v) state:

919 (A) if any of the additional land is added to the condominium project, whether all
920 of it or any particular portion of it must be added;

921 (B) any limitations as to what portions may be added; or

922 (C) a statement that there are no such limitations;

923 (vi) include a statement as to whether portions of the additional land may be added to
924 the condominium project at different times, including any limitations fixing the
925 boundaries of those portions by legal descriptions setting forth the metes and
926 bounds of these lands and regulating the order in which [~~they~~] the lands may be
927 added to the condominium project;

928 (vii) include a statement of any limitations on the locations of any improvements that
929 may be made on any portions of the additional land added to the condominium
930 project, or a statement that no assurances are made in that regard;

931 (viii)(A) state the maximum number of units that may be created on the additional
932 land;

933 (B) if portions of the additional land may be added to the condominium project
934 and the boundaries of those portions are fixed in accordance with Subsection
935 (4)(a)(vi), state the maximum number of units that may be created on each
936 portion added to the condominium project; and

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

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

- 947 (x) state the extent to which any structures erected on any portion of the additional
948 land added to the condominium project will be compatible with structures on the
949 land originally within the project in terms of quality of construction, the principal
950 materials to be used, and architectural style, or that no assurances are made in
951 those regards;
- 952 (xi) describe all other improvements that will be made on any portion of the
953 additional land added to the condominium project, including any limitations on
954 what other improvements may be made on the additional land, or state that no
955 assurances are made in that regard;
- 956 (xii) contain a statement that any units created on any portion of the additional land
957 added to the condominium project will be substantially identical to the units on
958 the land originally within the project, a statement of any limitations on what types
959 of units may be created on the additional land, or a statement that no assurances
960 are made in that regard; and
- 961 (xiii) describe the declarant's reserved right, if any, to create limited common areas
962 and facilities within any portion of the additional land added to the condominium
963 project, in terms of the types, sizes, and maximum number of limited common
964 areas within each portion, or state that no assurances are made in those regards.
- 965 (b) The condominium plat recorded with the declaration may provide or supplement the
966 information required under Subsections (4)(a)(iv) through (a)(vii) and (a)(x) through
967 (a)(xiii).
- 968 (5)(a) If the condominium project is a contractible condominium, the declaration shall:
- 969 (i) contain an explicit reservation of an option to contract the condominium project;
- 970 (ii) contain a statement of any limitations on the option to contract, including a
971 statement regarding whether the consent of any unit owners is required, and if so,
972 a statement regarding the method by which this consent shall be ascertained, or a
973 statement that there are no such limitations;
- 974 (iii) state the time limit, not exceeding seven years after the day on which the
975 declaration is recorded, upon which the option to contract the condominium
976 project expires, together with a statement of any circumstances that will terminate
977 the option before expiration of the specified time limit;
- 978 (iv) include a legal description by metes and bounds of all land that may be
979 withdrawn from the condominium project, which is known as withdrawable land;
- 980 (v) include a statement as to whether portions of the withdrawable land may be

981 withdrawn from the condominium project at different times, together with any
 982 limitations fixing the boundaries of those portions by legal descriptions setting
 983 forth the metes and bounds and regulating the order in which they may be
 984 withdrawn from the condominium project; and

985 (vi) include a legal description by metes and bounds of all of the land within the
 986 condominium project to which the option to contract the project does not extend.

987 (b) The condominium plat recorded with the declaration may provide or supplement the
 988 information required under Subsections (5)(a)(iv) through (vi).

989 (6)(a) If the condominium project is a leasehold condominium, the declaration shall,
 990 with respect to any ground lease or other leases the expiration or termination of
 991 which will or may terminate or contract the condominium project:

992 (i) include recording information enabling the location of each lease in the official
 993 records of the county recorder;

994 (ii) include the date upon which each lease is due to expire;

995 (iii) state whether any land or improvements will be owned by the unit owners in fee
 996 simple;

997 (iv) if there is to be fee simple ownership of any land or improvement, as described in
 998 Subsection (6)(a)(iii), include:

999 (A) a description of the land or improvements, including a legal description by
 1000 metes and bounds of the land; or

1001 (B) a statement of ~~[any rights]~~ the right the unit owners have to remove ~~[these]~~ the
 1002 improvements described in Subsection (6)(a)(iv)(A) within a reasonable time
 1003 after the expiration or termination of the lease or leases involved, or a
 1004 statement that ~~[they shall have no such rights]~~ the unit owners do not have that
 1005 right; and

1006 (v) include a statement of the ~~[rights]~~ right the unit owners have to extend or renew
 1007 any of the leases or to redeem or purchase any of the reversions, or a statement
 1008 that ~~[they have no such rights]~~ the unit owners do not have that right.

1009 (b) After the recording of the declaration, a lessor who executed the declaration, or the
 1010 lessor's successor in interest, may not terminate any part of the leasehold interest of [
 1011 ~~any~~] a unit owner who:

1012 (i) makes timely payment of the unit owner's share of the rent to the persons
 1013 designated in the declaration for the receipt of the rent; and

1014 (ii) otherwise complies with all covenants which would entitle the lessor to terminate

