

R. Neil Walter proposes the following substitute bill:

HOA Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions relating to the Office of the Homeowners' Association Ombudsman.

Highlighted Provisions:

This bill:

- requires that the Office of the Homeowners' Association Ombudsman (office) make public each advisory opinion the office issues;
- requires that the office provide a list of statutes and frequently asked questions that impact persons under the jurisdiction of a homeowners' association;
- requires that the office publish educational materials on the office's website;
- requires that the office direct individuals making a phone call to the office to resources the office creates;
- amends the circumstances under which a lot owner may continue renting a lot in a homeowners' association without a fee;
- provides that a homeowners' association's declaration may not contain certain provisions;
- renames an association transfer fee to an administrative setup fee;
- provides that an administrative setup fee may not exceed \$300;
- establishes the conditions under which Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act, applies;
- amends provisions related to the contact information a homeowners' association registers with the Department of Commerce;
- amends provisions relating to the fee a homeowners' association may impose; and
- makes technical changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

- 33 **13-79-103**, as enacted by Laws of Utah 2025, Chapter 226
- 34 **57-1-46**, as last amended by Laws of Utah 2025, Chapter 226
- 35 **57-8-2**, as enacted by Laws of Utah 1963, Chapter 111
- 36 **57-8-3**, as last amended by Laws of Utah 2025, Chapter 291
- 37 **57-8-8.1**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
- 38 **57-8-10**, as last amended by Laws of Utah 2014, Chapter 397
- 39 **57-8-13.1**, as last amended by Laws of Utah 2025, Chapter 226
- 40 **57-8a-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 41 **57-8a-103**, as enacted by Laws of Utah 2004, Chapter 153
- 42 **57-8a-105**, as last amended by Laws of Utah 2025, Chapter 226
- 43 **57-8a-201**, as last amended by Laws of Utah 2025, Chapter 226
- 44 **57-8a-209**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 45 **57-8a-212**, as last amended by Laws of Utah 2013, Chapter 152

46

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

48 Section 1. Section **13-79-103** is amended to read:

49 **13-79-103 . Duties and jurisdiction of office.**

- 50 (1) The attorneys of the office shall:
 - 51 (a) develop and maintain expertise in and understanding of issues and statutes impacting
 - 52 unit owners, lot owners, associations of lot owners, and associations of unit owners;
 - 53 and
 - 54 (b) upon request:
 - 55 (i) analyze a complaint from a lot owner, a unit owner, an association of lot owners,
 - 56 or an association of unit owners regarding the conduct of a lot owner, a unit
 - 57 owner, an association of lot owners, or an association of unit owners; and
 - 58 (ii) provide an advisory opinion as described in Section 13-79-104.
- 59 (2)(a) Neither the office nor the office's attorneys may represent private parties, state
- 60 agencies, local governments, or any other individual or entity in a legal action that
- 61 arises from or relates to a matter addressed in this chapter.
- 62 (b) No attorney of the office may be compelled to testify in a civil action filed

63 concerning the subject matter of any review or advisory opinion arranged through the
64 office.

65 (3) Except as provided in Section 13-75-105, evidence of a review by the office and the
66 opinions, writings, findings, and determinations of the office are not admissible as
67 evidence in a judicial action or arbitration.

68 (4) The office[:]

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

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

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

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

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

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

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

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

85 (ii) a description of the rights and responsibilities provided in Title 57, Chapter 8a,
86 Community Association Act, to a party under the jurisdiction of Title 57, Chapter
87 8a, Community Association Act; and

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

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

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

96 Section 2. Section **57-1-46** is amended to read:

97 **57-1-46 . Transfer fee and reinvestment fee covenants.**

98 (1) As used in this section:

99 (a) "Administrative setup fee" means a fee, charge, or payment that is:100 (i) related to the sale of real property; and101 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:102 (A) a common interest association; or103 (B) a person acting on behalf of the common interest association.104 ~~[(a)]~~ (b) "Association expenses" means expenses incurred by a common interest
105 association for:106 (i) the purchase, ownership, leasing, construction, operation, use, administration,
107 maintenance, improvement, repair, or replacement of association facilities,
108 including expenses for taxes, insurance, operating reserves, capital reserves, and
109 emergency funds;110 (ii) providing, establishing, creating, or managing a facility, activity, service, or
111 program for the benefit of property owners, tenants, common areas, the burdened
112 property, or property governed by the common interest association; or113 (iii) other facilities, activities, services, or programs that are required or permitted
114 under the common interest association's organizational documents.115 ~~[(b)]~~ (c) "Association facilities" means any real property, improvements on real property,
116 or personal property owned, leased, constructed, developed, managed, or used by a
117 common interest association, including common areas.118 ~~[(e)]~~ "Association transfer fee" means a fee, charge, or payment that is:119 ~~[(i)]~~ ~~related to the sale of real property; and]~~120 ~~[(ii)]~~ ~~as a result of a transfer of the real property, is imposed on a buyer or seller by:]~~121 ~~[(A)]~~ ~~a common interest association; or]~~122 ~~[(B)]~~ ~~a person acting on behalf of the common interest association.]~~123 (d) "Burdened property" means the real property that is subject to a reinvestment fee
124 covenant or transfer fee covenant.

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

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

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

128 (f)(i) "Common interest association" means:

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

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

- 131 (C) a nonprofit association.
- 132 (ii) "Common interest association" includes a person authorized by an association,
133 association of unit owners, or nonprofit association.
- 134 (g) "Large master planned development" means an approved development:
- 135 (i) of at least 500 acres or 500 units; and
- 136 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 137 (A) common infrastructure;
- 138 (B) association facilities;
- 139 (C) community programming;
- 140 (D) resort facilities;
- 141 (E) open space; or
- 142 (F) recreation amenities.
- 143 (h) "Nonprofit association" means a nonprofit corporation organized under Title 16,
144 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
145 govern, manage, or maintain burdened property.
- 146 (i) "Organizational documents" means:
- 147 (i) for an association, as that term is defined in Section 57-8a-102, governing
148 documents as that term is defined in Section 57-8a-102;
- 149 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a
150 declaration as that term is defined in Section 57-8-3; and
- 151 (iii) for a nonprofit association:
- 152 (A) a written instrument by which the nonprofit association exercises powers or
153 manages, maintains, or otherwise affects the property under the jurisdiction of
154 the nonprofit association; and
- 155 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
156 rules, and declarations of covenants, conditions, and restrictions.
- 157 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest
158 association:
- 159 (i) upon a buyer or seller of real property;
- 160 (ii) upon and as a result of a transfer of the real property; and
- 161 (iii) that is dedicated to benefiting the common areas, including payment for:
- 162 (A) common planning, facilities, and infrastructure;
- 163 (B) obligations arising from an environmental covenant;
- 164 (C) community programming;

- 165 (D) resort facilities;
166 (E) open space;
167 (F) recreation amenities;
168 (G) charitable purposes; or
169 (H) association expenses.
- 170 (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
171 (i) affects real property; and
172 (ii) obligates a future buyer or seller of the real property to pay to a common interest
173 association, upon and as a result of a transfer of the real property, a fee that is
174 dedicated to benefitting the burdened property, including payment for:
175 (A) common planning, facilities, and infrastructure;
176 (B) obligations arising from an environmental covenant;
177 (C) community programming;
178 (D) resort facilities;
179 (E) open space;
180 (F) recreation amenities;
181 (G) charitable purposes; or
182 (H) association expenses.
- 183 (l) "Transfer fee covenant":
184 (i) means an obligation, however denominated, expressed in a covenant, restriction,
185 agreement, or other instrument or document:
186 (A) that affects real property;
187 (B) that is imposed on a future buyer or seller of real property, other than a person
188 who is a party to the covenant, restriction, agreement, or other instrument or
189 document; and
190 (C) to pay a fee upon and as a result of a transfer of the real property; and
191 (ii) does not include:
192 (A) an obligation imposed by a court judgment, order, or decree;
193 (B) an obligation imposed by the federal government or a state or local
194 government entity; or
195 (C) a reinvestment fee covenant.
- 196 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
197 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be
198 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a

