

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 homeowners' associations.

Highlighted Provisions:

This bill:

- defines terms;
- provides the circumstances under which a homeowners' association may convey a portion of the common areas;
- requires that the Office of the Homeowners' Association Ombudsman (office) make public each advisory opinion the office issues;
- requires that the office 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;
- provides that an action by an attorney employed by the office does not create an attorney-client relationship;
- provides that the filing fee a person pays for an advisory opinion from the office is nonrefundable;
- provides that a homeowners' association may not require a person to engage in binding arbitration before obtaining an advisory opinion from the office;
- provides the requirements for the contents of a request for an advisory opinion from the office;
- amends provisions relating to a civil penalty associated with an action that arises from the same set of facts as an advisory opinion the office issues;
- amends provisions relating to what type of vehicle a rule may restrict from parking on a

- 29 driveway;
- 30 ▶ provides that a homeowners' association's declaration may not contain certain provisions;
- 31 ▶ amends the circumstances under which a lot owner may continue renting a lot in a
- 32 homeowners' association without a fee;
- 33 ▶ renames an association transfer fee to an administrative setup fee;
- 34 ▶ repeals the requirement that the parties to an advisory opinion split the cost of the
- 35 advisory opinion;
- 36 ▶ establishes the conditions under which Title 57, Chapter 8, Condominium Ownership Act,
- 37 or Title 57, Chapter 8a, Community Association Act, applies;
- 38 ▶ requires that an association of unit owners prepare and adopt an annual budget for the
- 39 association;
- 40 ▶ removes the requirement that a board member and president of an association provide a
- 41 physical address to the Department of Commerce for registration;
- 42 ▶ provides that certain documents are considered property of an association;
- 43 ▶ provides that if a person maintains a document considered property of an association, the
- 44 person shall provide the document to the association upon request;
- 45 ▶ provides that a declarant may sell a part of the common areas during the period of
- 46 administrative control to certain persons; and
- 47 ▶ makes technical changes.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 None

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **10-20-809**, as renumbered and amended by Laws of Utah 2025, First Special Session,
55 Chapter 15

56 **13-79-103**, as enacted by Laws of Utah 2025, Chapter 226

57 **13-79-104**, as enacted by Laws of Utah 2025, Chapter 226

58 **17-79-709**, as renumbered and amended by Laws of Utah 2025, First Special Session,
59 Chapter 14

60 **57-1-46**, as last amended by Laws of Utah 2025, Chapter 226

61 **57-8-2**, as enacted by Laws of Utah 1963, Chapter 111

62 **57-8-3**, as last amended by Laws of Utah 2025, Chapter 291

- 63 **57-8-6.1**, as enacted by Laws of Utah 2020, Chapter 75
 64 **57-8-8.1**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
 65 **57-8-10**, as last amended by Laws of Utah 2014, Chapter 397
 66 **57-8-13.1**, as last amended by Laws of Utah 2025, Chapter 226
 67 **57-8-16.5**, as last amended by Laws of Utah 2016, Chapter 210
 68 **57-8-17**, as last amended by Laws of Utah 2025, Chapters 197, 226
 69 **57-8-32**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
 70 **57-8a-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
 71 **57-8a-103**, as enacted by Laws of Utah 2004, Chapter 153
 72 **57-8a-105**, as last amended by Laws of Utah 2025, Chapter 226
 73 **57-8a-105.1**, as enacted by Laws of Utah 2020, Chapter 75
 74 **57-8a-209**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
 75 **57-8a-212**, as last amended by Laws of Utah 2013, Chapter 152
 76 **57-8a-215**, as enacted by Laws of Utah 2011, Chapter 355
 77 **57-8a-218**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
 78 **57-8a-227**, as last amended by Laws of Utah 2025, Chapters 197, 226
 79 **57-8a-232**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15

80 ENACTS:

81 **57-8-7.6**, Utah Code Annotated 1953

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

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

85 **10-20-809 . Common area parcels on a plat -- No separate ownership --**
 86 **Ownership interest equally divided among other parcels on plat and included in**
 87 **description of other parcels.**

88 (1) As used in this section:

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

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

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

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

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

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

95 [(+) (e) "Declarant" means the same as that term is defined in:

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

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

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

100 ~~[(f)]~~ (g) "Period of administrative control" means the same as that term is defined in:

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

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

103 (h) "Under threat of condemnation" means the same as that term is defined in Section
104 78B-6-520.3.

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

108 (a) an association holds in trust the parcel designated as a common area for the owners
109 of the other lots, units, or parcels created by the plat;~~[-or]~~

110 (b) the conveyance or modification is approved under Subsection (5)~~[-]~~ ; or

111 (c) the conveyance or modification is made in accordance with Subsection (6).

112 (3) If a conveyance or modification of a common area or common area and facility is
113 approved in accordance with Subsection (5), the person who presents the instrument of
114 conveyance to a county recorder shall:

115 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the
116 document of conveyance; or

117 (b) record a notice of the approval described in Subsection (5) concurrently with the
118 conveyance as a separate document.

119 (4) When a plat contains a common area or common area and facility:

120 (a) for purposes of assessment, each parcel that the plat creates has an equal ownership
121 interest in the common area or common area and facility within the plat, unless the
122 plat or an accompanying recorded document indicates a different division of interest
123 for assessment purposes; and

124 (b) each instrument describing a parcel on the plat by the parcel's identifying plat
125 number implicitly includes the ownership interest in the common area or common
126 area and facility, even if that ownership interest is not explicitly stated in the
127 instrument.

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

- 131 (a) the local government;
- 132 (b)(i) for a common area that an association owns, 67% of the voting interests in the
133 association; or
- 134 (ii) for a common area that an association does not own, or for a common area and
135 facility, 67% of the owners of lots, units, and parcels designated on a plat that is
136 subject to a declaration and on which the common area or common area and
137 facility is included; and
- 138 (c) during the period of administrative control, the declarant.
- 139 (6)(a) Notwithstanding Subsection (2), an individual that the association's board
140 designates by a vote, may convey a portion of a common area or a common area and
141 facility in accordance with Section 57-8-32 or 57-8a-232, if:
- 142 (i) the individual makes the conveyance to a condemnor; and
143 (ii) the common area or common area and facility is under threat of condemnation.
- 144 (b) If an individual makes a conveyance in accordance with Subsection (6)(a), no lot
145 owner or unit owner is required to approve the conveyance or modification.
- 146 Section 2. Section **13-79-103** is amended to read:
- 147 **13-79-103 . Duties and jurisdiction of office.**
- 148 (1) The attorneys of the office shall:
- 149 (a) develop and maintain expertise in and understanding of issues and statutes impacting
150 unit owners, lot owners, associations of lot owners, and associations of unit owners;
151 and
- 152 (b) upon request:
- 153 (i) analyze a complaint from a lot owner, a unit owner, an association of lot owners,
154 or an association of unit owners regarding the conduct of a lot owner, a unit
155 owner, an association of lot owners, or an association of unit owners; and
- 156 (ii) provide an advisory opinion as described in Section 13-79-104.
- 157 (2)(a) Neither the office nor the office's attorneys may represent private parties, state
158 agencies, local governments, or any other individual or entity in a legal action that
159 arises from or relates to a matter addressed in this chapter.
- 160 (b) No attorney of the office may be compelled to testify in a civil action filed
161 concerning the subject matter of any review or advisory opinion arranged through the
162 office.
- 163 (3) Except as provided in [~~Section 13-75-105~~] Subsection 13-79-104(10), evidence of a
164 review by the office and the opinions, writings, findings, and determinations of the

165 office are not admissible as evidence in a judicial action or arbitration.

166 (4) The office[;]

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

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

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

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

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

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

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

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

183 (ii) a description of the rights and responsibilities provided in Title 57, Chapter 8a,
184 Community Association Act, to a party under the jurisdiction of Title 57, Chapter
185 8a, Community Association Act; and

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

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

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

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

197 (a) a lot owner;

198 (b) a unit owner;

199 (c) an association of lot owners; or

200 (d) an association of unit owners.

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

202 **13-79-104 . Advisory opinion -- Process of advisory opinions.**

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

205 (a) from the office to determine compliance with:

206 (i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a,
207 Community Association Act; or

208 (ii) other applicable statutes of this state; and

209 (b) at any time before the commencement of:

210 (i) an action in a court with jurisdiction; or

211 (ii) binding arbitration.

212 (2)(a) A person making a request for an advisory opinion described in Subsection (1)

213 shall:

214 (i) file the request with the office;

215 (ii) pay a nonrefundable filing fee of \$150;[~~and~~]

216 (iii)(A) file the request no later than one year after the day on which the person
217 making the request knew or should have known about the alleged act that is the
218 subject of the advisory opinion; and

219 (B) include in the request facts that demonstrate that the person submits the
220 request no later than a year after the day on which the person making the
221 request knew or should have known about the alleged act that is the subject of
222 the advisory opinion[~~;~~] ; and

223 (iv) in the request for an advisory opinion, describe:

224 (A) the alleged act that is the subject of the advisory opinion; and

225 (B) the impact of the alleged act that is the subject of the advisory opinion on the
226 person making the request.

227 (b) A person making a request under this Subsection (2) may allege actual damages as a
228 result of the alleged act that is the subject of the advisory opinion.