- 1015 the lease if the covenants were violated.
- 1016 (7)(a)(i) If the condominium project contains time period units, the declaration shall
- 1017 also contain the location of each condominium unit in the calendar year.
- 1018 (ii) ~~[-This information]~~ The information described in Subsection (7)(a)(i) shall be set
- 1019 out in a fourth column of the exhibit or schedule referred to in Subsection
- 1020 57-8-7(2), if the exhibit or schedule accompanies the declaration.
- 1021 (b) The declaration shall also put timeshare owners on notice that tax notices will be sent
- 1022 to the management committee, not each timeshare owner.
- 1023 (c) The time period units created with respect to any given physical unit shall be such
- 1024 that the aggregate of the durations involved constitute a full calendar year.
- 1025 (8)(a) The declaration, bylaws, and condominium plat shall be duly executed and
- 1026 acknowledged by all of the owners and any lessees of the land ~~[which]~~ that is [made-]
- 1027 subject to this chapter.
- 1028 (b) As used in Subsection (8)(a), "owners and lessees" does not include~~[-, in their~~
- 1029 ~~respective capacities,]~~ :
- 1030 (i) ~~[-any]~~ a mortgagee[-] ;
- 1031 (ii) ~~[-any]~~ a trustee or beneficiary under a deed of trust[-] ;
- 1032 (iii) ~~[-]~~ any other lien holder[-] ;
- 1033 (iv) ~~[-any]~~ a person [having] that has an equitable interest under [any] a contract for the
- 1034 sale or lease of a condominium unit[-] ; or
- 1035 (v) ~~[-any]~~ a lessee whose leasehold interest does not extend to any portion of the
- 1036 common areas and facilities.
- 1037 (9)(a) Except as provided in Subsection (9)(b), a declaration, or an amendment to a
- 1038 declaration, may not vary the requirements of Section 57-8-8.1 or Subsection
- 1039 57-8-8.1(1)(b)(ii).
- 1040 (b) A declaration, or an amendment to a declaration may vary the requirements of
- 1041 Subsections 57-8-8.1(1)(a), (b)(i) and (iii), and 57-8-8.1(2) through (5).
- 1042 Section 11. Section **57-8-13.1** is amended to read:
- 1043 **57-8-13.1 . Registration with Department of Commerce.**
- 1044 (1) As used in this section, "department" means the Department of Commerce created in
- 1045 Section 13-1-2.
- 1046 (2) No later than 90 days after the recording of a declaration, an association of unit owners
- 1047 shall register with the department in the manner ~~[established by]~~ that the department
- 1048 establishes.

- 1049 (3) The department shall require an association of unit owners registering as required in this
1050 section to provide with each registration:
- 1051 (a) the name and address of the association of unit owners;
- 1052 (b) the name, [~~address,~~] telephone number, and, if applicable, email address of the
1053 president of the association of unit owners;
- 1054 (c) the name, [~~and address-~~] telephone number, and, if applicable, email address of each
1055 manager or management committee member;
- 1056 (d) the name, address, telephone number, and, if the contact person wishes to use email
1057 or facsimile transmission for communicating payoff information, the email address or
1058 facsimile number, as applicable, of a primary contact person who has association
1059 payoff information that a closing agent needs in connection with the closing of a unit
1060 owner's financing, refinancing, or sale of the owner's unit; and
- 1061 (e) a registration fee [~~set by~~] that the department sets in accordance with Section
1062 63J-1-504.
- 1063 (4)(a) An association of unit owners shall annually renew the registration of the
1064 association of unit owners described in Subsection (2).
- 1065 (b) The department may impose and set the amount of a renewal registration fee in
1066 accordance with Section 63J-1-504.
- 1067 (5) An association of unit owners [~~that has registered under~~] that registers in accordance with
1068 Subsection (2) shall submit to the department an update to the association of unit
1069 owners' registration information, in the manner [~~established by-~~] that the department
1070 establishes, within 90 days after the day on which a change in any of the information
1071 provided under Subsection (3) occurs.
- 1072 (6)(a) During any period of noncompliance with the registration requirement described
1073 in Subsection (2) or the requirement for an updated registration described in
1074 Subsection (5):
- 1075 (i) a lien may not arise under Section 57-8-44; and
- 1076 (ii) an association of unit owners may not enforce an existing lien that arose under
1077 Section 57-8-44.
- 1078 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1079 with the updated registration requirement of Subsection (5) does not begin until after
1080 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 1081 (c) An association of unit owners that is not in compliance with the registration
1082 requirement described in Subsection (2) may end the period of noncompliance by

- 1083 registering with the department in the manner [~~established by~~] that the department
 1084 establishes under Subsection (2).
- 1085 (d) An association of unit owners that is not in compliance with the updated registration
 1086 requirement described in Subsection (5) may end the period of noncompliance by
 1087 submitting to the department an updated registration in the manner [~~established by~~]
 1088 that the department establishes under Subsection (5).
- 1089 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit
 1090 owners ends a period of noncompliance:
- 1091 (i) a lien may arise under Section 57-8-44 for any event that:
- 1092 (A) occurred during the period of noncompliance; and
- 1093 (B) would have given rise to a lien under Section 57-8-44 had the association of
 1094 unit owners been in compliance with the registration requirements described in
 1095 this section; and
- 1096 (ii) an association of unit owners may enforce a lien described in Subsection [~~(6)(e)~~]
 1097 (6)(e)(i) or a lien that existed before the period of noncompliance.
- 1098 (f) If an owner's unit is conveyed to an independent third party during a period of
 1099 noncompliance described in this Subsection (6):
- 1100 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
 1101 final is extinguished when the conveyance of the unit becomes final; and
- 1102 (ii) an event that occurred before the conveyance of the unit became final, and that
 1103 would have given rise to a lien under Section 57-8-44 had the association of unit
 1104 owners been in compliance with the registration requirements of this section, may
 1105 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
 1106 final before the association of unit owners ends the period of noncompliance.
- 1107 [~~(7) The department shall publish educational materials on the department's website~~
 1108 ~~providing, in simple and easy to understand language, a brief overview of state law~~
 1109 ~~governing associations of unit owners, including:]~~
- 1110 [~~(a) a description of the rights and responsibilities provided in this chapter to any party~~
 1111 ~~under the jurisdiction of an association of unit owners; and]~~
- 1112 [~~(b) instructions regarding how an association of unit owners may be organized and~~
 1113 ~~dismantled in accordance with this chapter.]~~
- 1114 Section 12. Section **57-8-16.5** is amended to read:
- 1115 **57-8-16.5 . Period of administrative control -- Renewal or ratification of**
 1116 **contracts -- Failure to establish association or committee -- Declarant responsibilities.**