- 199 common interest association that was formed to benefit the burdened property.
- 200 (b) A common interest association may assign or pledge to a lender the right to receive
201 payment under a reinvestment fee covenant if:
- 202 (i) the assignment or pledge is as collateral for a credit facility; and
203 (ii) the lender releases the collateral interest upon payment in full of all amounts that
204 the common interest association owes to the lender under the credit facility.
- 205 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if
206 the reinvestment fee covenant is intended to affect property that is the subject of a
207 previously recorded transfer fee covenant or reinvestment fee covenant.
- 208 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the
209 payment of a fee that exceeds .5% of the value of the burdened property, unless the
210 burdened property is part of a large master planned development.
- 211 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
212 unenforceable unless a notice of reinvestment fee covenant, separate from the
213 reinvestment fee covenant, is recorded in the office of the recorder of each county in
214 which any of the burdened property is located.
- 215 (b) A notice under Subsection (6)(a) shall:
- 216 (i) state the name and address of the common interest association to which the fee
217 under the reinvestment fee covenant is required to be paid;
- 218 (ii) include the notarized signature of the common interest association's authorized
219 representative;
- 220 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
221 land and to bind successors in interest and assigns;
- 222 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
223 of an additional reinvestment fee covenant on the burdened property;
- 224 (v) state the duration of the reinvestment fee covenant;
- 225 (vi) state the purpose of the fee required to be paid under the reinvestment fee
226 covenant; and
- 227 (vii) state that the fee required to be paid under the reinvestment fee covenant is
228 required to benefit the burdened property.
- 229 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
230 requirements of Subsection (6)(b) is valid and effective.
- 231 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
232 2010, is not enforceable after May 31, 2010, unless:

- 233 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
234 the office of the recorder of each county in which any of the burdened property is
235 located; or
- 236 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
237 Subsection (7)(b), is recorded in the office of the recorder of each county in which
238 any of the burdened property is located.
- 239 (b) A notice under Subsection (7)(a)(ii) shall:
- 240 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
241 or transfer fee covenant, or the beneficiary's authorized representative;
- 242 (ii) state the name and current address of the beneficiary under the reinvestment fee
243 covenant or transfer fee covenant;
- 244 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
245 intended to run with the land and to bind successors in interest and assigns; and
246 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 247 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
248 substantially complies with the requirements of Subsection (7)(b) is valid and
249 effective.
- 250 (d) A notice under Subsection (7)(b):
- 251 (i) that is recorded after May 31, 2010, is not enforceable; and
252 (ii) shall comply with the requirements of Section 57-1-47.
- 253 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
254 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
255 not an enforceable amendment.
- 256 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
257 upon:
- 258 (a) an involuntary transfer;
- 259 (b) a transfer that results from a court order;
- 260 (c) a bona fide transfer to a family member of the seller within three degrees of
261 consanguinity who, before the transfer, provides adequate proof of consanguinity;
- 262 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
263 decree of distribution; or
- 264 (e) the transfer of burdened property by a financial institution, except to the extent that
265 the reinvestment fee covenant requires the payment of a common interest
266 association's costs directly related to the transfer of the burdened property, not to

267 exceed \$250.

268 (9)(a) An association [~~transfer fee~~] administrative setup fee imposed on or after May 7,
269 2025, is void and unenforceable unless the association uses the fee only to pay
270 expenses related to the transfer of real property.

271 (b) An association administrative setup fee imposed in accordance with this Subsection
272 (9) may not exceed \$300.

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

274 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
275 covenant; and

276 (b) a majority of voting interests in the association, or a higher percentage if required in
277 the organizational documents, approves the reinvestment fee.

278 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
279 association may set the amount of a reinvestment fee only:

280 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and

281 (b) upon providing notice in accordance with Section 57-8a-214.

282 (12) Members of the association may remove or amend a reinvestment fee by holding a
283 vote at a special meeting:

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

286 (b) at which:

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

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

290 Section 3. Section **57-8-2** is amended to read:

291 **57-8-2 . Applicability of chapter.**

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

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

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

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

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

300 Section 4. Section **57-8-3** is amended to read:

301 **57-8-3 . Definitions.**

302 As used in this chapter:

- 303 (1) "Assessment" means any charge [~~imposed by~~] that the association imposes, including:
- 304 (a) common expenses on or against a unit owner [~~pursuant to~~] in accordance with the
- 305 provisions of the declaration, bylaws, or this chapter; and
- 306 (b) an amount that an association of unit owners assesses to a unit owner under
- 307 Subsection 57-8-43(9)(g).
- 308 (2) "Association of unit owners" or "association" means all of the unit owners:
- 309 (a) acting as a group in accordance with the declaration and bylaws; or
- 310 (b) organized as a legal entity in accordance with the declaration.
- 311 (3) "Building" means a building, containing units, and comprising a part of the property.
- 312 (4) "Commercial condominium project" means a condominium project that has no
- 313 residential units within the project.
- 314 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful
- 315 amendments to the declaration means:
- 316 (a) the land included within the condominium project, whether leasehold or in fee
- 317 simple;
- 318 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
- 319 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 320 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 321 (d) the premises for lodging of janitors or persons in charge of the property;
- 322 (e) installations of central services such as power, light, gas, hot and cold water, heating,
- 323 refrigeration, air conditioning, and incinerating;
- 324 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
- 325 apparatus and installations existing for common use;
- 326 (g) such community and commercial facilities as may be provided for in the declaration;
- 327 and
- 328 (h) all other parts of the property necessary or convenient to its existence, maintenance,
- 329 and safety, or normally in common use.
- 330 (6) "Common expenses" means:
- 331 (a) all sums lawfully assessed against the unit owners;
- 332 (b) expenses of administration, maintenance, repair, or replacement of the common areas
- 333 and facilities;
- 334 (c) expenses agreed upon as common expenses by the association of unit owners; and

- 335 (d) expenses declared common expenses by this chapter, or by the declaration or the
336 bylaws.
- 337 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
338 to the declaration, means the balance of all income, rents, profits, and revenues from the
339 common areas and facilities remaining after the deduction of the common expenses.
- 340 (8) "Condominium" means the ownership of a single unit in a multiunit project together
341 with an undivided interest in common in the common areas and facilities of the property.
- 342 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
343 accordance with Section 57-8-13.
- 344 (10)(a) "Condominium project" means a real estate condominium project; a plan or
345 project whereby two or more units, whether contained in existing or proposed
346 apartments, commercial or industrial buildings or structures, or otherwise, are
347 separately offered or proposed to be offered for sale.
- 348 (b) ~~[-]~~ "Condominium project" ~~[also means]~~ includes the property when the context so
349 requires.
- 350 (11)(a) "Condominium unit" means a unit together with the undivided interest in the
351 common areas and facilities appertaining to that unit.
- 352 (b) ~~[-Any reference in this chapter to a condominium unit]~~ "Condominium unit" includes
353 both a physical unit together with ~~[its]~~ the physical unit's appurtenant undivided
354 interest in the common areas and facilities and a time period unit together with ~~[its]~~
355 the time period unit's appurtenant undivided interest, unless the ~~[reference]~~ term is
356 specifically limited to a time period unit.
- 357 (12)(a) "Contractible condominium" means a condominium project from which one or
358 more portions of the land within the project may be withdrawn in accordance with
359 provisions of the declaration and of this chapter.
- 360 (b) ~~[-If]~~ "Contractible condominium" does not include a condominium project where the
361 withdrawal described in Subsection (12)(a) can occur only by the expiration or
362 termination of one or more leases~~[-, then the condominium project is not a~~
363 ~~contractible condominium within the meaning of this chapter.]~~ .
- 364 (13) "Convertible land" means a building site which is a portion of the common areas and
365 facilities, described by metes and bounds, within which additional units or limited
366 common areas and facilities may be created in accordance with this chapter.
- 367 (14) "Convertible space" means a portion of the structure within the condominium project,
368 which portion may be converted into one or more units or common areas and facilities,

- 369 including limited common areas and facilities in accordance with this chapter.
- 370 (15)(a) "Declarant" means all persons who execute the declaration or on whose behalf
371 the declaration is executed.~~[From the time of the recordation of any amendment to~~
372 ~~the declaration expanding an expandable condominium, all persons who execute that~~
373 ~~amendment or on whose behalf that amendment is executed shall also come within~~
374 ~~this definition.]~~
- 375 (b) ~~[Any successors of the persons referred to in this subsection who come]~~ "Declarant"
376 includes:
- 377 (i) a person that executes an amendment to the declaration expanding an expandable
378 condominium;
- 379 (ii) a person on whose behalf a person executes an amendment described in
380 Subsection (15)(b)(i); and
- 381 (iii) a successor of a person described in Subsection (15)(a) that comes to stand in the
382 same relation to the condominium project as [their predecessors also come within
383 this definition] the person's predecessor.
- 384 (16) "Declaration" means the instrument by which the property is submitted to the
385 provisions of this [act] chapter, as [it] the declaration from time to time may be lawfully
386 amended.
- 387 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 388 (18) "Expandable condominium" means a condominium project to which additional land or
389 an interest in [it] the condominium project may be added in accordance with the
390 declaration and this chapter.
- 391 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 392 (20) "Governing documents":
- 393 (a) means a written instrument by which an association of unit owners may:
- 394 (i) exercise powers; or
- 395 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
396 association of unit owners; and
- 397 (b) includes:
- 398 (i) articles of incorporation;
- 399 (ii) bylaws;
- 400 (iii) a plat;
- 401 (iv) a declaration of covenants, conditions, and restrictions; and
- 402 (v) rules of the association of unit owners.