229 (3) The office may establish policies providing for partial fee waivers for a person who is
230 financially unable to pay the entire fee described in Subsection (2)(a)(ii).

231 (4)(a) [~~The~~] Except as provided in Subsection (4)(b), the office may not issue an advisory
232 opinion unless the person requesting an advisory opinion exhausts all existing dispute

233 resolution procedures provided in:

234 (i) the governing documents of an association of lot owners, if the dispute involves a
235 lot owner; or

236 (ii) the governing documents of an association of unit owners, if the dispute involves
237 a unit owner.

238 (b) An association of unit owners or an association of lot owners may not require that a
239 person engage in binding arbitration before requesting an advisory opinion from the
240 office.

241 ~~[(b)]~~ (c) A person requesting an advisory opinion shall include in the person's complaint
242 a description of how that person ~~[exhausted all existing procedures provided in the~~
243 ~~applicable governing documents]~~ complied with this Subsection (4).

244 (5) Upon receipt of a request for an advisory opinion, the office shall:

245 (a) inquire of all parties if there are other necessary parties to the dispute;

246 (b) determine whether the person bringing the request has ~~[exhausted all existing~~
247 ~~procedures provided in the applicable governing documents]~~ complied with
248 Subsections (1) through (4); and

249 (c) deliver notice of the request to the opposing parties indicated in the request and any
250 other necessary party identified in accordance with Subsection (5)(a).

251 (6) Subject to Subsection (7), after analyzing a complaint, the office shall:

252 (a) issue a written advisory opinion addressing the issues described in the request for an
253 advisory opinion;

254 (b) include in the advisory opinion a statement of the facts and law supporting the
255 opinion's conclusions; and

256 (c) deliver copies of the advisory opinion to all necessary parties identified in
257 accordance with Subsection (5)(a).

258 (7)(a) The office shall issue a written statement declining to issue an advisory opinion
259 when, in the opinion of the office:

260 (i) the issues are not ripe for review;

261 (ii) the person bringing the request has not exhausted all existing procedures provided
262 in the applicable governing documents; or

263 (iii) the issues raised are beyond the scope of the office's statutory duty to review.

264 (b) Notwithstanding Subsection (7)(a), the office shall issue a written statement
265 declining to review a request, if the request deals solely with a contractual dispute.

266 (8)(a)(i) If in the process of issuing an advisory opinion, the office determines that a

267 person knowingly filed a false or fraudulent request for an advisory opinion, the
268 office shall prohibit that person from filing a complaint with the office for two
269 years after the day on which the office makes the determination.

270 (ii) The office may impose a civil penalty of up to \$1,000 against a person if the
271 office determines under this Subsection (8)(a) that the person filed a false or
272 fraudulent request for an advisory opinion.

273 (b)(i) The office may designate a person as a vexatious filer if the person has filed a
274 request for three or more advisory opinions and for each request the office:

275 (A) determines that the person requesting the advisory opinion has not exhausted
276 all existing procedures, as described in Subsection (4)(a);

277 (B) declines to issue an advisory opinion, as described in Subsection (7)(a); or

278 (C) determines that the request deals solely with a contractual dispute, as
279 described in Subsection (7)(b).

280 (ii) If the office designates a person as a vexatious filer under this Subsection (8)(b),
281 the office may not accept a request by the person unless:

282 (A) the person submits a written copy of the request to the executive director of
283 the department; and

284 (B) the executive director of the department authorizes the person to file the
285 request for the advisory opinion with the office.

286 ~~[(9) The party that requests the advisory opinion shall pay the filing fee described in
287 Subsection (2)(a)(ii), unless the office issues an advisory opinion in favor of the party
288 that requests the advisory opinion, in which case all necessary parties shall share the cost
289 of the filing fee equally.]~~

290 ~~[(10)] (9)~~ An advisory opinion issued under this section is neither binding on any party to,
291 nor admissible as evidence in, a dispute involving an association of lot owners or an
292 association of unit owners, except as provided in Subsection ~~[(11)] (10)~~.

293 ~~[(11)] (10)~~(a) As used in this Subsection ~~[(11)] (10)~~, "qualifying conditions" means:

294 (i) the office issues an advisory opinion described in this section;

295 (ii) the same issue that is the subject of the advisory opinion is subsequently litigated
296 in court; and

297 (iii) the court rules in favor of the same party as the advisory opinion in a final
298 judgment.

299 (b) If the qualifying conditions are met, the court may award the substantially prevailing
300 party:

- 301 (i) reasonable attorney fees and court costs relating to the development of the cause
 302 of action from the date the office delivers the advisory opinion to the date of the
 303 court's resolution; and
- 304 (ii) if the court finds that the opposing party knowingly and intentionally violated the
 305 law governing the cause of action, a civil penalty of [~~\$250 for each day described~~
 306 ~~in Subsection (12)] up to \$5,000.~~

307 [~~(12) The civil penalty described in Subsection (11)(b):~~]

308 [~~(a) begins to accrue on the later of:~~]

309 [~~(i) 30 days after the day on which the office delivers the advisory opinion; or]~~

310 [~~(ii) the day on which the substantially prevailing party or opposing party filed the~~
 311 ~~action in court; and]~~

312 [~~(b) ends the day on which the court enters a final judgment.]~~

313 Section 4. Section **17-79-709** is amended to read:

314 **17-79-709 . Common area parcels on a plat -- No separate ownership --**
 315 **Ownership interest equally divided among other parcels on plat and included in**
 316 **description of other parcels.**

317 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

329 [~~(f)~~] (g) "Period of administrative control" means the same as that term is defined in:

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

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

332 (h) "Under threat of condemnation" means the same as that term is defined in Section
 333 78B-6-520.3.

334 (2) A person may not separately own, convey, or modify a parcel designated as a common

- 335 area or common area and facility on a plat recorded in compliance with this part,
336 independent of the other lots, units, or parcels created by the plat unless:
- 337 (a) an association holds in trust the parcel designated as a common area for the owners
338 of the other lots, units, or parcels created by the plat;~~[-or]~~
- 339 (b) the conveyance or modification is approved under Subsection (5)~~[-]~~ ; or
- 340 (c) the conveyance or modification is made in accordance with Subsection (6).
- 341 (3) If a conveyance or modification of a common area or common area and facility is
342 approved in accordance with Subsection (5), the person who presents the instrument of
343 conveyance to a county recorder shall:
- 344 (a) attach a notice of the approval described in Subsection (5) as an exhibit to the
345 document of conveyance; or
- 346 (b) record a notice of the approval described in Subsection (5) concurrently with the
347 conveyance as a separate document.
- 348 (4) When a plat contains a common area or common area and facility:
- 349 (a) each parcel that the plat creates has an equal ownership interest in the common area
350 or common area and facility within the plat, unless the plat or an accompanying
351 recorded document indicates a different division of interest for assessment purposes;
352 and
- 353 (b) each instrument describing a parcel on the plat by the parcel's identifying plat
354 number implicitly includes the ownership interest in the common area or common
355 area and facility within the plat, even if that ownership interest is not explicitly stated
356 in the instrument.
- 357 (5) Notwithstanding Subsection (2), a person may modify the size or location of or
358 separately convey a common area or common area and facility if the following approve
359 the conveyance or modification:
- 360 (a) the local government;
- 361 (b)(i) for a common area that an association owns, 67% of the voting interests in the
362 association; or
- 363 (ii) for a common area that an association does not own, or for a common area and
364 facility, 67% of the owners of lots, units, and parcels designated on a plat that is
365 subject to a declaration and on which the common area or common area and
366 facility is included; and
- 367 (c) during the period of administrative control, the declarant.
- 368 (6)(a) Notwithstanding Subsection (2), an individual that the association's board

369 designates by a vote, may convey a portion of a common area or a common area and
 370 facility in accordance with Section 57-8-32 or 57-8a-232, if:

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

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

376 **57-1-46 . Transfer fee and reinvestment fee covenants.**

377 (1) As used in this section:

378 (a) "Administrative setup fee" means a fee, charge, or payment that is:

- 379 (i) related to the sale of real property; and
 380 (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
 381 (A) a common interest association; or
 382 (B) a person acting on behalf of the common interest association.

383 ~~[(a)]~~ (b) "Association expenses" means expenses incurred by a common interest
 384 association for:

- 385 (i) the purchase, ownership, leasing, construction, operation, use, administration,
 386 maintenance, improvement, repair, or replacement of association facilities,
 387 including expenses for taxes, insurance, operating reserves, capital reserves, and
 388 emergency funds;
 389 (ii) providing, establishing, creating, or managing a facility, activity, service, or
 390 program for the benefit of property owners, tenants, common areas, the burdened
 391 property, or property governed by the common interest association; or
 392 (iii) other facilities, activities, services, or programs that are required or permitted
 393 under the common interest association's organizational documents.

394 ~~[(b)]~~ (c) "Association facilities" means any real property, improvements on real property,
 395 or personal property owned, leased, constructed, developed, managed, or used by a
 396 common interest association, including common areas.