- 1117 (1)(a) The declaration may authorize the declarant, ~~[or]~~a managing agent, or ~~[some other]~~
 1118 a person ~~[or persons selected or to be selected by]~~ that the declarant selects, to:
- 1119 (i) ~~[-]~~appoint and remove some or all of:
- 1120 (A) ~~[-]~~the members of the management committee; or
 1121 (B) ~~[-some or all of-]~~the officers of the association of unit owners~~[-]~~; or
- 1122 (ii) ~~[-to-]~~exercise powers and responsibilities otherwise assigned by the declaration
 1123 and by this ~~[aet]~~ chapter to the association of unit owners, ~~[its]~~ the association's
 1124 officers, or the management committee.
- 1125 (b) If the declaration authorizes the declarant to ~~[appoint or remove some or all members~~
 1126 ~~of the management committee or some or all of the officers of the association of unit~~
 1127 ~~owners]~~ conduct the actions described in Subsection (1)(a)(i) during the period of
 1128 administrative control ~~[contemplated by]~~ described in this Subsection (1), the
 1129 declarant may appoint the declarant's officers, employees or agents as members of the
 1130 management committee or as officers of the association of unit owners.
- 1131 (c) ~~[No-]~~ An amendment to the declaration ~~[not consented to by all unit owners shall]~~ may
 1132 not increase the scope of ~~[this authorization]~~ the authorization described in Subsection
 1133 (1)(b), unless all unit owners unanimously consent to the amendment.
- 1134 (d) ~~[-, and no such authorization shall be valid after the first to occur of the following]~~
 1135 The authorization described in Subsection (1)(b) terminates on the day on which the
 1136 first of the following occurs:
- 1137 (i) ~~[expiration of-]~~the time limit set by the declaration expires, ~~[which shall]~~ that may
 1138 not exceed:
- 1139 (A) ~~[-six years in the case of-]~~ for an expandable condominium, six years~~[-]~~; or
 1140 (B) ~~[-four years in the case of-]~~ for a condominium project containing any
 1141 convertible land, four years; or
 1142 (C) ~~[-three years in the case of-]~~ for any other condominium project, three years~~[-or]~~
- 1143 (ii) ~~[after-]~~units to which three-fourths of the undivided interest in the common areas
 1144 and facilities appertain have been conveyed~~[-]~~; or
- 1145 (iii) ~~[-after-]~~all additional land has been added to the project and all convertible land
 1146 has been converted, whichever last occurs.
- 1147 (2) If entered into during the period of administrative control contemplated by Subsection
 1148 (1), ~~[no]~~ a management contract, lease of recreational areas or facilities, or any other
 1149 contract or lease designed to benefit the declarant which was executed by or on behalf of
 1150 the association of unit owners or the unit owners as a group ~~[shall be]~~ is not binding after [

1151 such] the period of administrative control unless [then renewed or ratified by the consent
 1152 of] unit owners of units to which a majority of the votes in the association of unit owners
 1153 appertains renew and ratify the management contract, lease of recreational areas or
 1154 facilities, or any other contract or lease designed to benefit the declarant.

1155 (3) If the association of unit owners or management committee is not in existence or does
 1156 not have officers at the time of the creation of a condominium project, the declarant
 1157 shall, until there is an association or management committee with these officers, have
 1158 the power and responsibility to act in all instances where this [aet] chapter or the
 1159 declaration requires action by the association of unit owners, the management
 1160 committee, or any of the officers of [them] the association of unit owners or the
 1161 management committee.

1162 (4) This section shall be strictly construed to protect the rights of the unit owners.

1163 (5) During the period of administrative control, the declarant shall:

- 1164 (a) use reasonable care and prudence in managing and maintaining the common areas
 1165 and facilities;
- 1166 (b) establish a sound fiscal basis for the association by imposing and collecting
 1167 assessments and establishing reserves for the maintenance and replacement of
 1168 common areas and facilities;
- 1169 (c) for a service that the association is or will be obligated to provide, disclose to the unit
 1170 owners the amount of money the declarant provides for or subsidizes for that service;
- 1171 (d) comply with and enforce the terms of the declaration, including design controls,
 1172 land-use restrictions, and the payment of assessments; and
- 1173 (e) disclose to the unit owners all material facts and circumstances affecting:
- 1174 (i) the condition of the property that the association is responsible for maintaining;
 1175 and
- 1176 (ii) the financial condition of the association, including the interest of the declarant
 1177 and the declarant's affiliates in a contract, lease, or other agreement entered into
 1178 by the association.