- 403 (21) "Independent third party" means a person that:
404 (a) is not related to the unit owner;
405 (b) shares no pecuniary interests with the unit owner; and
406 (c) purchases the unit in good faith and without the intent to defraud a current or future
407 lienholder.
- 408 (22) "Judicial foreclosure" means a foreclosure of a unit:
409 (a) for the nonpayment of an assessment;
410 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
411 (c) as provided in this chapter.
- 412 (23)(a) "Leasehold condominium" means a condominium project in all or any portion of
413 which each unit owner owns an estate for years in [~~his~~] the unit owner's unit, or in the
414 land upon which that unit is situated, or both, with all those leasehold interests to
415 expire naturally at the same time.
- 416 (b) [~~A~~] "Leasehold condominium" does not include a condominium project including
417 leased land, or an interest in the land, upon which no units are situated or to be
418 situated[~~is not a leasehold condominium within the meaning of this chapter~~].
- 419 (24) "Limited common areas and facilities" means [~~those~~] the common areas and facilities
420 designated in the declaration as reserved for use of a certain unit or units to the exclusion
421 of the other units.
- 422 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
423 declaration or lawful amendments to the declaration, means the owners of more than
424 50% in the aggregate in interest of the undivided ownership of the common areas and
425 facilities.
- 426 (26) "Management committee" means the committee as provided in the declaration charged
427 with and having the responsibility and authority to make and to enforce all of the
428 reasonable rules covering the operation and maintenance of the property.
- 429 (27) "Management committee meeting" means a gathering of a management committee,
430 whether in person or by means of electronic communication, at which the management
431 committee can take binding action.
- 432 (28) "Manager" means a person with whom the management committee enters into a
433 contract for the person to:
434 (a) provide administrative or financial services for the association; or
435 (b) act on behalf of the association in accordance with this chapter.
- 436 [~~(28)~~] (29)(a) "Means of electronic communication" means an electronic system that

437 allows individuals to communicate orally in real time.

438 (b) "Means of electronic communication" includes:

439 (i) web conferencing;

440 (ii) video conferencing; and

441 (iii) telephone conferencing.

442 ~~[(29)]~~ (30) "Mixed-use condominium project" means a condominium project that has both
443 residential and commercial units in the condominium project.

444 ~~[(30)]~~ (31) "Nonjudicial foreclosure" means the sale of a unit:

445 (a) for the nonpayment of an assessment;

446 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
447 57-1-34; and

448 (c) as provided in this chapter.

449 ~~[(31)]~~ (32) "Par value" means a number of dollars or points assigned to each unit by the
450 declaration~~[-]~~ in accordance with the following:

451 (a) ~~[-Substantially]~~ the declaration shall assign substantially identical units ~~[shall be~~
452 ~~assigned-]~~the same par value~~[-]~~ ;

453 (b) ~~[-but]~~ units located at substantially different heights above the ground, or having
454 substantially different views, or having substantially different amenities or other
455 characteristics that might result in differences in market value, may be considered
456 substantially identical ~~[within the meaning of this subsection]~~ for purposes of
457 Subsection (32)(a);

458 (c) ~~[-If]~~ if the declaration states par value ~~[is stated-]~~in terms of dollars~~[-, that statement]~~ ;

459 (i) the dollar amount may not be considered to reflect or control the sales price or fair
460 market value of ~~[any]~~ a unit~~[-]~~ ; and

461 (ii) ~~[-no]~~ an opinion, an appraisal, or a fair market transaction at a different figure may
462 not affect:

463 (A) ~~[-]~~the par value of ~~[any]~~ a unit~~[-]~~ ; or

464 (B) ~~[-any]~~ an undivided interest in the common areas and facilities, voting rights in
465 the unit owners' association, liability for common expenses, or right to
466 common profits, ~~[assigned]~~ that the declaration assigns on the basis ~~[thereof]~~ of
467 the par value.

468 ~~[(32)]~~ (33) "Period of administrative control" means the period of control described in
469 Subsection 57-8-16.5(1).

470 ~~[(33)]~~ (34) "Person" means an individual, corporation, partnership, association, trustee, or

471 other legal entity.

472 ~~[(34)]~~ (35) "Political sign" means ~~[any]~~ a sign or document that advocates for:

473 (a) the election or defeat of a candidate for public office; or

474 (b) the approval or defeat of a ballot proposition.

475 ~~[(35)]~~ (36) "Property" means:

476 (a) ~~[-]~~the land, whether leasehold or in fee simple~~[-]~~ ;

477 (b) ~~[-]~~the building, if any~~[-]~~ ;

478 (c) ~~[-]~~all improvements and structures ~~[thereon,]~~ on the land;

479 (d) ~~[-]~~all easements, rights, and appurtenances belonging ~~[thereto,]~~ to the land; and

480 (e) ~~[-]~~all articles of personal property intended for use in connection ~~[therewith]~~ with the
481 land.

482 ~~[(36)]~~ (37) "Protected area" means the same as that term is defined in Section 53-29-306.

483 ~~[(37)]~~ (38) "Record," "recording," "recorded," and "recorder" ~~[have the meaning stated]~~
484 mean the same as the terms are defined in Chapter 3, Recording of Documents.

485 ~~[(38)]~~ (39) "Rentals" or "rental unit" means:

486 (a) a unit that:

487 (i) is not owned by an entity or trust; and

488 (ii) ~~[is occupied by]~~an individual occupies while the unit owner is not occupying the
489 unit as the unit owner's primary residence; or

490 (b) an occupied unit ~~[owned by]~~ that an entity or trust owns, regardless of who occupies
491 the unit.

492 ~~[(39)]~~ (40)(a) "Size" means the number of cubic feet, or the number of square feet of

493 ground or floor space, within ~~[each]~~ a unit as computed by reference to the record of
494 survey map and rounded off to a whole number.

495 (b) ~~[-Certain spaces-]~~ "Size" does not include the following within ~~[the units]~~ a unit, if
496 when making the calculation described in Subsection (40)(a), the following are
497 omitted or partially discounted by the use of a ratio, the same basis of calculation is
498 employed for all units in the condominium project, and that basis is described in the
499 declaration:~~[including attic, basement, or garage space may be omitted from the~~
500 ~~calculation or be partially discounted by the use of a ratio, if the same basis of~~
501 ~~calculation is employed for all units in the condominium project and if that basis is~~
502 ~~described in the declaration].~~

503 (i) an attic;

504 (ii) a basement; or

- 505 (iii) a garage space.
- 506 [(40)] (41) "Time period unit" means an annually recurring part or parts of a year specified
507 in the declaration as a period for which a unit is separately owned and includes a
508 timeshare estate as that term is defined in Section 57-19-2.
- 509 [(41)] (42) "Unconstructed unit" means a unit that:
- 510 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
511 a building; and
- 512 (b) is not constructed.
- 513 [(42)] (43)(a) "Unit" means a separate part of the property intended for any type of
514 independent use, which is created by the recording of a declaration and a
515 condominium plat that describes the unit boundaries.
- 516 (b) "Unit" includes:
- 517 (i) one or more rooms or spaces located in one or more floors or a portion of a floor
518 in a building[-] ; and
- 519 [(e)] (ii) [~~"Unit" includes~~] a convertible space, in accordance with Subsection
520 57-8-13.4(3).
- 521 [(43)] (44) "Unit number" means the number, letter, or combination of numbers and letters
522 designating the unit in the declaration and in the record of survey map.
- 523 [(44)] (45) "Unit owner" means the person or persons owning a unit in fee simple and an
524 undivided interest in the fee simple estate of the common areas and facilities in the
525 percentage specified and established in the declaration or, in the case of a leasehold
526 condominium project, the person or persons whose leasehold interest or interests in the
527 condominium unit extend for the entire balance of the unexpired term or terms.
- 528 [(45)] (46) "Water wise landscaping" means:
- 529 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
- 530 (i) remain healthy with minimal irrigation once established; or
- 531 (ii) be maintained without the use of overhead spray irrigation;
- 532 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
533 water application; or
- 534 (c) use of other landscape design features that:
- 535 (i) minimize the landscape's need for supplemental water from irrigation;
- 536 (ii) reduce the landscape area dedicated to lawn or turf; or
- 537 (iii) encourage vegetative coverage.
- 538 [(46)] (47) "Water wise plant material" means a plant material suited to water wise

539 landscaping.

540 Section 5. Section **57-8-8.1** is amended to read:

541 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**

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

544 (b) A rule may:

545 (i) vary according to the level and type of service that the association of unit owners
546 provides to unit owners;

547 (ii) differ between residential and nonresidential uses; or

548 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
549 reasonable limit on the number of individuals that may use the common areas and
550 facilities as the rental unit tenant's guest or as the unit owner's guest.