397 ~~[(e)]~~ "Association transfer fee" means a fee, charge, or payment that is:]

- 398 ~~[(i) related to the sale of real property; and]~~
 399 ~~[(ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:]~~
 400 ~~[(A) a common interest association; or]~~
 401 ~~[(B) a person acting on behalf of the common interest association.]~~

402 (d) "Burdened property" means the real property that is subject to a reinvestment fee

- 403 covenant or transfer fee covenant.
- 404 (e) "Common areas" means areas described within:
- 405 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 406 (ii) the definition of "common areas" under Section 57-8a-102.
- 407 (f)(i) "Common interest association" means:
- 408 (A) an association, as defined in Section 57-8a-102;
- 409 (B) an association of unit owners, as defined in Section 57-8-3; or
- 410 (C) a nonprofit association.
- 411 (ii) "Common interest association" includes a person authorized by an association,
- 412 association of unit owners, or nonprofit association.
- 413 (g) "Large master planned development" means an approved development:
- 414 (i) of at least 500 acres or 500 units; and
- 415 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 416 (A) common infrastructure;
- 417 (B) association facilities;
- 418 (C) community programming;
- 419 (D) resort facilities;
- 420 (E) open space; or
- 421 (F) recreation amenities.
- 422 (h) "Nonprofit association" means a nonprofit corporation organized under Title 16,
- 423 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve,
- 424 govern, manage, or maintain burdened property.
- 425 (i) "Organizational documents" means:
- 426 (i) for an association, as that term is defined in Section 57-8a-102, governing
- 427 documents as that term is defined in Section 57-8a-102;
- 428 (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a
- 429 declaration as that term is defined in Section 57-8-3; and
- 430 (iii) for a nonprofit association:
- 431 (A) a written instrument by which the nonprofit association exercises powers or
- 432 manages, maintains, or otherwise affects the property under the jurisdiction of
- 433 the nonprofit association; and
- 434 (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's
- 435 rules, and declarations of covenants, conditions, and restrictions.
- 436 (j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest

- 437 association:
- 438 (i) upon a buyer or seller of real property;
- 439 (ii) upon and as a result of a transfer of the real property; and
- 440 (iii) that is dedicated to benefiting the common areas, including payment for:
- 441 (A) common planning, facilities, and infrastructure;
- 442 (B) obligations arising from an environmental covenant;
- 443 (C) community programming;
- 444 (D) resort facilities;
- 445 (E) open space;
- 446 (F) recreation amenities;
- 447 (G) charitable purposes; or
- 448 (H) association expenses.
- 449 (k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
- 450 (i) affects real property; and
- 451 (ii) obligates a future buyer or seller of the real property to pay to a common interest
- 452 association, upon and as a result of a transfer of the real property, a fee that is
- 453 dedicated to benefiting the burdened property, including payment for:
- 454 (A) common planning, facilities, and infrastructure;
- 455 (B) obligations arising from an environmental covenant;
- 456 (C) community programming;
- 457 (D) resort facilities;
- 458 (E) open space;
- 459 (F) recreation amenities;
- 460 (G) charitable purposes; or
- 461 (H) association expenses.
- 462 (l) "Transfer fee covenant":
- 463 (i) means an obligation, however denominated, expressed in a covenant, restriction,
- 464 agreement, or other instrument or document:
- 465 (A) that affects real property;
- 466 (B) that is imposed on a future buyer or seller of real property, other than a person
- 467 who is a party to the covenant, restriction, agreement, or other instrument or
- 468 document; and
- 469 (C) to pay a fee upon and as a result of a transfer of the real property; and
- 470 (ii) does not include:

- 471 (A) an obligation imposed by a court judgment, order, or decree;
- 472 (B) an obligation imposed by the federal government or a state or local
- 473 government entity; or
- 474 (C) a reinvestment fee covenant.
- 475 (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- 476 (3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be
- 477 sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a
- 478 common interest association that was formed to benefit the burdened property.
- 479 (b) A common interest association may assign or pledge to a lender the right to receive
- 480 payment under a reinvestment fee covenant if:
- 481 (i) the assignment or pledge is as collateral for a credit facility; and
- 482 (ii) the lender releases the collateral interest upon payment in full of all amounts that
- 483 the common interest association owes to the lender under the credit facility.
- 484 (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if
- 485 the reinvestment fee covenant is intended to affect property that is the subject of a
- 486 previously recorded transfer fee covenant or reinvestment fee covenant.
- 487 (5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the
- 488 payment of a fee that exceeds .5% of the value of the burdened property, unless the
- 489 burdened property is part of a large master planned development.
- 490 (6)(a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and
- 491 unenforceable unless a notice of reinvestment fee covenant, separate from the
- 492 reinvestment fee covenant, is recorded in the office of the recorder of each county in
- 493 which any of the burdened property is located.
- 494 (b) A notice under Subsection (6)(a) shall:
- 495 (i) state the name and address of the common interest association to which the fee
- 496 under the reinvestment fee covenant is required to be paid;
- 497 (ii) include the notarized signature of the common interest association's authorized
- 498 representative;
- 499 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
- 500 land and to bind successors in interest and assigns;
- 501 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
- 502 of an additional reinvestment fee covenant on the burdened property;
- 503 (v) state the duration of the reinvestment fee covenant;
- 504 (vi) state the purpose of the fee required to be paid under the reinvestment fee

- 505 covenant; and
- 506 (vii) state that the fee required to be paid under the reinvestment fee covenant is
- 507 required to benefit the burdened property.
- 508 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
- 509 requirements of Subsection (6)(b) is valid and effective.
- 510 (7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
- 511 2010, is not enforceable after May 31, 2010, unless:
- 512 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
- 513 the office of the recorder of each county in which any of the burdened property is
- 514 located; or
- 515 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
- 516 Subsection (7)(b), is recorded in the office of the recorder of each county in which
- 517 any of the burdened property is located.
- 518 (b) A notice under Subsection (7)(a)(ii) shall:
- 519 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
- 520 or transfer fee covenant, or the beneficiary's authorized representative;
- 521 (ii) state the name and current address of the beneficiary under the reinvestment fee
- 522 covenant or transfer fee covenant;
- 523 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
- 524 intended to run with the land and to bind successors in interest and assigns; and
- 525 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
- 526 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
- 527 substantially complies with the requirements of Subsection (7)(b) is valid and
- 528 effective.
- 529 (d) A notice under Subsection (7)(b):
- 530 (i) that is recorded after May 31, 2010, is not enforceable; and
- 531 (ii) shall comply with the requirements of Section 57-1-47.
- 532 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
- 533 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is
- 534 not an enforceable amendment.
- 535 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced
- 536 upon:
- 537 (a) an involuntary transfer;
- 538 (b) a transfer that results from a court order;

- 539 (c) a bona fide transfer to a family member of the seller within three degrees of
 540 consanguinity who, before the transfer, provides adequate proof of consanguinity;
 541 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
 542 decree of distribution; or
 543 (e) the transfer of burdened property by a financial institution, except to the extent that
 544 the reinvestment fee covenant requires the payment of a common interest
 545 association's costs directly related to the transfer of the burdened property, not to
 546 exceed \$250.
- 547 (9)(a) An [association transfer fee] administrative setup fee imposed on or after May 7,
 548 2025, is void and unenforceable unless the association uses the fee only to pay
 549 expenses related to the transfer of real property.
- 550 (b) No later than December 31 each year, if a manager collects an administrative setup
 551 fee, the manager shall provide to the association an annual accounting of each
 552 administrative setup fee the manager collects in a calendar year.
- 553 (10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:
 554 (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee
 555 covenant; and
 556 (b) a majority of voting interests in the association, or a higher percentage if required in
 557 the organizational documents, approves the reinvestment fee.
- 558 (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an
 559 association may set the amount of a reinvestment fee only:
 560 (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
 561 (b) upon providing notice in accordance with Section 57-8a-214.
- 562 (12) Members of the association may remove or amend a reinvestment fee by holding a
 563 vote at a special meeting:
 564 (a) called by the members for the purpose of removing or amending the reinvestment
 565 fee; and
 566 (b) at which:
 567 (i) at least 51% of the voting interests attend and vote; and
 568 (ii) a majority of the voting interests that attend vote to remove or amend the
 569 reinvestment fee.

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

571 **57-8-2 . Applicability of chapter.**

572 [~~This act shall be applicable only to property which the sole owner or all the owners~~

- 573 submit to the provisions of the act by duly executing and recording a declaration as provided in
- 574 the act.]