1179 Section 13. Section **57-8-17** is amended to read:

1180 **57-8-17 . Records -- Availability for examination.**

1181 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association of unit
 1182 owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit
 1183 Corporation Act, an association of unit owners shall keep and make available to unit
 1184 owners:

- 1185 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner
1186 described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605,
1187 16-6a-1606, and 16-6a-1610; and
- 1188 (ii) a copy of the association's:
- 1189 (A) governing documents;
- 1190 (B) most recent approved minutes;
- 1191 (C) most recent annual budget and financial statement;
- 1192 (D) most recent reserve analysis;
- 1193 (E) certificate of insurance for each insurance policy the association of unit
1194 owners holds;
- 1195 (F) management committee meeting minutes from the previous three calendar
1196 years;
- 1197 (G) [a]-profit and loss statement for the previous three fiscal years; and
- 1198 (H) [a]-balance sheet for the previous three fiscal years.
- 1199 (b) An association of unit owners may redact the following information from any
1200 document the association of unit owners produces for inspection or copying:
- 1201 (i) a Social Security number;
- 1202 (ii) a bank account number; or
- 1203 (iii) any communication subject to attorney-client privilege.
- 1204 (c) The following are considered property of the association:
- 1205 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 1206 (ii) the funds contained in an account described in Section 57-8-60.
- 1207 (d) If a person other than the association of unit owners has control over or possession of
1208 a record described in Subsection (1)(a)(i) or (ii), the person shall, upon the
1209 association's request, provide the record to the association of unit owners without
1210 charge.
- 1211 (2)(a) In addition to the requirements described in Subsection (1), an association of unit
1212 owners shall:
- 1213 (i) make documents available to unit owners in accordance with the association of
1214 unit owners' governing documents; and
- 1215 (ii)(A) if the association of unit owners has an active website, make the documents
1216 described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free
1217 of charge, through the website; or
- 1218 (B) if the association of unit owners does not have an active website, make

- 1219 physical copies of the documents described in Subsections (1)(a)(ii)(A)
1220 through (C) available to unit owners during regular business hours at the
1221 association of unit owners' address registered with the Department of
1222 Commerce under Section 57-8-13.1.
- 1223 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 1224 (c) If a provision of an association of unit owners' governing documents conflicts with a
1225 provision of this section, the provision of this section governs.
- 1226 (3) In a written request to inspect or copy documents:
- 1227 (a) a unit owner shall include:
- 1228 (i) the association of unit owners' name;
- 1229 (ii) the unit owner's name;
- 1230 (iii) the unit owner's property address;
- 1231 (iv) the unit owner's email address;
- 1232 (v) a description of the documents requested; and
- 1233 (vi) ~~[any-]~~ an election or a request described in Subsection (3)(b); and
- 1234 (b) a unit owner may:
- 1235 (i) elect whether to inspect or copy the documents;
- 1236 (ii) if the unit owner elects to copy the documents, request hard copies or electronic
1237 scans of the documents; or
- 1238 (iii) subject to Subsection (4), request that:
- 1239 (A) the association of unit owners make the copies or electronic scans of the
1240 requested documents;
- 1241 (B) a recognized third party duplicating service make the copies or electronic
1242 scans of the requested documents;
- 1243 (C) the unit owner be allowed to bring any necessary imaging equipment to the
1244 place of inspection and make copies or electronic scans of the documents while
1245 inspecting the documents; or
- 1246 (D) the association of unit owners email the requested documents to an email
1247 address provided in the request.
- 1248 (4)(a) An association of unit owners shall comply with a request described in Subsection
1249 (3) within ~~[two weeks]~~ 10 business days after the day on which the association of unit
1250 owners receives the request.
- 1251 (b) If an association of unit owners produces the copies or electronic scans:
- 1252 (i) the copies or electronic scans shall be legible and accurate;

- 1253 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the
1254 copies and for time spent meeting with the unit owner, which may not exceed:
1255 (A) the actual cost that the association of unit owners paid to a recognized third
1256 party duplicating service to make the copies or electronic scans; or
1257 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other
1258 agent's time making the copies or electronic scans; and
- 1259 (iii) the association may not charge the unit owner for any costs associated with
1260 fulfilling a request for the electronic transmission of the documents described in
1261 Subsection (3).
- 1262 (c) If a unit owner requests a recognized third party duplicating service make the copies
1263 or electronic scans:
1264 (i) the association of unit owners shall arrange for the delivery and pick up of the
1265 original documents; and
1266 (ii) the unit owner shall pay the duplicating service directly.
- 1267 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the
1268 inspection, the association of unit owners shall provide the necessary space, light, and
1269 power for the imaging equipment.
- 1270 (e) An association may comply with a request described in Subsection (3) by posting the
1271 documents described in Subsection (3) to the association's website or online owner
1272 portal.
- 1273 (5) If, in response to a unit owner's request to inspect or copy documents, an association of
1274 unit owners fails to comply with a provision of this section, the association of unit
1275 owners shall pay:
1276 (a) the reasonable costs of inspecting and copying the requested documents;
1277 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner
1278 who made the request for each day the request continues unfulfilled, beginning the [
1279 ~~sixth day~~] eleventh business day after the day on which the unit owner made the
1280 request; and
1281 (c) reasonable attorney fees and costs [~~incurred by~~] that the unit owner incurs in
1282 obtaining the inspection and copies of the requested documents.
- 1283 (6)(a) In addition to any remedy in the association of unit owners' governing documents
1284 or as otherwise provided by law, a unit owner may file an action in court under this
1285 section if:
1286 (i) subject to Subsection (9), an association of unit owners fails to make documents