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

555 (b) A rule may:

556 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
557 purposes other than attending an association meeting or managing the rental unit;

558 (ii) if the rental unit owner retains the right to use the association of unit owners'
559 common areas and facilities, even occasionally:

560 (A) charge a rental unit owner a fee to use the common areas and facilities; and

561 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
562 reasonable limit on the number of individuals that may use the common areas
563 and facilities as the rental unit tenant's guest or as the unit owner's guest; or

564 (iii) include a provision in the association of unit owners' governing documents that:

565 (A) requires each tenant of a rental unit to abide by the terms of the governing
566 documents; and

567 (B) holds the tenant and the rental unit owner jointly and severally liable for a
568 violation of a provision of the governing documents.

569 (3)(a) Except as provided in Subsection (3)(b), a rule may not interfere with the freedom
570 of a unit owner to determine the composition of the unit owner's household.

571 (b) An association of unit owners may:

572 (i) require that all occupants of a dwelling be members of a single housekeeping unit;

- 573 or
- 574 (ii) limit the total number of occupants permitted in each residential dwelling on the
- 575 basis of the residential dwelling's:
- 576 (A) size and facilities; and
- 577 (B) fair use of the common areas and facilities.
- 578 (4) Subject to Subsection (14), an association of unit owners may by rule:
- 579 (a) unless otherwise provided in the declaration:
- 580 (i) regulate the use, maintenance, repair, replacement, and modification of common
- 581 areas and facilities; and
- 582 (ii) impose and receive any payment, fee, or charge for:
- 583 (A) the use, rental, or operation of the common areas, except limited common
- 584 areas and facilities; or
- 585 (B) a service provided to a unit owner;
- 586 (b) impose, for a late payment of an assessment:
- 587 (i) a late fee, not to exceed the greater of:
- 588 (A) 10% of the assessment amount; or
- 589 (B) \$50; and
- 590 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 591 (c) provide for the indemnification of the association of unit owners' officers and
- 592 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
- 593 Corporation Act.
- 594 (5)(a) Except as provided in Subsection (5)(b), a rule may not prohibit a unit owner from
- 595 installing a personal security camera immediately adjacent to the entryway, window,
- 596 or other outside entry point of the owner's condominium unit.
- 597 (b) A rule may prohibit a unit owner from installing a personal security camera in a
- 598 common area not physically connected to the owner's unit.
- 599 (6)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
- 600 sign, symbol, or decoration inside the owner's condominium unit.
- 601 (b) An association may adopt a reasonable time, place, and manner restriction with
- 602 respect to a display that is visible from the exterior of a unit.
- 603 (7)(a) A rule may not:
- 604 (i) prohibit a unit owner from displaying in a window of the owner's condominium
- 605 unit:
- 606 (A) a for-sale sign;

- 607 (B) a political sign; or
608 (C) a flag; or
609 (ii) except as provided Subsection (7)(b), regulate the content or establish specific
610 design criteria for the content of a political sign or flag.
611 (b) A rule may restrict a political sign or flag that contains obscene, profane, or
612 commercial content.
613 (c) A rule may reasonably regulate the size and time, place, and manner of posting a
614 for-sale sign, a political sign, or a flag.
- 615 (8) For any area for which one or more unit owners, but not the association, are responsible
616 for landscape maintenance, the association of unit owners:
617 (a) shall adopt rules supporting water wise landscaping, including:
618 (i) low water use requirements on lawns during drought conditions;
619 (ii) design criterion for water wise landscaping; and
620 (iii) limiting permissible plant material to specific water wise plant material;
621 (b) may not prohibit low water use on lawns during drought conditions; and
622 (c) except where reasonably necessary for erosion control, may not prohibit or restrict
623 the conversion of a grass park strip of less than 8 feet wide to water-efficient
624 landscaping.
- 625 (9) A rule may restrict a sex offender from accessing a protected area that is maintained,
626 operated, or owned by the association, subject to the exceptions described in Subsection
627 53-29-306(3).
- 628 (10)(a) Except as provided in this Subsection (10), a rule may not prohibit a unit owner
629 from making modifications, consistent with industry standards, for radon mitigation.
630 (b) Subsection (10)(a) does not apply if the modifications would violate:
631 (i) a local land use ordinance;
632 (ii) a building code;
633 (iii) a health code; or
634 (iv) a fire code.
635 (c) A rule governing the placement or external appearance of modifications may apply to
636 modifications for radon mitigation unless the rule would:
637 (i) unreasonably interfere with the modifications' functionality; or
638 (ii) add more than 40% of the modifications' original cost to the cost of installing the
639 modifications.
640 (d) A rule may require that a unit owner making modifications related to radon

- 641 mitigation:
- 642 (i) demonstrate or provide proof of radon contamination; and
- 643 (ii) provide proof that the modifications and any related construction will be
- 644 performed by a licensed person.
- 645 (11)(a) Except as provided in Subsection (11)(b), a rule may not restrict an individual
- 646 from parking an operable vehicle in a driveway where the vehicle has a legal right to
- 647 park, unless the vehicle is:
- 648 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
- 649 (ii) a motor home, as that term is defined in Section 13-20-2; or
- 650 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2.
- 651 (b) A rule may require that an individual park in a garage appurtenant to a unit before
- 652 parking elsewhere.
- 653 (12)(a) Except as provided in Subsection (12)(b), a rule may not restrict an individual
- 654 from operating a vehicle that is not a commercial vehicle, as that term is defined in
- 655 Section 72-9-102, in conformance with state traffic laws.
- 656 (b) A rule may enforce a reduced speed limit on a private roadway.
- 657 (13) A rule may not:
- 658 (a) impose a requirement or restriction on the use of a public street, as that term is
- 659 defined in Section 10-20-102; or
- 660 (b) restrict an individual from:
- 661 (i) installing, displaying, or storing an item that the individual has a legal right to
- 662 store if the item is not visible to an individual standing outside the unit; or
- 663 (ii) hiring a contractor or worker solely because the contractor or worker:
- 664 (A) is not on the association's preferred vendor list; or
- 665 (B) does not have a professional or occupational license, unless the license is
- 666 required by law.
- 667 (14) A rule shall be reasonable.
- 668 (15) A declaration, or an amendment to a declaration, may vary any of the requirements of
- 669 Subsections (1) through (5), except Subsection (1)(b)(ii).
- 670 (16) This section applies to an association of unit owners regardless of when the association
- 671 of unit owners is created.
- 672 (17) Before imposing a fee under Subsection (4), an association of unit owners shall:
- 673 (a) adopt a fee schedule by rule that describes the amount of each fee the association of
- 674 unit owners shall impose; and

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

676 (18) A fee imposed in accordance with the fee schedule the association of unit owners
 677 adopts under Subsection (17)(a) shall be paid directly to the association.

678 Section 6. Section **57-8-10** is amended to read:

679 **57-8-10 . Contents of declaration.**

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

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

687 (2)(a) For every condominium project, the declaration shall:

688 (i) include a description of the land or interests in real property included within the
 689 project;

690 (ii) contain a description of any buildings that states the number of storeys and
 691 basements, the number of units, the principal materials of which the building is or
 692 is to be constructed, and a description of all other significant improvements
 693 contained or to be contained in the project;

694 (iii) contain the unit number of each unit, the square footage of each unit, and any
 695 other description or information necessary to properly identify each unit;

696 (iv) describe the common areas and facilities of the project;~~and]~~

697 (v) describe any limited common areas and facilities and state to which units the use
 698 of the common areas and facilities is reserved~~[-]~~ ; and

699 (vi) include a statement that the project is:

700 (A) designated as a condominium project; and

701 (B) governed by this chapter.

702 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other
 703 apparatus intended to serve a single unit, but located outside the boundaries of the
 704 unit, shall constitute a limited common area and facility appertaining to that unit
 705 exclusively, regardless of whether [~~or not~~]the declaration makes such a provision.

706 (c) The condominium plat recorded with the declaration may provide or supplement the
 707 information required under Subsections (2)(a) and (b).