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

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

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

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

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

581 **57-8-3 . Definitions.**

582 As used in this chapter:

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

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

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

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

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

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

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

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

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

596 (a) the land included within the condominium project, whether leasehold or in fee
597 simple;

598 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
599 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

600 (c) the basements, yards, gardens, parking areas, and storage spaces;

601 (d) the premises for lodging of janitors or persons in charge of the property;

602 (e) installations of central services such as power, light, gas, hot and cold water, heating,
603 refrigeration, air conditioning, and incinerating;

604 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
605 apparatus and installations existing for common use;

606 (g) such community and commercial facilities as may be provided for in the declaration;

- 607 and
- 608 (h) all other parts of the property necessary or convenient to its existence, maintenance,
- 609 and safety, or normally in common use.
- 610 (6) "Common expenses" means:
- 611 (a) all sums lawfully assessed against the unit owners;
- 612 (b) expenses of administration, maintenance, repair, or replacement of the common areas
- 613 and facilities;
- 614 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 615 (d) expenses declared common expenses by this chapter, or by the declaration or the
- 616 bylaws.
- 617 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
- 618 to the declaration, means the balance of all income, rents, profits, and revenues from the
- 619 common areas and facilities remaining after the deduction of the common expenses.
- 620 (8) "Condominium" means the ownership of a single unit in a multiunit project together
- 621 with an undivided interest in common in the common areas and facilities of the property.
- 622 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
- 623 accordance with Section 57-8-13.
- 624 (10)(a) "Condominium project" means a real estate condominium project; a plan or
- 625 project whereby two or more units, whether contained in existing or proposed
- 626 apartments, commercial or industrial buildings or structures, or otherwise, are
- 627 separately offered or proposed to be offered for sale.
- 628 (b) ~~[-]~~ "Condominium project" ~~[also means-]~~ includes the property when the context so
- 629 requires.
- 630 (11)(a) "Condominium unit" means a unit together with the undivided interest in the
- 631 common areas and facilities appertaining to that unit.
- 632 (b) ~~[-Any reference in this chapter to a condominium unit]~~ "Condominium unit" includes
- 633 both a physical unit together with ~~[its]~~ the physical unit's appurtenant undivided
- 634 interest in the common areas and facilities and a time period unit together with ~~[its]~~
- 635 the time period unit's appurtenant undivided interest, unless the ~~[reference]~~ term is
- 636 specifically limited to a time period unit.
- 637 (12)(a) "Contractible condominium" means a condominium project from which one or
- 638 more portions of the land within the project may be withdrawn in accordance with
- 639 provisions of the declaration and of this chapter.
- 640 (b) ~~[-If]~~ "Contractible condominium" does not include a condominium project where the

641 withdrawal described in Subsection (12)(a) can occur only by the expiration or
642 termination of one or more leases~~[, then the condominium project is not a~~
643 ~~contractible condominium within the meaning of this chapter.]~~ .

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

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

650 (15)(a) "Declarant" means all persons who execute the declaration or on whose behalf
651 the declaration is executed.~~[From the time of the recordation of any amendment to~~
652 ~~the declaration expanding an expandable condominium, all persons who execute that~~
653 ~~amendment or on whose behalf that amendment is executed shall also come within~~
654 ~~this definition.]~~

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

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

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

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

664 (16) "Declaration" means the instrument by which the property is submitted to the
665 provisions of this ~~[aet]~~ chapter, as ~~[it]~~ the declaration from time to time may be lawfully
666 amended.

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

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

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

672 (20) "Governing documents":

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

674 (i) exercise powers; or

- 675 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
676 association of unit owners; and
- 677 (b) includes:
- 678 (i) articles of incorporation;
- 679 (ii) bylaws;
- 680 (iii) a plat;
- 681 (iv) a declaration of covenants, conditions, and restrictions; and
- 682 (v) rules of the association of unit owners.
- 683 (21) "Independent third party" means a person that:
- 684 (a) is not related to the unit owner;
- 685 (b) shares no pecuniary interests with the unit owner; and
- 686 (c) purchases the unit in good faith and without the intent to defraud a current or future
687 lienholder.
- 688 (22) "Judicial foreclosure" means a foreclosure of a unit:
- 689 (a) for the nonpayment of an assessment;
- 690 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 691 (c) as provided in this chapter.
- 692 (23)(a) "Leasehold condominium" means a condominium project in all or any portion of
693 which each unit owner owns an estate for years in [his] the unit owner's unit, or in the
694 land upon which that unit is situated, or both, with all those leasehold interests to
695 expire naturally at the same time.
- 696 (b) [-A] "Leasehold condominium" does not include a condominium project including
697 leased land, or an interest in the land, upon which no units are situated or to be
698 situated[is not a leasehold condominium within the meaning of this chapter].
- 699 (24) "Limited common areas and facilities" means [~~those~~] the common areas and facilities
700 designated in the declaration as reserved for use of a certain unit or units to the exclusion
701 of the other units.
- 702 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
703 declaration or lawful amendments to the declaration, means the owners of more than
704 50% in the aggregate in interest of the undivided ownership of the common areas and
705 facilities.
- 706 (26) "Management committee" means the committee as provided in the declaration charged
707 with and having the responsibility and authority to make and to enforce all of the
708 reasonable rules covering the operation and maintenance of the property.

- 709 (27) "Management committee meeting" means a gathering of a management committee,
 710 whether in person or by means of electronic communication, at which the management
 711 committee can take binding action.
- 712 (28) "Manager" means a person with whom the management committee enters into a
 713 contract for the person to:
- 714 (a) provide administrative or financial services for the association; or
 715 (b) act on behalf of the association in accordance with this chapter.
- 716 [(28)] (29)(a) "Means of electronic communication" means an electronic system that
 717 allows individuals to communicate orally in real time.
- 718 (b) "Means of electronic communication" includes:
- 719 (i) web conferencing;
 720 (ii) video conferencing; and
 721 (iii) telephone conferencing.
- 722 [(29)] (30) "Mixed-use condominium project" means a condominium project that has both
 723 residential and commercial units in the condominium project.
- 724 [(30)] (31) "Nonjudicial foreclosure" means the sale of a unit:
- 725 (a) for the nonpayment of an assessment;
 726 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
 727 57-1-34; and
 728 (c) as provided in this chapter.
- 729 [(31)] (32) "Par value" means a number of dollars or points assigned to each unit by the
 730 declaration[-] in accordance with the following:
- 731 (a) [~~Substantially~~] the declaration shall assign substantially identical units [shall be
 732 assigned]the same par value[-] ;
- 733 (b) [~~but~~] units located at substantially different heights above the ground, or having
 734 substantially different views, or having substantially different amenities or other
 735 characteristics that might result in differences in market value, may be considered
 736 substantially identical [~~within the meaning of this subsection.] for purposes of
 737 Subsection (32)(a);[-] and~~
- 738 (c) [Hf] if the declaration states par value [is stated]in terms of dollars[-,that statement] :
 739 (i) the dollar amount may not be considered to reflect or control the sales price or fair
 740 market value of [~~any~~] a unit[-] ; and
- 741 (ii) [~~no~~] an opinion, an appraisal, or a fair market transaction at a different figure may
 742 not affect;

- 743 (A) [-]the par value of [any] a unit[;] ; or
 744 (B) [-any] an undivided interest in the common areas and facilities, voting rights in
 745 the unit owners' association, liability for common expenses, or right to
 746 common profits, [assigned] that the declaration assigns on the basis [thereof] of
 747 the par value.
- 748 [(32)] (33) "Period of administrative control" means the period of control described in
 749 Subsection 57-8-16.5(1).
- 750 [(33)] (34) "Person" means an individual, corporation, partnership, association, trustee, or
 751 other legal entity.
- 752 [(34)] (35) "Political sign" means [any] a sign or document that advocates for:
 753 (a) the election or defeat of a candidate for public office; or
 754 (b) the approval or defeat of a ballot proposition.
- 755 [(35)] (36) "Property" means:
 756 (a) [-]the land, whether leasehold or in fee simple[;] ;
 757 (b) [-]the building, if any[;] ;
 758 (c) [-]all improvements and structures [~~thereon;~~] on the land;
 759 (d) [-]all easements, rights, and appurtenances belonging [~~thereto;~~] to the land; and
 760 (e) [-]all articles of personal property intended for use in connection [~~therewith~~] with the
 761 land.
- 762 [(36)] (37) "Protected area" means the same as that term is defined in Section 53-29-306.
- 763 [(37)] (38) "Record," "recording," "recorded," and "recorder" [~~have the meaning stated~~]
 764 mean the same as the terms are defined in Chapter 3, Recording of Documents.
- 765 [(38)] (39) "Rentals" or "rental unit" means:
 766 (a) a unit that:
 767 (i) is not owned by an entity or trust; and
 768 (ii) [~~is occupied by~~]an individual occupies while the unit owner is not occupying the
 769 unit as the unit owner's primary residence; or
 770 (b) an occupied unit [~~owned by~~] that an entity or trust owns, regardless of who occupies
 771 the unit.
- 772 [(39)] (40)(a) "Size" means the number of cubic feet, or the number of square feet of
 773 ground or floor space, within [~~each~~] a unit as computed by reference to the record of
 774 survey map and rounded off to a whole number.
- 775 (b) [~~Certain spaces~~] "Size" does not include the following within [~~the units including~~]
 776 attic, basement, or garage space may be omitted from the calculation or be partially

777 ~~discounted by the use of a ratio, if the same basis of calculation is employed for all~~
 778 ~~units in the condominium project and if that basis is described in the declaration.] a~~
 779 ~~unit, if when making the calculation described in Subsection (40)(a), the following~~
 780 ~~are omitted or partially discounted by the use of a ratio, the same basis of calculation~~
 781 ~~is employed for all units in the condominium project, and that basis is described in~~
 782 ~~the declaration:~~

- 783 (i) an attic;
 784 (ii) a basement; or
 785 (iii) a garage space.

786 [(40)] (41) "Time period unit" means an annually recurring part or parts of a year specified
 787 in the declaration as a period for which a unit is separately owned and includes a
 788 timeshare estate as that term is defined in Section 57-19-2.