- 1287 available to the unit owner in accordance with this section, the association of unit
1288 owners' governing documents, or as otherwise provided by law; and
- 1289 (ii) the association of unit owners fails to timely comply with a notice described in
1290 Subsection (6)(d).
- 1291 (b) In an action described in Subsection (6)(a):
- 1292 (i) the unit owner may request:
- 1293 (A) injunctive relief requiring the association of unit owners to comply with the
1294 provisions of this section;
- 1295 (B) \$1,000 or actual [damage] damages, whichever is greater; or
- 1296 (C) any other relief provided by law; and
- 1297 (ii) the court may award costs and reasonable attorney fees to the prevailing party,
1298 including any reasonable attorney fees incurred before the action was filed that
1299 relate to the request that is the subject of the action.
- 1300 (c)(i) In an action described in Subsection (6)(a), upon motion by the unit owner
1301 made in accordance with Subsection (6)(b), notice to the association of unit
1302 owners, and a hearing in which the court finds a likelihood that the association of
1303 unit owners failed to comply with a provision of this section, the court shall order
1304 the association of unit owners to immediately comply with the provision.
- 1305 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
1306 after the day on which the unit owner files the motion.
- 1307 (d) At least 10 days before the day on which a unit owner files an action described in
1308 Subsection (6)(a), the unit owner shall deliver a written notice to the association of
1309 unit owners that states:
- 1310 (i) the unit owner's name, address, telephone number, and email address;
- 1311 (ii) each requirement of this section with which the association of unit owners has
1312 failed to comply;
- 1313 (iii) a demand that the association of unit owners comply with each requirement with
1314 which the association of unit owners has failed to comply; and
- 1315 (iv) a date by which the association of unit owners shall remedy the association of
1316 unit owners' noncompliance that is at least 10 days after the day on which the unit
1317 owner delivers the notice to the association of unit owners.
- 1318 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association of unit
1319 owners.
- 1320 (b) The provisions of this section apply regardless of any conflicting provision in Title

1321 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

1322 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that
1323 the unit owner has under this section.

1324 (9) An association of unit owners is not liable for identifying or providing a document in
1325 error, if the association of unit owners identified or provided the erroneous document in
1326 good faith.

1327 Section 14. Section **57-8-32** is amended to read:

1328 **57-8-32 . Sale of property and common areas and facilities.**

1329 (1) As used in this section:

1330 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.

1331 (b) "Under threat of condemnation" means the same as that term is defined in Section
1332 78B-6-520.3.

1333 [(+) (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in
1334 the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and
1335 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
1336 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
1337 common areas and facilities.

1338 [(2)] (3) An affirmative vote described in Subsection [(+) (2)] (2) is binding upon all unit
1339 owners, and each unit owner shall execute and deliver the appropriate instruments and
1340 perform all acts as necessary to affect the sale, conveyance, transfer, or other disposition
1341 of the property or common areas and facilities.

1342 [(3)] (4) The general easement of ingress, egress, and use of the common areas and facilities
1343 granted to an association and unit owners through recorded governing documents is
1344 extinguished in any portion of the common areas and facilities the unit owners sell,
1345 convey, transfer, or otherwise dispose of, if:

1346 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
1347 portion of the common areas and facilities, comply with:

1348 (i) the provisions of this section; and

1349 (ii) Section 10-20-809 or 17-79-709; and

1350 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
1351 areas and facilities results in a person other than the association owning the portion of
1352 the common areas and facilities.

1353 [(4)] (5) This section applies to an association of unit owners regardless of when the
1354 association of unit owners is created.

1355 [~~(5)~~] (6) A declarant may not sell or otherwise encumber any part of the common areas and
 1356 facilities during the period of administrative control, except:

1357 (a) as allowed for convertible land or convertible space within a condominium project;[
 1358 or]

1359 (b) as provided in Section 10-20-809 or 17-79-709[.]; or

1360 (c) if the declarant sells or otherwise encumbers a part of the common areas and
 1361 facilities that are under threat of condemnation to a condemnor.

1362 [~~(6)~~] (7) Unless otherwise prohibited by the association's declaration or bylaws, an
 1363 authorized representative of the association may act as attorney-in-fact for the
 1364 association's unit owners in executing a sale, conveyance, transfer, or other disposition
 1365 of the common areas and facilities following an affirmative vote described in Subsection [
 1366 ~~(1)~~] (2).

1367 Section 15. Section **57-8a-103** is amended to read:

1368 **57-8a-103 . Scope of chapter -- Applicability of chapter.**

1369 (1) Remedies provided in this chapter, by law, or in equity are not mutually exclusive.

1370 (2) This chapter applies to an association if:

1371 (a) the association's declaration states that this chapter applies;

1372 (b) the association amends the association's declaration to state that this chapter applies
 1373 in accordance with Section 57-8a-107; or

1374 (c) the association's declaration does not state whether this chapter or Chapter 8,
 1375 Condominium Ownership Act, applies.

1376 (3) This section applies regardless of when an association is created.

1377 Section 16. Section **57-8a-105** is amended to read:

1378 **57-8a-105 . Registration with Department of Commerce.**

1379 (1) As used in this section, "department" means the Department of Commerce created in
 1380 Section 13-1-2.

1381 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
 1382 and restrictions establishing an association, the association shall register with the
 1383 department in the manner [~~established by~~] that the department establishes.

1384 (b) An association existing under a declaration of covenants, conditions, and restrictions
 1385 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
 1386 department in the manner [~~established by~~] that the department establishes.