708 (d)(i) The declaration shall include the percentage or fraction of undivided interest in

- 709 the common areas and facilities appurtenant to each unit and the unit owner for all
710 purposes, including voting, derived and allocated in accordance with Subsection
711 57-8-7(2).
- 712 (ii) If any use restrictions are to apply, the declaration shall state the purposes for
713 which the units are intended and the use restrictions that apply.
- 714 (iii)(A) The declaration shall include the name and address of a person to receive
715 service of process on behalf of the condominium project, in the cases provided
716 by this chapter.
- 717 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or
718 shall maintain a place of business within, this state.
- 719 (iv) The declaration shall describe the method by which the declaration may be
720 amended consistent with this chapter.
- 721 (v) Any further matters in connection with the property may be included in the
722 declaration, which the person or persons executing the declaration may consider
723 desirable, consistent with this chapter.
- 724 [~~(vi) The declaration shall contain a statement of intention that this chapter applies to~~
725 ~~the property.~~]
- 726 (e) The initial recorded declaration shall include:
- 727 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
728 and
- 729 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
730 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the
731 unit and all improvements to the unit for the purpose of securing payment of
732 assessments under the terms of the declaration."
- 733 (3)(a) If the condominium project contains any convertible land, the declaration shall:
- 734 (i) contain a legal description by metes and bounds of each area of convertible land
735 within the condominium project;
- 736 (ii) state the maximum number of units that may be created within each area of
737 convertible land;
- 738 (iii) state, with respect to each area of convertible land, the maximum percentage of
739 the aggregate land and floor area of all units that may be created and the use of
740 which will not or may not be restricted exclusively to residential purposes, unless
741 none of the units on other portions of the land within the project are restricted
742 exclusively to residential use;

- 743 (iv) state the extent to which any structure erected on any convertible land will be
744 compatible with structures on other portions of the land within the condominium
745 project in terms of quality of construction, the principal materials to be used, and
746 architectural style;
- 747 (v) describe all other improvements that may be made on each area of convertible
748 land within the condominium project;
- 749 (vi) state that any units created within each area of convertible land will be
750 substantially identical to the units on other portions of the land within the project
751 or describe in detail what other type of units may be created; and
- 752 (vii) describe the declarant's reserved right, if any, to create limited common areas
753 and facilities within any convertible land in terms of the types, sizes, and
754 maximum number of the limited common areas within each convertible land.
- 755 (b) The condominium plat recorded with the declaration may provide or supplement the
756 information required under Subsection (3)(a).
- 757 (4)(a) If the condominium project is an expandable condominium project, the
758 declaration shall:
- 759 (i) contain an explicit reservation of an option to expand the project;
- 760 (ii) include a statement of any limitations on the option to expand, including a
761 statement as to whether the consent of any unit owners is required and, a
762 statement as to the method by which consent shall be ascertained, or a statement
763 that there are no such limitations;
- 764 (iii) include a time limit, not exceeding seven years after the day on which the
765 declaration is recorded, upon which the option to expand the condominium project
766 expires and a statement of any circumstances that will terminate the option before
767 expiration of the specified time limits;
- 768 (iv) contain a legal description by metes and bounds of all land that may be added to
769 the condominium project, which is known as additional land;
- 770 (v) state:
- 771 (A) if any of the additional land is added to the condominium project, whether all
772 of it or any particular portion of it must be added;
- 773 (B) any limitations as to what portions may be added; or
- 774 (C) a statement that there are no such limitations;
- 775 (vi) include a statement as to whether portions of the additional land may be added to
776 the condominium project at different times, including any limitations fixing the

777 boundaries of those portions by legal descriptions setting forth the metes and
778 bounds of these lands and regulating the order in which [they] the lands may be
779 added to the condominium project;

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

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

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

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

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

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

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

808 (xii) contain a statement that any units created on any portion of the additional land
809 added to the condominium project will be substantially identical to the units on
810 the land originally within the project, a statement of any limitations on what types

- 811 of units may be created on the additional land, or a statement that no assurances
812 are made in that regard; and
- 813 (xiii) describe the declarant's reserved right, if any, to create limited common areas
814 and facilities within any portion of the additional land added to the condominium
815 project, in terms of the types, sizes, and maximum number of limited common
816 areas within each portion, or state that no assurances are made in those regards.
- 817 (b) The condominium plat recorded with the declaration may provide or supplement the
818 information required under Subsections (4)(a)(iv) through (a)(vii) and (a)(x) through
819 (a)(xiii).
- 820 (5)(a) If the condominium project is a contractible condominium, the declaration shall:
- 821 (i) contain an explicit reservation of an option to contract the condominium project;
822 (ii) contain a statement of any limitations on the option to contract, including a
823 statement regarding whether the consent of any unit owners is required, and if so,
824 a statement regarding the method by which this consent shall be ascertained, or a
825 statement that there are no such limitations;
- 826 (iii) state the time limit, not exceeding seven years after the day on which the
827 declaration is recorded, upon which the option to contract the condominium
828 project expires, together with a statement of any circumstances that will terminate
829 the option before expiration of the specified time limit;
- 830 (iv) include a legal description by metes and bounds of all land that may be
831 withdrawn from the condominium project, which is known as withdrawable land;
- 832 (v) include a statement as to whether portions of the withdrawable land may be
833 withdrawn from the condominium project at different times, together with any
834 limitations fixing the boundaries of those portions by legal descriptions setting
835 forth the metes and bounds and regulating the order in which they may be
836 withdrawn from the condominium project; and
- 837 (vi) include a legal description by metes and bounds of all of the land within the
838 condominium project to which the option to contract the project does not extend.
- 839 (b) The condominium plat recorded with the declaration may provide or supplement the
840 information required under Subsections (5)(a)(iv) through (vi).
- 841 (6)(a) If the condominium project is a leasehold condominium, the declaration shall,
842 with respect to any ground lease or other leases the expiration or termination of
843 which will or may terminate or contract the condominium project:
- 844 (i) include recording information enabling the location of each lease in the official

- 845 records of the county recorder;
- 846 (ii) include the date upon which each lease is due to expire;
- 847 (iii) state whether any land or improvements will be owned by the unit owners in fee
848 simple;
- 849 (iv) if there is to be fee simple ownership of any land or improvement, as described in
850 Subsection (6)(a)(iii), include:
- 851 (A) a description of the land or improvements, including a legal description by
852 metes and bounds of the land; or
- 853 (B) a statement of [~~any rights~~] the right the unit owners have to remove [~~these~~] the
854 improvements described in Subsection (6)(a)(iv)(A) within a reasonable time
855 after the expiration or termination of the lease or leases involved, or a
856 statement that [~~they shall have no such rights~~] the unit owners do not have that
857 right; and
- 858 (v) include a statement of the [~~rights~~] right the unit owners have to extend or renew
859 any of the leases or to redeem or purchase any of the reversions, or a statement
860 that [~~they have no such rights~~] the unit owners do not have that right.
- 861 (b) After the recording of the declaration, a lessor who executed the declaration, or the
862 lessor's successor in interest, may not terminate any part of the leasehold interest of [
863 ~~any~~] a unit owner who:
- 864 (i) makes timely payment of the unit owner's share of the rent to the persons
865 designated in the declaration for the receipt of the rent; and
- 866 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
867 the lease if the covenants were violated.
- 868 (7)(a)(i) If the condominium project contains time period units, the declaration shall
869 also contain the location of each condominium unit in the calendar year.
- 870 (ii) [~~This information~~] The information described in Subsection (7)(a)(i) shall be set
871 out in a fourth column of the exhibit or schedule referred to in Subsection
872 57-8-7(2), if the exhibit or schedule accompanies the declaration.
- 873 (b) The declaration shall also put timeshare owners on notice that tax notices will be sent
874 to the management committee, not each timeshare owner.
- 875 (c) The time period units created with respect to any given physical unit shall be such
876 that the aggregate of the durations involved constitute a full calendar year.
- 877 (8)(a) The declaration, bylaws, and condominium plat shall be duly executed and
878 acknowledged by all of the owners and any lessees of the land [~~which~~] that is [~~made~~]

- 879 subject to this chapter.
- 880 (b) As used in Subsection (8)(a), "owners and lessees" does not include~~[, in their~~
- 881 ~~respective capacities,]~~ :
- 882 (i) ~~[-any]~~ a mortgagee~~[,]~~ ;
- 883 (ii) ~~[-any]~~ a trustee or beneficiary under a deed of trust~~[,]~~ ;
- 884 (iii) ~~[-]~~any other lien holder~~[,]~~ ;
- 885 (iv) ~~[-any]~~ a person ~~[having]~~ that has an equitable interest under ~~[any]~~ a contract for the
- 886 sale or lease of a condominium unit~~[,]~~ ; or
- 887 (v) ~~[-any]~~ a lessee whose leasehold interest does not extend to any portion of the
- 888 common areas and facilities.
- 889 (9)(a) Except as provided in Subsection (9)(b), a declaration, or an amendment to a
- 890 declaration, may not vary the requirements of Section 57-8-8.1 or Subsection
- 891 57-8-8.1(1)(b)(ii).
- 892 (b) A declaration, or an amendment to a declaration may vary the requirements of
- 893 Subsections 57-8-8.1(1)(a), (b)(i) and (iii), and 57-8-8.1(2) through (5).
- 894 Section 7. Section **57-8-13.1** is amended to read:
- 895 **57-8-13.1 . Registration with Department of Commerce.**
- 896 (1) As used in this section, "department" means the Department of Commerce created in
- 897 Section 13-1-2.
- 898 (2) No later than 90 days after the recording of a declaration, an association of unit owners
- 899 shall register with the department in the manner ~~[established by]~~ that the department
- 900 establishes.
- 901 (3) The department shall require an association of unit owners registering as required in this
- 902 section to provide with each registration:
- 903 (a) the name and address of the association of unit owners;
- 904 (b) the name, ~~[address,]~~telephone number, and, if applicable, email address of the
- 905 president of the association of unit owners;
- 906 (c) the name ~~[and address-]~~of each manager or management committee member;
- 907 (d) the name, address, telephone number, and, if the contact person wishes to use email
- 908 or facsimile transmission for communicating payoff information, the email address or
- 909 facsimile number, as applicable, of a primary contact person who has association
- 910 payoff information that a closing agent needs in connection with the closing of a unit
- 911 owner's financing, refinancing, or sale of the owner's unit; and
- 912 (e) a registration fee ~~[set by]~~ that the department sets in accordance with Section