789 [(41)] (42) "Unconstructed unit" means a unit that:

- 790 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
 791 a building; and
 792 (b) is not constructed.

793 [(42)] (43)(a) "Unit" means a separate part of the property intended for any type of
 794 independent use, which is created by the recording of a declaration and a
 795 condominium plat that describes the unit boundaries.

796 (b) "Unit" includes:

- 797 (i) one or more rooms or spaces located in one or more floors or a portion of a floor
 798 in a building[-]; and
 799 [(e)] (ii) ~~["Unit" includes]~~ a convertible space, in accordance with Subsection
 800 57-8-13.4(3).

801 [(43)] (44) "Unit number" means the number, letter, or combination of numbers and letters
 802 designating the unit in the declaration and in the record of survey map.

803 [(44)] (45) "Unit owner" means the person or persons owning a unit in fee simple and an
 804 undivided interest in the fee simple estate of the common areas and facilities in the
 805 percentage specified and established in the declaration or, in the case of a leasehold
 806 condominium project, the person or persons whose leasehold interest or interests in the
 807 condominium unit extend for the entire balance of the unexpired term or terms.

808 [(45)] (46) "Water wise landscaping" means:

- 809 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
 810 (i) remain healthy with minimal irrigation once established; or

- 811 (ii) be maintained without the use of overhead spray irrigation;
- 812 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
- 813 water application; or
- 814 (c) use of other landscape design features that:
- 815 (i) minimize the landscape's need for supplemental water from irrigation;
- 816 (ii) reduce the landscape area dedicated to lawn or turf; or
- 817 (iii) encourage vegetative coverage.

818 [(46)] (47) "Water wise plant material" means a plant material suited to water wise

819 landscaping.

820 Section 8. Section **57-8-6.1** is amended to read:

821 **57-8-6.1 . Information required before sale to independent third party.**

- 822 (1) Before the sale of [any] a unit under the jurisdiction of an association of unit owners to
- 823 an independent third party, the grantor shall provide to the independent third party:
- 824 (a) a copy of the association of unit owners' recorded governing documents; and
- 825 (b) a link or other access point to the [department's] educational materials described in
- 826 Subsection [57-8-13.1(6)] 13-79-103(4).
- 827 (2) The grantor shall provide the information described in Subsection (1) before closing.
- 828 (3) The association of unit owners shall, upon request by the grantor, provide to the grantor
- 829 the information described in Subsection (1).
- 830 (4) This section applies to each association of unit owners, regardless of when the
- 831 association of unit owners is formed.

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

833 **57-8-7.6 . Budget.**

- 834 (1) At least once annually a management committee shall prepare and adopt a budget for
- 835 the association.
- 836 (2) The management committee shall present the adopted budget to association members at
- 837 a meeting of the members.
- 838 (3) A budget is disapproved if within 45 days after the date of the meeting under
- 839 Subsection(2) at which the management committee presents the adopted budget:
- 840 (a) at least 51% of all the allocated voting interests of the unit owners in the association
- 841 vote to disapprove the adopted budget; and
- 842 (b) the vote is taken at a special meeting called by unit owners under the declaration,
- 843 articles, or bylaws to disapprove the budget.
- 844 (4) If a budget is disapproved under Subsection (3) or not adopted under Subsection (1), the

845 budget that the management committee last adopted continues as the budget until the
846 management committee prepares and adopts a new budget for the association.

847 Section 10. Section **57-8-8.1** is amended to read:

848 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**

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

851 (b) A rule may:

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

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

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

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

862 (b) A rule may:

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

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

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

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

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

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

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

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

878 (b) An association of unit owners may:

- 879 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
880 or
- 881 (ii) limit the total number of occupants permitted in each residential dwelling on the
882 basis of the residential dwelling's:
- 883 (A) size and facilities; and
884 (B) fair use of the common areas and facilities.
- 885 (4) Subject to Subsection (14), an association of unit owners may by rule:
- 886 (a) unless otherwise provided in the declaration:
- 887 (i) regulate the use, maintenance, repair, replacement, and modification of common
888 areas and facilities; and
- 889 (ii) impose and receive any payment, fee, or charge for:
- 890 (A) the use, rental, or operation of the common areas, except limited common
891 areas and facilities; or
- 892 (B) a service provided to a unit owner;
- 893 (b) impose, for a late payment of an assessment:
- 894 (i) a late fee, not to exceed the greater of:
- 895 (A) 10% of the assessment amount; or
896 (B) \$50; and
- 897 (ii) interest on the assessment and a late fee of up to 1.5% per month; or
- 898 (c) provide for the indemnification of the association of unit owners' officers and
899 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
900 Corporation Act.
- 901 (5)(a) Except as provided in Subsection (5)(b), a rule may not prohibit a unit owner from
902 installing a personal security camera immediately adjacent to the entryway, window,
903 or other outside entry point of the owner's condominium unit.
- 904 (b) A rule may prohibit a unit owner from installing a personal security camera in a
905 common area not physically connected to the owner's unit.
- 906 (6)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
907 sign, symbol, or decoration inside the owner's condominium unit.
- 908 (b) An association may adopt a reasonable time, place, and manner restriction with
909 respect to a display that is visible from the exterior of a unit.
- 910 (7)(a) A rule may not:
- 911 (i) prohibit a unit owner from displaying in a window of the owner's condominium
912 unit:

- 913 (A) a for-sale sign;
- 914 (B) a political sign; or
- 915 (C) a flag; or
- 916 (ii) except as provided Subsection (7)(b), regulate the content or establish specific
- 917 design criteria for the content of a political sign or flag.
- 918 (b) A rule may restrict a political sign or flag that contains obscene, profane, or
- 919 commercial content.
- 920 (c) A rule may reasonably regulate the size and time, place, and manner of posting a
- 921 for-sale sign, a political sign, or a flag.
- 922 (8) For any area for which one or more unit owners, but not the association, are responsible
- 923 for landscape maintenance, the association of unit owners:
- 924 (a) shall adopt rules supporting water wise landscaping, including:
- 925 (i) low water use requirements on lawns during drought conditions;
- 926 (ii) design criterion for water wise landscaping; and
- 927 (iii) limiting permissible plant material to specific water wise plant material;
- 928 (b) may not prohibit low water use on lawns during drought conditions; and
- 929 (c) except where reasonably necessary for erosion control, may not prohibit or restrict
- 930 the conversion of a grass park strip of less than 8 feet wide to water-efficient
- 931 landscaping.
- 932 (9) A rule may restrict a sex offender from accessing a protected area that is maintained,
- 933 operated, or owned by the association, subject to the exceptions described in Subsection
- 934 53-29-306(3).
- 935 (10)(a) Except as provided in this Subsection (10), a rule may not prohibit a unit owner
- 936 from making modifications, consistent with industry standards, for radon mitigation.
- 937 (b) Subsection (10)(a) does not apply if the modifications would violate:
- 938 (i) a local land use ordinance;
- 939 (ii) a building code;
- 940 (iii) a health code; or
- 941 (iv) a fire code.
- 942 (c) A rule governing the placement or external appearance of modifications may apply to
- 943 modifications for radon mitigation unless the rule would:
- 944 (i) unreasonably interfere with the modifications' functionality; or
- 945 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 946 modifications.

- 947 (d) A rule may require that a unit owner making modifications related to radon
 948 mitigation:
- 949 (i) demonstrate or provide proof of radon contamination; and
 950 (ii) provide proof that the modifications and any related construction will be
 951 performed by a licensed person.
- 952 (11)(a) Except as provided in Subsection (11)(b), a rule may not restrict an individual
 953 from parking an operable vehicle in a driveway where the vehicle has a legal right to
 954 park, unless the vehicle is:
- 955 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
 956 (ii) a motor home, as that term is defined in Section 13-20-2;~~[-or]~~
 957 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2~~[-]~~ ;
 958 (iv) a trailer, as that term is defined in Section 41-1a-102;
 959 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
 960 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
 961 (vii) a motorboat, as that term is defined in Section 73-18-2.
- 962 (b) A rule may require that an individual park in a garage appurtenant to a unit before
 963 parking elsewhere.
- 964 (12)(a) Except as provided in Subsection (12)(b), a rule may not restrict an individual
 965 from operating a vehicle that is not a commercial vehicle, as that term is defined in
 966 Section 72-9-102, in conformance with state traffic laws.
- 967 (b) A rule may enforce a reduced speed limit on a private roadway.
- 968 (13) A rule may not:
- 969 (a) impose a requirement or restriction on the use of a public street, as that term is
 970 defined in Section 10-20-102; or
 971 (b) restrict an individual from:
- 972 (i) installing, displaying, or storing an item that the individual has a legal right to
 973 store if the item is not visible to an individual standing outside the unit; or
 974 (ii) hiring a contractor or worker solely because the contractor or worker:
 975 (A) is not on the association's preferred vendor list; or
 976 (B) does not have a professional or occupational license, unless the license is
 977 required by law.
- 978 (14) A rule shall be reasonable.
- 979 (15) A declaration, or an amendment to a declaration, may ~~[vary any of the requirements of~~
 980 Subsections (1) through (5), except] not vary the requirements of Subsection (1)(b)(ii).

981 (16) This section applies to an association of unit owners regardless of when the association
982 of unit owners is created.