1387 (3) The department shall require an association registering as required in this section to
 1388 provide with each registration:

- 1389 (a) the name and address of the association;
- 1390 (b) the name, [~~address,~~]telephone number, and, if applicable, email address of the chair
1391 of the association board;
- 1392 (c) [~~contact information for the manager~~] the name, telephone number, and, if applicable,
1393 email address of each manager or board member;
- 1394 (d) the name, address, telephone number, and, if the contact person wishes to use email
1395 or facsimile transmission for communicating payoff information, the email address or
1396 facsimile number, as applicable, of a primary contact person who has association
1397 payoff information that a closing agent needs in connection with the closing of a lot
1398 owner's financing, refinancing, or sale of the owner's lot; and
- 1399 (e) a registration fee[~~set by~~] that the department sets in accordance with Section
1400 63J-1-504.
- 1401 (4)(a) An association shall annually renew the association's registration described in
1402 Subsection (2).
- 1403 (b) The department may impose and set the amount of a renewal registration fee in
1404 accordance with Section 63J-1-504.
- 1405 (5) An association that has registered under Subsection (2) shall submit to the department
1406 an update to the association's registration information, in the manner [~~established by~~] that
1407 the department establishes, within 90 days after a change in any of the information
1408 provided under Subsection (3).
- 1409 (6)(a) During any period of noncompliance with the registration requirement described
1410 in Subsection (2) or the requirement for an updated registration described in
1411 Subsection (5):
- 1412 (i) a lien may not arise under Section 57-8a-301; and
1413 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 1414 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1415 with the updated registration requirement of Subsection (5) does not begin until after
1416 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 1417 (c) An association that is not in compliance with the registration requirement described
1418 in Subsection (2) may end the period of noncompliance by registering with the
1419 department in the manner [~~established by~~] that the department establishes under
1420 Subsection (2).
- 1421 (d) An association that is not in compliance with the updated registration requirement
1422 described in Subsection (5) may end the period of noncompliance by submitting to

- 1423 the department an updated registration in the manner [established by] that the
 1424 department establishes under Subsection (5).
- 1425 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a
 1426 period of noncompliance:
- 1427 (i) a lien may arise under Section 57-8a-301 for any event that:
- 1428 (A) occurred during the period of noncompliance; and
- 1429 (B) would have given rise to a lien under Section 57-8a-301 had the association
 1430 been in compliance with the registration requirements described in this section;
 1431 and
- 1432 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that
 1433 existed before the period of noncompliance.
- 1434 (f) If an owner's residential lot is conveyed to an independent third party during a period
 1435 of noncompliance described in this Subsection (6):
- 1436 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
 1437 lot became final is extinguished when the conveyance of the residential lot
 1438 becomes final; and
- 1439 (ii) an event that occurred before the conveyance of the residential lot became final,
 1440 and that would have given rise to a lien under Section 57-8a-301 had the
 1441 association been in compliance with the registration requirements of this section,
 1442 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
 1443 residential lot becomes final before the association ends the period of
 1444 noncompliance.
- 1445 [~~(7) The department shall publish educational materials on the department's website~~
 1446 ~~providing, in simple and easy to understand language, a brief overview of state law~~
 1447 ~~governing associations, including:]~~
- 1448 [~~(a) a description of the rights and responsibilities provided in this chapter to any party~~
 1449 ~~under the jurisdiction of an association; and]~~
- 1450 [~~(b) instructions regarding how an association may be organized and dismantled in~~
 1451 ~~accordance with this chapter.]~~
- 1452 [~~(8)(a) Unless otherwise expressly exempted, this chapter applies to an association that~~
 1453 ~~registers, or renews or updates the association's registration, with the department~~
 1454 ~~under this section.]~~
- 1455 [~~(b) This section applies to an association regardless of when the association is created.]~~
- 1456 Section 17. Section **57-8a-105.1** is amended to read:

1457 **57-8a-105.1 . Information required before sale to independent third party.**

1458 (1) Before the sale of ~~[any]~~ a lot under the jurisdiction of an association to an independent
1459 third party, the grantor shall provide to the independent third party:

1460 (a) a copy of the association's recorded governing documents; and

1461 (b) a link or other access point to the ~~[department's]~~ educational materials described in
1462 Subsection ~~[57-8a-105(6)]~~ 13-79-103(4).

1463 (2) The grantor shall provide the information described in Subsection (1) before closing.

1464 (3) The association shall, upon request by the grantor, provide to the grantor the
1465 information described in Subsection (1).

1466 (4) This section applies to each association, regardless of when the association is formed.

1467 Section 18. Section **57-8a-212** is amended to read:

1468 **57-8a-212 . Content of a declaration.**

1469 (1) An initial declaration ~~[recorded on or after May 10, 2011]~~ shall contain:

1470 (a) the name of the project;

1471 (b) the name of the association;

1472 (c) a statement that the project is not a cooperative;

1473 (d) a statement indicating any portions of the project that contain condominiums
1474 governed by Chapter 8, Condominium Ownership Act;

1475 ~~(e) a statement that the project is governed by this chapter;~~

1476 ~~[(e)]~~ ~~(f)~~ if the declarant desires to reserve the option to expand the project, a statement
1477 reserving the option to expand the project;

1478 ~~[(f)]~~ ~~(g)~~ the name of each county in which any part of the project is located;

1479 ~~[(g)]~~ ~~(h)~~ a legally sufficient description of the real estate included in the project;

1480 ~~[(h)]~~ ~~(i)~~ a description of any limited common areas and any real estate that is or is
1481 required to become common areas;

1482 ~~[(i)]~~ ~~(j)~~ any restriction on the alienation of a lot, including a restriction on leasing; and

1483 ~~[(j)]~~ ~~(k)~~(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i)
1484 or (iv); and

1485 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
1486 U.C.A. Sections 57-1-20 and 57-8a-302 to (name of trustee), with power of sale,
1487 the lot and all improvements to the lot for the purpose of securing payment of
1488 assessments under the terms of the declaration."