- 913 63J-1-504.
- 914 (4)(a) An association of unit owners shall annually renew the registration of the
915 association of unit owners described in Subsection (2).
- 916 (b) The department may impose and set the amount of a renewal registration fee in
917 accordance with Section 63J-1-504.
- 918 (5) An association of unit owners [~~that has registered under~~] that registers in accordance with
919 Subsection (2) shall submit to the department an update to the association of unit
920 owners' registration information, in the manner [~~established by~~] that the department
921 establishes, within 90 days after the day on which a change in any of the information
922 provided under Subsection (3) occurs.
- 923 (6)(a) During any period of noncompliance with the registration requirement described
924 in Subsection (2) or the requirement for an updated registration described in
925 Subsection (5):
- 926 (i) a lien may not arise under Section 57-8-44; and
927 (ii) an association of unit owners may not enforce an existing lien that arose under
928 Section 57-8-44.
- 929 (b) A period of noncompliance with the registration requirement of Subsection (2) or
930 with the updated registration requirement of Subsection (5) does not begin until after
931 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 932 (c) An association of unit owners that is not in compliance with the registration
933 requirement described in Subsection (2) may end the period of noncompliance by
934 registering with the department in the manner [~~established by~~] that the department
935 establishes under Subsection (2).
- 936 (d) An association of unit owners that is not in compliance with the updated registration
937 requirement described in Subsection (5) may end the period of noncompliance by
938 submitting to the department an updated registration in the manner [~~established by~~]
939 that the department establishes under Subsection (5).
- 940 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit
941 owners ends a period of noncompliance:
- 942 (i) a lien may arise under Section 57-8-44 for any event that:
- 943 (A) occurred during the period of noncompliance; and
944 (B) would have given rise to a lien under Section 57-8-44 had the association of
945 unit owners been in compliance with the registration requirements described in
946 this section; and

- 947 (ii) an association of unit owners may enforce a lien described in Subsection [(6)(e)]
 948 (6)(e)(i) or a lien that existed before the period of noncompliance.
- 949 (f) If an owner's unit is conveyed to an independent third party during a period of
 950 noncompliance described in this Subsection (6):
- 951 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
 952 final is extinguished when the conveyance of the unit becomes final; and
- 953 (ii) an event that occurred before the conveyance of the unit became final, and that
 954 would have given rise to a lien under Section 57-8-44 had the association of unit
 955 owners been in compliance with the registration requirements of this section, may
 956 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
 957 final before the association of unit owners ends the period of noncompliance.
- 958 ~~[(7) The department shall publish educational materials on the department's website
 959 providing, in simple and easy to understand language, a brief overview of state law
 960 governing associations of unit owners, including:]~~
- 961 ~~[(a) a description of the rights and responsibilities provided in this chapter to any party
 962 under the jurisdiction of an association of unit owners; and]~~
- 963 ~~[(b) instructions regarding how an association of unit owners may be organized and
 964 dismantled in accordance with this chapter.]~~
- 965 Section 8. Section **57-8a-102** is amended to read:
- 966 **57-8a-102 . Definitions.**
- 967 As used in this chapter:
- 968 (1)(a) "Assessment" means a charge imposed or levied:
- 969 (i) by the association;
- 970 (ii) on or against a lot or a lot owner; and
- 971 (iii) in accordance with a governing document recorded with the county recorder.
- 972 (b) "Assessment" includes:
- 973 (i) a common expense; and
- 974 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 975 (2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or
 976 other legal entity, any member of which:
- 977 (i) is an owner of a residential lot located within the jurisdiction of the association, as
 978 described in the governing documents; and
- 979 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 980 (A) real property taxes;

- 981 (B) insurance premiums;
- 982 (C) maintenance costs; or
- 983 (D) for improvement of real property not owned by the member.
- 984 (b) "Association" or "homeowner association" does not include an association created
- 985 under Chapter 8, Condominium Ownership Act.
- 986 (3) "Board meeting" means a gathering of a board, whether in person or by means of
- 987 electronic communication, at which the board can take binding action.
- 988 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
- 989 authority to manage the affairs of the association.
- 990 (5) "Common areas" means property that the association:
- 991 (a) owns;
- 992 (b) maintains;
- 993 (c) repairs; or
- 994 (d) administers.
- 995 (6) "Common expense" means costs incurred by the association to exercise any of the
- 996 powers provided for in the association's governing documents.
- 997 (7) "Declarant":
- 998 (a) means the person who executes a declaration and submits [it] the declaration for
- 999 recording in the office of the recorder of the county in which the property described
- 1000 in the declaration is located; and
- 1001 (b) includes the person's successor and assign.
- 1002 (8) "Development right" means any right or combination of rights a declarant reserves in
- 1003 the declaration to:
- 1004 (a) add real estate to an association;
- 1005 (b) create lots, common elements, or limited common elements within an association;
- 1006 (c) subdivide lots or convert lots into common elements; or
- 1007 (d) withdraw real estate from an association.
- 1008 (9) "Director" means a member of the board of directors.
- 1009 (10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 1010 (11) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 1011 (12)(a) "Governing documents" means a written instrument by which the association
- 1012 may:
- 1013 (i) exercise powers; or
- 1014 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the

1015 association.

1016 (b) "Governing documents" includes:

1017 (i) articles of incorporation;

1018 (ii) bylaws;

1019 (iii) a plat;

1020 (iv) a declaration of covenants, conditions, and restrictions; and

1021 (v) rules of the association.

1022 (13) "Independent third party" means a person that:

1023 (a) is not related to the owner of the residential lot;

1024 (b) shares no pecuniary interests with the owner of the residential lot; and

1025 (c) purchases the residential lot in good faith and without the intent to defraud a current
1026 or future lienholder.

1027 (14) "Judicial foreclosure" means a foreclosure of a lot:

1028 (a) for the nonpayment of an assessment;

1029 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and

1030 (c) as provided in Part 3, Collection of Assessments.

1031 (15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

1032 (a) by a person or persons other than the owner; and

1033 (b) for which the owner receives a consideration or benefit, including a fee, service,
1034 gratuity, or emolument.

1035 (16) "Limited common areas" means common areas described in the declaration and
1036 allocated for the exclusive use of one or more lot owners.

1037 (17) "Lot" means:

1038 (a) a lot, parcel, plot, or other division of land:

1039 (i) designated for separate ownership or occupancy; and

1040 (ii)(A) shown on a recorded subdivision plat; or

1041 (B) the boundaries of which are described in a recorded governing document; or

1042 (b)(i) a unit in a condominium association if the condominium association is a part of
1043 a development; or

1044 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
1045 development.

1046 (18) "Manager" means a person with whom the board enters into a contract for the person
1047 to:

1048 (a) provide administrative or financial services for the association; or

- 1049 (b) act on behalf of the association in accordance with this chapter.
- 1050 [~~(18)~~] (19)(a) "Means of electronic communication" means an electronic system that
- 1051 allows individuals to communicate orally in real time.
- 1052 (b) "Means of electronic communication" includes:
- 1053 (i) web conferencing;
- 1054 (ii) video conferencing; and
- 1055 (iii) telephone conferencing.
- 1056 [~~(19)~~] (20) "Mixed-use project" means a project under this chapter that has both residential
- 1057 and commercial lots in the project.
- 1058 [~~(20)~~] (21) "Nonjudicial foreclosure" means the sale of a lot:
- 1059 (a) for the nonpayment of an assessment;
- 1060 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
- 1061 57-1-34; and
- 1062 (c) as provided in Part 3, Collection of Assessments.
- 1063 [~~(21)~~] (22) "Period of administrative control" means the period during which the person who
- 1064 filed the association's governing documents or the person's successor in interest retains
- 1065 authority to:
- 1066 (a) appoint or remove members of the association's board of directors; or
- 1067 (b) exercise power or authority assigned to the association under the association's
- 1068 governing documents.
- 1069 [~~(22)~~] (23) "Political sign" means any sign or document that advocates:
- 1070 (a) the election or defeat of a candidate for public office; or
- 1071 (b) the approval or defeat of a ballot proposition.
- 1072 [~~(23)~~] (24) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 1073 [~~(24)~~] (25) "Rentals" or "rental lot" means:
- 1074 (a) a lot that:
- 1075 (i) is not owned by an entity or trust; and
- 1076 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
- 1077 owner's primary residence;
- 1078 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 1079 (c) an internal accessory dwelling unit as defined in Section 10-21-101 or 17-80-101.
- 1080 [~~(25)~~] (26) "Residential lot" means a lot, the use of which is limited by law, covenant, or
- 1081 otherwise to primarily residential or recreational purposes.
- 1082 [~~(26)~~] (27)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an