983 (17) Before imposing a fee under Subsection (4), an association of unit owners shall:

984 (a) adopt a fee schedule by rule that describes the amount of each fee the association of
985 unit owners shall impose; and

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

987 Section 11. Section **57-8-10** is amended to read:

988 **57-8-10 . Contents of declaration -- Limitations on declaration.**

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

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

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

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

999 (ii) contain a description of any buildings that states the number of storeys and
1000 basements, the number of units, the principal materials of which the building is or
1001 is to be constructed, and a description of all other significant improvements
1002 contained or to be contained in the project;

1003 (iii) contain the unit number of each unit, the square footage of each unit, and any
1004 other description or information necessary to properly identify each unit;

1005 (iv) describe the common areas and facilities of the project; [~~and~~]

1006 (v) describe any limited common areas and facilities and state to which units the use
1007 of the common areas and facilities is reserved[~~-~~] ; and

1008 (vi) include a statement that the project is:

1009 (A) designated as a condominium project; and

1010 (B) governed by this chapter.

1011 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other
1012 apparatus intended to serve a single unit, but located outside the boundaries of the
1013 unit, shall constitute a limited common area and facility appertaining to that unit
1014 exclusively, regardless of whether [~~or not~~]the declaration makes such a provision.

- 1015 (c) The condominium plat recorded with the declaration may provide or supplement the
1016 information required under Subsections (2)(a) and (b).
- 1017 (d)(i) The declaration shall include the percentage or fraction of undivided interest in
1018 the common areas and facilities appurtenant to each unit and the unit owner for all
1019 purposes, including voting, derived and allocated in accordance with Subsection
1020 57-8-7(2).
- 1021 (ii) If any use restrictions are to apply, the declaration shall state the purposes for
1022 which the units are intended and the use restrictions that apply.
- 1023 (iii)(A) The declaration shall include the name and address of a person to receive
1024 service of process on behalf of the condominium project, in the cases provided
1025 by this chapter.
- 1026 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or
1027 shall maintain a place of business within, this state.
- 1028 (iv) The declaration shall describe the method by which the declaration may be
1029 amended consistent with this chapter.
- 1030 (v) Any further matters in connection with the property may be included in the
1031 declaration, which the person or persons executing the declaration may consider
1032 desirable, consistent with this chapter.
- 1033 ~~[(vi) The declaration shall contain a statement of intention that this chapter applies to
1034 the property.]~~
- 1035 (e) The initial recorded declaration shall include:
- 1036 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
1037 and
- 1038 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
1039 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the
1040 unit and all improvements to the unit for the purpose of securing payment of
1041 assessments under the terms of the declaration."
- 1042 (3)(a) If the condominium project contains any convertible land, the declaration shall:
- 1043 (i) contain a legal description by metes and bounds of each area of convertible land
1044 within the condominium project;
- 1045 (ii) state the maximum number of units that may be created within each area of
1046 convertible land;
- 1047 (iii) state, with respect to each area of convertible land, the maximum percentage of
1048 the aggregate land and floor area of all units that may be created and the use of

1049 which will not or may not be restricted exclusively to residential purposes, unless
1050 none of the units on other portions of the land within the project are restricted
1051 exclusively to residential use;

1052 (iv) state the extent to which any structure erected on any convertible land will be
1053 compatible with structures on other portions of the land within the condominium
1054 project in terms of quality of construction, the principal materials to be used, and
1055 architectural style;

1056 (v) describe all other improvements that may be made on each area of convertible
1057 land within the condominium project;

1058 (vi) state that any units created within each area of convertible land will be
1059 substantially identical to the units on other portions of the land within the project
1060 or describe in detail what other type of units may be created; and

1061 (vii) describe the declarant's reserved right, if any, to create limited common areas
1062 and facilities within any convertible land in terms of the types, sizes, and
1063 maximum number of the limited common areas within each convertible land.

1064 (b) The condominium plat recorded with the declaration may provide or supplement the
1065 information required under Subsection (3)(a).

1066 (4)(a) If the condominium project is an expandable condominium project, the
1067 declaration shall:

1068 (i) contain an explicit reservation of an option to expand the project;

1069 (ii) include a statement of any limitations on the option to expand, including a
1070 statement as to whether the consent of any unit owners is required and, a
1071 statement as to the method by which consent shall be ascertained, or a statement
1072 that there are no such limitations;

1073 (iii) include a time limit, not exceeding seven years after the day on which the
1074 declaration is recorded, upon which the option to expand the condominium project
1075 expires and a statement of any circumstances that will terminate the option before
1076 expiration of the specified time limits;

1077 (iv) contain a legal description by metes and bounds of all land that may be added to
1078 the condominium project, which is known as additional land;

1079 (v) state:

1080 (A) if any of the additional land is added to the condominium project, whether all
1081 of it or any particular portion of it must be added;

1082 (B) any limitations as to what portions may be added; or

- 1083 (C) a statement that there are no such limitations;
- 1084 (vi) include a statement as to whether portions of the additional land may be added to
1085 the condominium project at different times, including any limitations fixing the
1086 boundaries of those portions by legal descriptions setting forth the metes and
1087 bounds of these lands and regulating the order in which [they] the lands may be
1088 added to the condominium project;
- 1089 (vii) include a statement of any limitations on the locations of any improvements that
1090 may be made on any portions of the additional land added to the condominium
1091 project, or a statement that no assurances are made in that regard;
- 1092 (viii)(A) state the maximum number of units that may be created on the additional
1093 land;
- 1094 (B) if portions of the additional land may be added to the condominium project
1095 and the boundaries of those portions are fixed in accordance with Subsection
1096 (4)(a)(vi), state the maximum number of units that may be created on each
1097 portion added to the condominium project; and
- 1098 (C) if portions of the additional land may be added to the condominium project
1099 and the boundaries of those portions are not fixed in accordance with
1100 Subsection (4)(a)(vi), state the maximum number of units per acre that may be
1101 created on any portion added to the condominium project;
- 1102 (ix) with respect to the additional land and to any portion of the additional land that
1103 may be added to the condominium project, state the maximum percentage of the
1104 aggregate land and floor area of all units that may be created on it, the use of
1105 which will not or may not be restricted exclusively to residential purposes, unless
1106 none of the units on the land originally within the project are restricted exclusively
1107 to residential use;
- 1108 (x) state the extent to which any structures erected on any portion of the additional
1109 land added to the condominium project will be compatible with structures on the
1110 land originally within the project in terms of quality of construction, the principal
1111 materials to be used, and architectural style, or that no assurances are made in
1112 those regards;
- 1113 (xi) describe all other improvements that will be made on any portion of the
1114 additional land added to the condominium project, including any limitations on
1115 what other improvements may be made on the additional land, or state that no
1116 assurances are made in that regard;

- 1117 (xii) contain a statement that any units created on any portion of the additional land
1118 added to the condominium project will be substantially identical to the units on
1119 the land originally within the project, a statement of any limitations on what types
1120 of units may be created on the additional land, or a statement that no assurances
1121 are made in that regard; and
- 1122 (xiii) describe the declarant's reserved right, if any, to create limited common areas
1123 and facilities within any portion of the additional land added to the condominium
1124 project, in terms of the types, sizes, and maximum number of limited common
1125 areas within each portion, or state that no assurances are made in those regards.
- 1126 (b) The condominium plat recorded with the declaration may provide or supplement the
1127 information required under Subsections (4)(a)(iv) through (a)(vii) and (a)(x) through
1128 (a)(xiii).
- 1129 (5)(a) If the condominium project is a contractible condominium, the declaration shall:
- 1130 (i) contain an explicit reservation of an option to contract the condominium project;
1131 (ii) contain a statement of any limitations on the option to contract, including a
1132 statement regarding whether the consent of any unit owners is required, and if so,
1133 a statement regarding the method by which this consent shall be ascertained, or a
1134 statement that there are no such limitations;
- 1135 (iii) state the time limit, not exceeding seven years after the day on which the
1136 declaration is recorded, upon which the option to contract the condominium
1137 project expires, together with a statement of any circumstances that will terminate
1138 the option before expiration of the specified time limit;
- 1139 (iv) include a legal description by metes and bounds of all land that may be
1140 withdrawn from the condominium project, which is known as withdrawable land;
- 1141 (v) include a statement as to whether portions of the withdrawable land may be
1142 withdrawn from the condominium project at different times, together with any
1143 limitations fixing the boundaries of those portions by legal descriptions setting
1144 forth the metes and bounds and regulating the order in which they may be
1145 withdrawn from the condominium project; and
- 1146 (vi) include a legal description by metes and bounds of all of the land within the
1147 condominium project to which the option to contract the project does not extend.
- 1148 (b) The condominium plat recorded with the declaration may provide or supplement the
1149 information required under Subsections (5)(a)(iv) through (vi).
- 1150 (6)(a) If the condominium project is a leasehold condominium, the declaration shall,