1489 (2) A declaration may contain any other information the declarant considers appropriate,
1490 including ~~[any]~~ a restriction on the use of a lot, the number of persons who may occupy a

1491 lot, or other qualifications of a person who may occupy a lot.

1492 (3) The location of a limited common area or real estate described in Subsection (1)(g) may
1493 be shown on a subdivision plat.

1494 (4)(a) Except as provided in Subsection (4)(b), a declaration, or an amendment to a
1495 declaration, may not vary the requirements of Section 57-8a-218 or Subsection
1496 57-8a-218(1)(b)(ii).

1497 (b) A declaration, or an amendment to a declaration may vary the requirements of
1498 Subsections 57-8a-218(1)(a), (b)(i) and (iii), 57-8a-218(2), 57-8a-218(6), and
1499 57-8a-218(8) through (14).

1500 Section 19. Section **57-8a-215** is amended to read:

1501 **57-8a-215 . Budget.**

1502 (1) At least once annually the board shall prepare and adopt a budget for the association.

1503 (2) The board shall present the adopted budget to association members at a meeting of the
1504 members.

1505 (3) A budget is disapproved if within 45 days after the date of the meeting under Subsection
1506 (2) at which the board presents the adopted budget:

1507 (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of
1508 the lot owners in the association; and

1509 (b) the vote is taken at a special meeting called for that purpose by lot owners under the
1510 declaration, articles, or bylaws.

1511 (4) If a budget is disapproved under Subsection (3)[;] or not adopted under Subsection (1),
1512 then the budget that the board last adopted [~~that was not disapproved by members~~]
1513 continues as the budget until [~~and unless the board presents another budget to members~~
1514 ~~and that budget is not disapproved~~] the board prepares and adopts a new budget for the
1515 association.

1516 [~~(5) During the period of administrative control, association members may not disapprove a~~
1517 ~~budget.]~~

1518 Section 20. Section **57-8a-227** is amended to read:

1519 **57-8a-227 . Records -- Availability for examination.**

1520 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association is
1521 incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an
1522 association shall keep and make available to lot owners:

1523 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner
1524 described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605,

- 1525 16-6a-1606, and 16-6a-1610; and
- 1526 (ii) a copy of the association's:
- 1527 (A) governing documents;
- 1528 (B) most recent approved minutes;
- 1529 (C) most recent annual budget and financial statement;
- 1530 (D) most recent reserve analysis;
- 1531 (E) certificate of insurance for each insurance policy the association holds;
- 1532 (F) board meeting minutes from the previous three calendar years;
- 1533 (G) [a-]profit and loss statement for the previous three fiscal years; and
- 1534 (H) [a-]balance sheet for the previous three fiscal years[;] .
- 1535 (b) An association may redact the following information from any document the
- 1536 association produces for inspection or copying:
- 1537 (i) a Social Security number;
- 1538 (ii) a bank account number; or
- 1539 (iii) any communication subject to attorney-client privilege.
- 1540 (c) The following are considered property of the association:
- 1541 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 1542 (ii) the funds contained in an account described in Section 57-8a-230.
- 1543 (d) If a person other than the association has control over or possession of a record
- 1544 described in Subsection (1)(a)(i) or (ii), the person shall, upon the association's
- 1545 request, provide the record to the association without charge.
- 1546 (2)(a) In addition to the requirements described in Subsection (1), an association shall:
- 1547 (i) make documents available to lot owners in accordance with the association's
- 1548 governing documents; and
- 1549 (ii)(A) if the association has an active website, make the documents described in
- 1550 Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge,
- 1551 through the website; or
- 1552 (B) if the association does not have an active website, make physical copies of the
- 1553 documents described in Subsections (1)(a)(ii)(A) through (C) available to lot
- 1554 owners during regular business hours at the association's address registered
- 1555 with the Department of Commerce under Section 57-8a-105.
- 1556 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 1557 (c) If a provision of an association's governing documents conflicts with a provision of
- 1558 this section, the provision of this section governs.

- 1559 (3) In a written request to inspect or copy documents:
- 1560 (a) a lot owner shall include:
- 1561 (i) the association's name;
- 1562 (ii) the lot owner's name;
- 1563 (iii) the lot owner's property address;
- 1564 (iv) the lot owner's email address;
- 1565 (v) a description of the documents requested; and
- 1566 (vi) any election or request described in Subsection (3)(b); and
- 1567 (b) a lot owner may:
- 1568 (i) elect whether to inspect or copy the documents;
- 1569 (ii) if the lot owner elects to copy the documents, request hard copies or electronic
- 1570 scans of the documents; or
- 1571 (iii) subject to Subsection (4), request that:
- 1572 (A) the association make the copies or electronic scans of the requested
- 1573 documents;
- 1574 (B) a recognized third party duplicating service make the copies or electronic
- 1575 scans of the requested documents;
- 1576 (C) the lot owner be allowed to bring any necessary imaging equipment to the
- 1577 place of inspection and make copies or electronic scans of the documents while
- 1578 inspecting the documents; or
- 1579 (D) the association email the requested documents to an email address provided in
- 1580 the request.
- 1581 (4)(a) An association shall comply with a request described in Subsection (3) within [
1582 ~~two weeks~~] 10 business days after the day on which the association receives the
1583 request.
- 1584 (b) If an association produces the copies or electronic scans:
- 1585 (i) the copies or electronic scans shall be legible and accurate;
- 1586 (ii) the lot owner shall pay the association the reasonable cost of the copies and for
- 1587 time spent meeting with the lot owner, which may not exceed:
- 1588 (A) the actual cost that the association paid to a recognized third party duplicating
- 1589 service to make the copies or electronic scans; or
- 1590 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other
- 1591 agent's time; and
- 1592 (iii) the association may not charge the lot owner for any costs associated with