- 1083 association that:
- 1084 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
1085 declaration; and
- 1086 (ii) governs:
- 1087 (A) the conduct of persons; or
- 1088 (B) the use, quality, type, design, or appearance of real property or personal
1089 property.
- 1090 (b) "Rule" does not include the internal business operating procedures of a board.
- 1091 ~~[(27)]~~ (28) "Sex offender" means an individual who is a sex offender as described in
1092 Subsection 53-29-202(2)(b) if the offense that the individual committed that resulted in
1093 the individual being a sex offender was committed against an individual younger than 18
1094 years old.
- 1095 ~~[(28)]~~ (29) "Solar energy system" means:
- 1096 (a) a system that is used to produce electric energy from sunlight; and
- 1097 (b) the components of the system described in Subsection ~~[(28)(a)]~~ (29)(a).
- 1098 Section 9. Section **57-8a-103** is amended to read:
- 1099 **57-8a-103 . Scope of chapter -- Applicability of chapter.**
- 1100 (1) Remedies provided in this chapter, by law, or in equity are not mutually exclusive.
- 1101 (2) This chapter applies to an association if:
- 1102 (a) the association's declaration states that this chapter applies; or
- 1103 (b) if the association's declaration does not state whether this chapter or Chapter 8,
1104 Condominium Ownership Act, applies to the lot, the plats within the association are
1105 not designated as condominium plats.
- 1106 (3) This section applies regardless of when an association is created.
- 1107 Section 10. Section **57-8a-105** is amended to read:
- 1108 **57-8a-105 . Registration with Department of Commerce.**
- 1109 (1) As used in this section, "department" means the Department of Commerce created in
1110 Section 13-1-2.
- 1111 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
1112 and restrictions establishing an association, the association shall register with the
1113 department in the manner established by the department.
- 1114 (b) An association existing under a declaration of covenants, conditions, and restrictions
1115 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
1116 department in the manner established by the department.

- 1117 (3) The department shall require an association registering as required in this section to
1118 provide with each registration:
- 1119 (a) the name and address of the association;
 - 1120 (b) the name, [~~address,~~]telephone number, and, if applicable, email address of the chair
1121 of the association board;
 - 1122 (c) contact information for the manager;
 - 1123 (d) the name, address, telephone number, and, if the contact person wishes to use email
1124 or facsimile transmission for communicating payoff information, the email address or
1125 facsimile number, as applicable, of a primary contact person who has association
1126 payoff information that a closing agent needs in connection with the closing of a lot
1127 owner's financing, refinancing, or sale of the owner's lot; and
 - 1128 (e) a registration fee [~~set by~~]the department sets in accordance with Section 63J-1-504.
- 1129 (4)(a) An association shall annually renew the association's registration described in
1130 Subsection (2).
- 1131 (b) The department may impose and set the amount of a renewal registration fee in
1132 accordance with Section 63J-1-504.
- 1133 (5) An association that has registered under Subsection (2) shall submit to the department
1134 an update to the association's registration information, in the manner established by the
1135 department, within 90 days after a change in any of the information provided under
1136 Subsection (3).
- 1137 (6)(a) During any period of noncompliance with the registration requirement described
1138 in Subsection (2) or the requirement for an updated registration described in
1139 Subsection (5):
- 1140 (i) a lien may not arise under Section 57-8a-301; and
 - 1141 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 1142 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1143 with the updated registration requirement of Subsection (5) does not begin until after
1144 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
 - 1145 (c) An association that is not in compliance with the registration requirement described
1146 in Subsection (2) may end the period of noncompliance by registering with the
1147 department in the manner established by the department under Subsection (2).
 - 1148 (d) An association that is not in compliance with the updated registration requirement
1149 described in Subsection (5) may end the period of noncompliance by submitting to
1150 the department an updated registration in the manner established by the department

- 1151 under Subsection (5).
- 1152 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a
 1153 period of noncompliance:
- 1154 (i) a lien may arise under Section 57-8a-301 for any event that:
- 1155 (A) occurred during the period of noncompliance; and
- 1156 (B) would have given rise to a lien under Section 57-8a-301 had the association
 1157 been in compliance with the registration requirements described in this section;
 1158 and
- 1159 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that
 1160 existed before the period of noncompliance.
- 1161 (f) If an owner's residential lot is conveyed to an independent third party during a period
 1162 of noncompliance described in this Subsection (6):
- 1163 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
 1164 lot became final is extinguished when the conveyance of the residential lot
 1165 becomes final; and
- 1166 (ii) an event that occurred before the conveyance of the residential lot became final,
 1167 and that would have given rise to a lien under Section 57-8a-301 had the
 1168 association been in compliance with the registration requirements of this section,
 1169 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
 1170 residential lot becomes final before the association ends the period of
 1171 noncompliance.
- 1172 ~~[(7) The department shall publish educational materials on the department's website
 1173 providing, in simple and easy to understand language, a brief overview of state law
 1174 governing associations, including:]~~
- 1175 ~~[(a) a description of the rights and responsibilities provided in this chapter to any party
 1176 under the jurisdiction of an association; and]~~
- 1177 ~~[(b) instructions regarding how an association may be organized and dismantled in
 1178 accordance with this chapter.]~~
- 1179 ~~[(8)(a) Unless otherwise expressly exempted, this chapter applies to an association that
 1180 registers, or renews or updates the association's registration, with the department
 1181 under this section.]~~
- 1182 ~~[(b) This section applies to an association regardless of when the association is created.]~~
- 1183 Section 11. Section **57-8a-201** is amended to read:
- 1184 **57-8a-201 . Payment of a common expense or assessment -- Late fees.**

- 1185 (1) An owner shall pay the owner's proportionate share of:
1186 (a) the common expenses; and
1187 (b) any other assessments levied by the association.
- 1188 (2) A payment described in Subsection (1) shall be in the amount and at the time
1189 determined by the board of directors in accordance with the terms of the:
1190 (a) declaration; or
1191 (b) bylaws.
- 1192 (3) An assessment levied against a lot is:
1193 (a) a debt of the owner at the time the assessment is made; and
1194 (b) collectible as a debt described in Subsection (3)(a).
- 1195 (4) The board of directors may impose, for a late payment:
1196 (a) a late fee, not to exceed the greater of:
1197 (i) 10% of the assessment amount; or
1198 (ii) \$50; and
1199 (b) interest on the assessment and late fee of up to 1.5% per month.
- 1200 (5) Before imposing a fee under this section, the board of directors shall:
1201 (a) adopt a fee schedule by rule in accordance with Section 57-8a-217 that describes the
1202 amount of fee the board shall impose; and
1203 (b) provide a copy of the fee schedule to each lot owner.
- 1204 (6) A fee imposed in accordance with the fee schedule the board of directors adopts under
1205 Subsection (5)(a) shall be paid directly to the association.
- 1206 Section 12. Section **57-8a-209** is amended to read:
1207 **57-8a-209 . Rental restrictions.**
- 1208 (1)(a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
1209 (i) create restrictions on the number and term of rentals in an association; or
1210 (ii) prohibit rentals in the association.
- 1211 (b) Except as provided in Subsection (1)(c), an association that creates a rental
1212 restriction or prohibition in accordance with Subsection (1)(a) shall create the rental
1213 restriction or prohibition in a recorded declaration of covenants, conditions, and
1214 restrictions, or by amending the recorded declaration of covenants, conditions, and
1215 restrictions.
- 1216 (c) An association may establish, by rule, a minimum lease term of six months or less.
- 1217 (2) If an association prohibits or imposes a restriction on the number and term of rentals or
1218 charges a fee described in Subsection (9)(c), the association shall:

- 1219 (a) exempt the following from the prohibition, restriction, or fee:
- 1220 (i) a lot owner in the military for the period of the lot owner's deployment;
- 1221 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 1222 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
- 1223 (iv) a lot owned by an entity that is occupied by an individual who:
- 1224 (A) has voting rights under the entity's organizing documents; and
- 1225 (B) has a 25% or greater share of ownership, control, and right to profits and
- 1226 losses of the entity; or
- 1227 (v) a lot owned by a trust or other entity created for estate planning purposes if the
- 1228 trust or other estate planning entity was created for:
- 1229 (A) the estate of a current resident of the lot; or
- 1230 (B) the parent, child, or sibling of the current resident of the lot;
- 1231 (b) allow a lot owner who has a rental in the association before the time the rental
- 1232 restriction described in Subsection ~~[(1)(a) is recorded with the county recorder of the~~
- 1233 ~~county in which the association is located]~~ (1) becomes effective to continue renting
- 1234 without a fee described in Subsection (9)(c) until:
- 1235 (i) the lot owner occupies the lot;
- 1236 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
- 1237 similar position of ownership or control of an entity or trust that holds an
- 1238 ownership interest in the lot, occupies the lot; or
- 1239 (iii) the lot is transferred; and
- 1240 (c) create, by rule or resolution, procedures to:
- 1241 (i) determine and track the number of rentals and lots in the association subject to the
- 1242 provisions described in Subsections (2)(a) and (b); and
- 1243 (ii) ensure consistent administration and enforcement of any rental prohibition,
- 1244 restriction, or fee.
- 1245 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
- 1246 following occur:
- 1247 (a) the conveyance, sale, or other transfer of a lot by deed;
- 1248 (b) the granting of a life estate in the lot; or
- 1249 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
- 1250 business entity, the sale or transfer of more than 75% of the business entity's share,
- 1251 stock, membership interests, or partnership interests in a 12-month period.
- 1252 (4) This section does not limit or affect residency age requirements for an association that

- 1253 complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
1254 3607.
- 1255 (5) A declaration of covenants, conditions, and restrictions or amendments to the
1256 declaration of covenants, conditions, and restrictions recorded before the transfer of the
1257 first lot from the initial declarant may prohibit or restrict rentals without providing for
1258 the exceptions, provisions, and procedures required under Subsection (2).
- 1259 (6)(a) Subsections (1) through (5) do not apply to:
- 1260 (i) an association that contains a time period unit as defined in Section 57-8-3;
1261 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
1262 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
1263 unless, on or after May 12, 2015, the association:
- 1264 (A) adopts a rental restriction or prohibition; or
1265 (B) amends an existing rental restriction or prohibition.
- 1266 (b) An association that adopts a rental restriction or amends an existing rental restriction
1267 or prohibition before May 9, 2017, is not required to include the exemption described
1268 in Subsection (2)(a)(iv).
- 1269 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an
1270 exception described in Subsection (2) if:
- 1271 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
1272 (b) when the restriction or prohibition requires an amendment to the association's
1273 recorded declaration of covenants, conditions, and restrictions, the association fulfills
1274 all other requirements for amending the recorded declaration of covenants,
1275 conditions, and restrictions described in the association's governing documents.
- 1276 (8) Except as provided in Subsection (9), an association may not require a lot owner who
1277 owns a rental lot to:
- 1278 (a) obtain the association's approval of a prospective renter;
1279 (b) give the association:
- 1280 (i) a copy of a rental application;
1281 (ii) a copy of a renter's or prospective renter's credit information or credit report;
1282 (iii) a copy of a renter's or prospective renter's background check; or
1283 (iv) documentation to verify the renter's age;
- 1284 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;
1285 (d) use a lease agreement provided by the association; or
1286 (e) obtain the association's approval of a lease agreement.

- 1287 (9)(a) A lot owner who owns a rental lot shall give an association the documents
1288 described in Subsection (8)(b) if the lot owner is required to provide the documents
1289 by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 1290 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
1291 prohibits or restricts occupancy of the lots by a certain class of individuals, the
1292 association may require a lot owner who owns a rental lot to give the association the
1293 information described in Subsection (8)(b), if:
- 1294 (i) the information helps the association determine whether the renter's occupancy of
1295 the lot complies with the association's declaration of covenants, conditions, and
1296 restrictions; and
- 1297 (ii) the association uses the information to determine whether the renter's occupancy
1298 of the lot complies with the association's declaration of covenants, conditions, and
1299 restrictions.
- 1300 (c) An association that permits at least 35% of the lots in the association to be rental lots
1301 may charge a lot owner who owns a rental lot a fee of up to \$200 once every 12
1302 months to defray the association's additional administrative expenses directly related
1303 to a lot that is a rental lot, as detailed in a notice described in Subsection (12).
- 1304 (d) An association may require a lot owner who owns a rental lot and the renter of the lot
1305 owner's rental lot to sign an addendum to a lease agreement provided by the
1306 association.
- 1307 (e) Before an association may charge a fee described in Subsection (9)(c), an association
1308 shall:
- 1309 (i) provide notice to each lot owner in the association of a board meeting described in
1310 Subsection (9)(e)(ii) 15 days before the day on which the association holds the
1311 board meeting;
- 1312 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
- 1313 (A) the new administrative expenses that the association intends to cover using the
1314 funds from the fee; and
- 1315 (B) the circumstances that require the association to impose or increase the fee;
1316 and
- 1317 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board
1318 approves the fee by a majority vote.
- 1319 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
1320 rental of an internal accessory dwelling unit, as defined in Section 10-21-101 or

- 1321 17-80-101, constructed within a lot owner's residential lot, if the internal accessory
1322 dwelling unit complies with all applicable:
- 1323 (a) land use ordinances;
 - 1324 (b) building codes;
 - 1325 (c) health codes; and
 - 1326 (d) fire codes.
- 1327 (11) The provisions of Subsections (8) through (10) apply to an association regardless of
1328 when the association is created.
- 1329 (12) Within 30 days after the day on which the association imposes a fee described in
1330 Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a
1331 notice describing:
- 1332 (a) the new administrative expenses that the association intends to cover using the funds
1333 from the fee; and
 - 1334 (b) the circumstances that require the association to impose or increase the fee.
- 1335 (13)(a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the
1336 association a written request that the association waive the fee if:
- 1337 (i) the association fails to provide the notice described in Subsection (12) within 30
1338 days after the day on which the association imposes the fee; or
 - 1339 (ii) the notice the association provides to the lot owner does not contain the
1340 information required in Subsection (12).
- 1341 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written
1342 request, an association of lot owners shall waive the fee if:
- 1343 (i) the association does not provide the notice described in Subsection (12) to the lot
1344 owner; or
 - 1345 (ii) a notice provided by the association does not contain the information required in
1346 Subsection (12).
- 1347 (14)(a) A lot owner of a rental lot may designate, in a written notice to the association, a
1348 primary contact individual who is not the lot owner with whom the association may
1349 communicate as though the primary contact individual is the lot owner.
- 1350 (b) If a lot owner designates a primary contact individual under this Subsection (14), the
1351 association shall provide the lot owner a written notice that confirms the association
1352 has changed the association's records to identify the primary contact individual
1353 designated by the lot owner.
- 1354 Section 13. Section **57-8a-212** is amended to read:

1355 **57-8a-212 . Content of a declaration.**

- 1356 (1) An initial declaration [~~recorded on or after May 10, 2011~~] shall contain:
- 1357 (a) the name of the project;
- 1358 (b) the name of the association;
- 1359 (c) a statement that the project is not a cooperative;
- 1360 (d) a statement indicating any portions of the project that contain condominiums
- 1361 governed by Chapter 8, Condominium Ownership Act;
- 1362 (e) a statement that the project is governed by this chapter;
- 1363 [~~(e)~~] (f) if the declarant desires to reserve the option to expand the project, a statement
- 1364 reserving the option to expand the project;
- 1365 [~~(f)~~] (g) the name of each county in which any part of the project is located;
- 1366 [~~(g)~~] (h) a legally sufficient description of the real estate included in the project;
- 1367 [~~(h)~~] (i) a description of any limited common areas and any real estate that is or is
- 1368 required to become common areas;
- 1369 [~~(i)~~] (j) any restriction on the alienation of a lot, including a restriction on leasing; and
- 1370 [~~(j)~~] (k)(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i)
- 1371 or (iv); and
- 1372 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
- 1373 U.C.A. Sections 57-1-20 and 57-8a-302 to (name of trustee), with power of sale,
- 1374 the lot and all improvements to the lot for the purpose of securing payment of
- 1375 assessments under the terms of the declaration."
- 1376 (2) A declaration may contain any other information the declarant considers appropriate,
- 1377 including [~~any~~] a restriction on the use of a lot, the number of persons who may occupy a
- 1378 lot, or other qualifications of a person who may occupy a lot.
- 1379 (3) The location of a limited common area or real estate described in Subsection (1)(g) may
- 1380 be shown on a subdivision plat.
- 1381 (4)(a) Except as provided in Subsection (4)(b), a declaration, or an amendment to a
- 1382 declaration, may not vary the requirements of Section 57-8a-218 or Subsection
- 1383 57-8a-218(1)(b)(ii).
- 1384 (b) A declaration, or an amendment to a declaration may vary the requirements of
- 1385 Subsections 57-8a-218(1)(a), (b)(i) and (iii), 57-8a-218(2), 57-8a-218(6), and
- 1386 57-8a-218(8) through (14).

1387 **Section 14. Effective Date.**

1388 This bill takes effect on May 6, 2026.