- 1151 with respect to any ground lease or other leases the expiration or termination of
 1152 which will or may terminate or contract the condominium project:
- 1153 (i) include recording information enabling the location of each lease in the official
 1154 records of the county recorder;
- 1155 (ii) include the date upon which each lease is due to expire;
- 1156 (iii) state whether any land or improvements will be owned by the unit owners in fee
 1157 simple;
- 1158 (iv) if there is to be fee simple ownership of any land or improvement, as described in
 1159 Subsection (6)(a)(iii), include:
- 1160 (A) a description of the land or improvements, including a legal description by
 1161 metes and bounds of the land; or
- 1162 (B) a statement of [~~any rights~~] the right the unit owners have to remove [~~these~~] the
 1163 improvements described in Subsection (6)(a)(iv)(A) within a reasonable time
 1164 after the expiration or termination of the lease or leases involved, or a
 1165 statement that [~~they shall have no such rights~~] the unit owners do not have that
 1166 right; and
- 1167 (v) include a statement of the [~~rights~~] right the unit owners have to extend or renew
 1168 any of the leases or to redeem or purchase any of the reversions, or a statement
 1169 that [~~they have no such rights~~] the unit owners do not have that right.
- 1170 (b) After the recording of the declaration, a lessor who executed the declaration, or the
 1171 lessor's successor in interest, may not terminate any part of the leasehold interest of [
 1172 ~~any~~] a unit owner who:
- 1173 (i) makes timely payment of the unit owner's share of the rent to the persons
 1174 designated in the declaration for the receipt of the rent; and
- 1175 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
 1176 the lease if the covenants were violated.
- 1177 (7)(a)(i) If the condominium project contains time period units, the declaration shall
 1178 also contain the location of each condominium unit in the calendar year.
- 1179 (ii) [~~This information~~] The information described in Subsection (7)(a)(i) shall be set
 1180 out in a fourth column of the exhibit or schedule referred to in Subsection
 1181 57-8-7(2), if the exhibit or schedule accompanies the declaration.
- 1182 (b) The declaration shall also put timeshare owners on notice that tax notices will be sent
 1183 to the management committee, not each timeshare owner.
- 1184 (c) The time period units created with respect to any given physical unit shall be such

- 1185 that the aggregate of the durations involved constitute a full calendar year.
- 1186 (8)(a) The declaration, bylaws, and condominium plat shall be duly executed and
 1187 acknowledged by all of the owners and any lessees of the land ~~[which]~~ that is ~~[made-]~~
 1188 subject to this chapter.
- 1189 (b) As used in Subsection (8)(a), "owners and lessees" does not include~~[-, in their~~
 1190 ~~respective capacities,]~~ ;
- 1191 (i) ~~[-any]~~ a mortgagee~~[-]~~ ;
- 1192 (ii) ~~[-any]~~ a trustee or beneficiary under a deed of trust~~[-]~~ ;
- 1193 (iii) ~~[-]~~ any other lien holder~~[-]~~ ;
- 1194 (iv) ~~[-any]~~ a person ~~[having]~~ that has an equitable interest under ~~[any]~~ a contract for the
 1195 sale or lease of a condominium unit~~[-]~~ ; or
- 1196 (v) ~~[-any]~~ a lessee whose leasehold interest does not extend to any portion of the
 1197 common areas and facilities.
- 1198 (9) A declaration, or an amendment to a declaration may not:
- 1199 (a) prohibit a unit owner from displaying in a window of the owner's unit:
- 1200 (i) a for-sale sign;
- 1201 (ii) a political sign; or
- 1202 (iii) a flag;
- 1203 (b) regulate the content or establish specific design criteria for the content of a political
 1204 sign or flag, except to restrict a political sign or flag that contains obscene, profane,
 1205 or commercial content;
- 1206 (c) prohibit low water use on lawns during drought conditions;
- 1207 (d) except where reasonably necessary for erosion control, prohibit or restrict the
 1208 conversion of a grass park strip of less than eight feet wide to water-efficient
 1209 landscaping;
- 1210 (e) prohibit a unit owner from making modifications, consistent with industry standards,
 1211 for radon mitigation, unless the modifications would violate:
- 1212 (i) a local land use ordinance;
- 1213 (ii) a building code;
- 1214 (iii) a health code; or
- 1215 (iv) a fire code;
- 1216 (f) restrict an individual from parking an operable vehicle in a driveway where the
 1217 vehicle has a legal right to park, unless the vehicle is:
- 1218 (i) a commercial vehicle, as that term is defined in Section 72-9-102;

- 1219 (ii) a motor home, as that term is defined in Section 13-20-2;
1220 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2;
1221 (iv) a trailer, as that term is defined in Section 41-1a-102;
1222 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
1223 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
1224 (vii) a motorboat, as that term is defined in Section 73-18-2;
1225 (g) restrict an individual from operating a vehicle that is not a commercial vehicle, as
1226 that term is defined in Section 72-9-102, in accordance with state traffic laws;
1227 (h) impose a requirement or restriction on the use of a public street, as that term is
1228 defined in Section 10-20-102;
1229 (i) restrict an individual from:
1230 (i) installing, displaying, or storing an item that the individual has a legal right to
1231 store if the item is not visible to an individual standing outside the unit; or
1232 (ii) hiring a contractor or worker solely because the contractor or worker:
1233 (A) is not on the association's preferred vendor list; or
1234 (B) does not have a professional or occupational license, unless the license is
1235 required by law;
1236 (j) restrict a unit owner from displaying a religious or holiday sign, symbol, or
1237 decoration on:
1238 (i) the unit; or
1239 (ii) the exterior of the unit, unless the association has an ownership interest in, or
1240 maintenance, repair, or replacement obligation for the exterior;
1241 (k) interfere with reasonable activity of a unit owner within the confines of the unit, to
1242 the extent that the activity is in compliance with local laws and ordinances, including
1243 nuisance laws and ordinances;
1244 (l)(i) prohibit the transfer of a unit; or
1245 (ii) require the consent of the association or management committee to transfer a unit;
1246 (m) prohibit a unit owner from installing a personal security camera immediately
1247 adjacent to the entryway, window, or other outside entry point of the unit; or
1248 (n) impose a restriction on a unit interior, except as reasonably necessary for the safety
1249 of adjacent units and the occupants of the units.
1250 (10) A declaration, or an amendment to a declaration may:
1251 (a) require that an individual park in a garage appurtenant to a unit before parking
1252 elsewhere;

- 1253 (b) enforce a reduced speed limit on a private roadway;
 1254 (c) reasonably regulate the size and time, place, and manner of posting a for-sale sign, a
 1255 political sign, or a flag;
 1256 (d) restrict a sex offender from accessing a protected area that is maintained, operated, or
 1257 owned by the association, subject to the exceptions described in Subsection
 1258 53-29-306(3); or
 1259 (e) adopt a reasonable time, place, and manner restriction with respect to a religious or
 1260 holiday sign, symbol, or decoration that is:
 1261 (i) outside of or on the unit; or
 1262 (ii) visible from outside the unit.

1263 Section 12. Section **57-8-13.1** is amended to read:

1264 **57-8-13.1 . Registration with Department of Commerce.**

- 1265 (1) As used in this section, "department" means the Department of Commerce created in
 1266 Section 13-1-2.
 1267 (2) No later than 90 days after the recording of a declaration, an association of unit owners
 1268 shall register with the department in the manner [~~established by~~] that the department
 1269 establishes.
 1270 (3) The department shall require an association of unit owners registering as required in this
 1271 section to provide with each registration:
 1272 (a) the name and address of the association of unit owners;
 1273 (b) the name, [~~address,~~]telephone number, and, if applicable, email address of the
 1274 president of the association of unit owners;
 1275 (c) the name [~~and address~~]of each manager or management committee member;
 1276 (d) the name, address, telephone number, and, if the contact person wishes to use email
 1277 or facsimile transmission for communicating payoff information, the email address or
 1278 facsimile number, as applicable, of a primary contact person who has association
 1279 payoff information that a closing agent needs in connection with the closing of a unit
 1280 owner's financing, refinancing, or sale of the owner's unit; and
 1281 (e) a registration fee [~~set by~~] that the department sets in accordance with Section
 1282 63J-1-504.
 1283 (4)(a) An association of unit owners shall annually renew the registration of the
 1284 association of unit owners described in Subsection (2).
 1285 (b) The department may impose and set the amount of a renewal registration fee in
 1286 accordance with Section 63J-1-504.

- 1287 (5) An association of unit owners [~~that has registered under~~] that registers in accordance with
1288 Subsection (2) shall submit to the department an update to the association of unit
1289 owners' registration information, in the manner [~~established by~~] that the department
1290 establishes, within 90 days after the day on which a change in any of the information
1291 provided under Subsection (3) occurs.
- 1292 (6)(a) During any period of noncompliance with the registration requirement described
1293 in Subsection (2) or the requirement for an updated registration described in
1294 Subsection (5):
- 1295 (i) a lien may not arise under Section 57-8-44; and
1296 (ii) an association of unit owners may not enforce an existing lien that arose under
1297 Section 57-8-44.
- 1298 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1299 with the updated registration requirement of Subsection (5) does not begin until after
1300 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 1301 (c) An association of unit owners that is not in compliance with the registration
1302 requirement described in Subsection (2) may end the period of noncompliance by
1303 registering with the department in the manner [~~established by~~] that the department
1304 establishes under Subsection (2).
- 1305 (d) An association of unit owners that is not in compliance with the updated registration
1306 requirement described in Subsection (5) may end the period of noncompliance by
1307 submitting to the department an updated registration in the manner [~~established by~~]
1308 that the department establishes under Subsection (5).
- 1309 (e) Except as described in Subsection (6)(f), beginning on the date an association of unit
1310 owners ends a period of noncompliance:
- 1311 (i) a lien may arise under Section 57-8-44 for any event that:
1312 (A) occurred during the period of noncompliance; and
1313 (B) would have given rise to a lien under Section 57-8-44 had the association of
1314 unit owners been in compliance with the registration requirements described in
1315 this section; and
1316 (ii) an association of unit owners may enforce a lien described in Subsection [(6)(e)]
1317 (6)(e)(i) or a lien that existed before the period of noncompliance.
- 1318 (f) If an owner's unit is conveyed to an independent third party during a period of
1319 noncompliance described in this Subsection (6):
- 1320 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became

1321 final is extinguished when the conveyance of the unit becomes final; and
 1322 (ii) an event that occurred before the conveyance of the unit became final, and that
 1323 would have given rise to a lien under Section 57-8-44 had the association of unit
 1324 owners been in compliance with the registration requirements of this section, may
 1325 not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes
 1326 final before the association of unit owners ends the period of noncompliance.