- 1593 fulfilling a request for electronic transmission of the documents described in
1594 Subsection (3).
- 1595 (c) If a lot owner requests a recognized third party duplicating service make the copies
1596 or electronic scans:
1597 (i) the association shall arrange for the delivery and pick up of the original
1598 documents; and
1599 (ii) the lot owner shall pay the duplicating service directly.
- 1600 (d) If a lot owner requests to bring imaging equipment to the inspection, the association
1601 shall provide the necessary space, light, and power for the imaging equipment.
- 1602 (e) An association may fulfill the request described in Subsection (3) by posting the
1603 documents described in Subsection (3) to the association's website or online owner
1604 portal.
- 1605 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy
1606 documents, an association fails to comply with a provision of this section, the
1607 association shall pay:
1608 (a) the reasonable costs of inspecting and copying the requested documents;
1609 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner
1610 who made the request for each day the request continues unfulfilled, beginning the [
1611 sixth] eleventh business day after the day on which the lot owner made the request;
1612 and
1613 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the
1614 inspection and copies of the requested documents.
- 1615 (6)(a) In addition to any remedy in the association's governing documents or otherwise
1616 provided by law, a lot owner may file an action in court against the association under
1617 this section if:
1618 (i) subject to Subsection (9), an association fails to make documents available to the
1619 lot owner in accordance with this section, the association's governing documents,
1620 or as otherwise provided by law; and
1621 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 1622 (b) In an action described in Subsection (6)(a):
1623 (i) the lot owner may request:
1624 (A) injunctive relief requiring the association to comply with the provisions of this
1625 section;
1626 (B) \$1,000 or actual damage, whichever is greater; or

- 1627 (C) any other relief provided by law; and
- 1628 (ii) the court may award costs and reasonable attorney fees to the prevailing party,
- 1629 including any reasonable attorney fees incurred before the action was filed that
- 1630 relate to the request that is the subject of the action.
- 1631 (c)(i) In an action described in Subsection (6)(a), upon motion by the lot owner made
- 1632 in accordance with Subsection (6)(b), notice to the association, and a hearing in
- 1633 which the court finds a likelihood that the association failed to comply with a
- 1634 provision of this section, the court shall order the association to immediately
- 1635 comply with the provision.
- 1636 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
- 1637 after the day on which the lot owner files the motion.
- 1638 (d) At least 10 days before the day on which a lot owner files an action described in
- 1639 Subsection (6)(a), the lot owner shall deliver a written notice to the association that
- 1640 states:
- 1641 (i) the lot owner's name, address, telephone number, and email address;
- 1642 (ii) each requirement of this section with which the association has failed to comply;
- 1643 (iii) a demand that the association comply with each requirement with which the
- 1644 association has failed to comply; and
- 1645 (iv) a date by which the association shall remedy the association's noncompliance
- 1646 that is at least 10 days after the day on which the lot owner delivers the notice to
- 1647 the association.
- 1648 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association.
- 1649 (b) The provisions of this section apply regardless of any conflicting provision in Title
- 1650 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 1651 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the
- 1652 lot owner has under this section.
- 1653 (9) An association is not liable for identifying or providing a document in error, if the
- 1654 association identified or provided the erroneous document in good faith.
- 1655 Section 21. Section **57-8a-232** is amended to read:
- 1656 **57-8a-232 . Sale of common areas.**
- 1657 (1) As used in this section:
- 1658 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
- 1659 (b) "Under threat of condemnation" means the same as that term is defined in Section
- 1660 78B-6-520.3.

1661 ~~[(1)]~~ (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in
1662 the governing documents, an association may by an affirmative vote of at least 67% of
1663 the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose
1664 of all or part of the common areas.

1665 ~~[(2)]~~ (3) An affirmative vote described in Subsection ~~[(1)]~~ (2) is binding upon all lot owners,
1666 and each lot owner shall execute and deliver the appropriate instruments and perform all
1667 acts as necessary to effect the sale, conveyance, transfer, or other disposition of the
1668 common areas.

1669 ~~[(3)]~~ (4) The general easement of ingress, egress, and use of the common areas and facilities
1670 granted to an association and lot owners through recorded governing documents is
1671 extinguished in any portion of the common areas the association sells, conveys,
1672 transfers, or otherwise disposes of, if:

1673 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
1674 portion of the common areas, comply with:
1675 (i) the provisions of this section; and
1676 (ii) Section 10-20-809 or 17-79-709; and
1677 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
1678 areas results in a person other than the association owning the portion of the common
1679 areas.

1680 ~~[(4)]~~ (5) This section applies to an association regardless of when the association is created.

1681 ~~[(5)]~~ (6) A declarant may not sell or otherwise encumber any part of the common areas
1682 during the period of administrative control, except:

1683 (a) [-]as provided in Section 10-20-809 or 17-79-709[-] ; or
1684 (b) if the declarant sells or otherwise encumbers a part of the common areas and
1685 facilities that are under threat of condemnation to a condemnor.

1686 ~~[(6)]~~ (7) Unless otherwise prohibited by the association's governing documents, an
1687 authorized representative of the association may act as attorney-in-fact for the
1688 association's lot owners in executing a sale, conveyance, transfer, or other disposition of
1689 the common areas following an affirmative vote described in Subsection ~~[(1)]~~ (2).

1690 Section 22. **Effective Date.**

1691 This bill takes effect on May 6, 2026.