1327 [~~(7) The department shall publish educational materials on the department's website~~
 1328 ~~providing, in simple and easy to understand language, a brief overview of state law~~
 1329 ~~governing associations of unit owners, including:]~~

1330 [~~(a) a description of the rights and responsibilities provided in this chapter to any party~~
 1331 ~~under the jurisdiction of an association of unit owners; and]~~

1332 [~~(b) instructions regarding how an association of unit owners may be organized and~~
 1333 ~~dismantled in accordance with this chapter.]~~

1334 Section 13. Section **57-8-16.5** is amended to read:

1335 **57-8-16.5 . Period of administrative control -- Renewal or ratification of**
 1336 **contracts -- Failure to establish association or committee -- Declarant responsibilities.**

1337 (1)(a) The declaration may authorize the declarant, [~~or~~] a managing agent, or [~~some other~~]
 1338 a person [~~or persons selected or to be selected by~~] that the declarant selects, to:

1339 (i) [~~]~~ appoint and remove some or all of:

1340 (A) [~~]~~ the members of the management committee; or

1341 (B) [~~some or all of~~] the officers of the association of unit owners[~~;~~]; or

1342 (ii) [~~to~~] exercise powers and responsibilities otherwise assigned by the declaration
 1343 and by this [~~aet~~] chapter to the association of unit owners, [~~its~~] the association's
 1344 officers, or the management committee.

1345 (b) If the declaration authorizes the declarant to [~~appoint or remove some or all members~~
 1346 ~~of the management committee or some or all of the officers of the association of unit~~
 1347 ~~owners~~] conduct the actions described in Subsection (1)(a)(i) during the period of
 1348 administrative control [~~contemplated by~~] described in this Subsection (1), the
 1349 declarant may appoint the declarant's officers, employees or agents as members of the
 1350 management committee or as officers of the association of unit owners.

1351 (c) [~~No~~] An amendment to the declaration [~~not consented to by all unit owners shall~~] may
 1352 not increase the scope of [~~this authorization~~] the authorization described in Subsection
 1353 (1)(b), unless all unit owners unanimously consent to the amendment.

1354 (d) [~~and no such authorization shall be valid after the first to occur of the following~~]

- 1355 The authorization described in Subsection (1)(b) terminates on the day on which the
1356 first of the following occurs:
- 1357 (i) ~~[expiration of]~~the time limit set by the declaration expires, ~~[which shall]~~ that may
1358 not exceed:
- 1359 (A) ~~[-six years in the case of]~~ for an expandable condominium, six years~~[-]~~ ;
- 1360 (B) ~~[-four years in the case of]~~ for a condominium project containing any
1361 convertible land, four years; or
- 1362 (C) ~~[-three years in the case of]~~ for any other condominium project, three years~~[-or]~~
- 1363 (ii) ~~[after]~~units to which three-fourths of the undivided interest in the common areas
1364 and facilities appertain have been conveyed~~[-]~~ ; or
- 1365 (iii) ~~[-after]~~all additional land has been added to the project and all convertible land
1366 has been converted, whichever last occurs.
- 1367 (2) If entered into during the period of administrative control contemplated by Subsection
1368 (1), ~~[no]~~ a management contract, lease of recreational areas or facilities, or any other
1369 contract or lease designed to benefit the declarant which was executed by or on behalf of
1370 the association of unit owners or the unit owners as a group ~~[shall be]~~ is not binding after [
1371 ~~such]~~ the period of administrative control unless [then renewed or ratified by the consent
1372 ~~of]~~unit owners of units to which a majority of the votes in the association of unit owners
1373 appertains renew and ratify the management contract, lease of recreational areas or
1374 facilities, or any other contract or lease designed to benefit the declarant.
- 1375 (3) If the association of unit owners or management committee is not in existence or does
1376 not have officers at the time of the creation of a condominium project, the declarant
1377 shall, until there is an association or management committee with these officers, have
1378 the power and responsibility to act in all instances where this ~~[act]~~ chapter or the
1379 declaration requires action by the association of unit owners, the management
1380 committee, or any of the officers of ~~[them]~~ the association of unit owners or the
1381 management committee.
- 1382 (4) This section shall be strictly construed to protect the rights of the unit owners.
- 1383 (5) During the period of administrative control, the declarant shall:
- 1384 (a) use reasonable care and prudence in managing and maintaining the common areas
1385 and facilities;
- 1386 (b) establish a sound fiscal basis for the association by imposing and collecting
1387 assessments and establishing reserves for the maintenance and replacement of
1388 common areas and facilities;

- 1389 (c) for a service that the association is or will be obligated to provide, disclose to the unit
 1390 owners the amount of money the declarant provides for or subsidizes for that service;
 1391 (d) comply with and enforce the terms of the declaration, including design controls,
 1392 land-use restrictions, and the payment of assessments; and
 1393 (e) disclose to the unit owners all material facts and circumstances affecting:
 1394 (i) the condition of the property that the association is responsible for maintaining;
 1395 and
 1396 (ii) the financial condition of the association, including the interest of the declarant
 1397 and the declarant's affiliates in a contract, lease, or other agreement entered into
 1398 by the association.

1399 Section 14. Section **57-8-17** is amended to read:

1400 **57-8-17 . Records -- Availability for examination.**

- 1401 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association of unit
 1402 owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit
 1403 Corporation Act, an association of unit owners shall keep and make available to unit
 1404 owners:
- 1405 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner
 1406 described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605,
 1407 16-6a-1606, and 16-6a-1610; and
 - 1408 (ii) a copy of the association's:
 - 1409 (A) governing documents;
 - 1410 (B) most recent approved minutes;
 - 1411 (C) most recent annual budget and financial statement;
 - 1412 (D) most recent reserve analysis;
 - 1413 (E) certificate of insurance for each insurance policy the association of unit
 1414 owners holds;
 - 1415 (F) management committee meeting minutes from the previous three calendar
 1416 years;
 - 1417 (G) [a-]profit and loss statement for the previous three fiscal years; and
 - 1418 (H) [a-]balance sheet for the previous three fiscal years.
- 1419 (b) An association of unit owners may redact the following information from any
 1420 document the association of unit owners produces for inspection or copying:
- 1421 (i) a [~~Soeial Security~~] social security number;
 - 1422 (ii) a bank account number; or

- 1423 (iii) any communication subject to attorney-client privilege.
- 1424 (c) The following are considered property of the association:
- 1425 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 1426 (ii) the funds contained in an account described in Section 57-8-60.
- 1427 (d) If a person other than the association of unit owners has control over or possession of
- 1428 a record described in Subsection (1)(a)(i) or (ii), the person shall, upon the
- 1429 association's request, provide the record to the association of unit owners without
- 1430 charge.
- 1431 (2)(a) In addition to the requirements described in Subsection (1), an association of unit
- 1432 owners shall:
- 1433 (i) make documents available to unit owners in accordance with the association of
- 1434 unit owners' governing documents; and
- 1435 (ii)(A) if the association of unit owners has an active website, make the documents
- 1436 described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free
- 1437 of charge, through the website; or
- 1438 (B) if the association of unit owners does not have an active website, make
- 1439 physical copies of the documents described in Subsections (1)(a)(ii)(A)
- 1440 through (C) available to unit owners during regular business hours at the
- 1441 association of unit owners' address registered with the Department of
- 1442 Commerce under Section 57-8-13.1.
- 1443 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 1444 (c) If a provision of an association of unit owners' governing documents conflicts with a
- 1445 provision of this section, the provision of this section governs.
- 1446 (3) In a written request to inspect or copy documents:
- 1447 (a) a unit owner shall include:
- 1448 (i) the association of unit owners' name;
- 1449 (ii) the unit owner's name;
- 1450 (iii) the unit owner's property address;
- 1451 (iv) the unit owner's email address;
- 1452 (v) a description of the documents requested; and
- 1453 (vi) ~~[any]~~ an election or a request described in Subsection (3)(b); and
- 1454 (b) a unit owner may:
- 1455 (i) elect whether to inspect or copy the documents;
- 1456 (ii) if the unit owner elects to copy the documents, request hard copies or electronic

- 1457 scans of the documents; or
- 1458 (iii) subject to Subsection (4), request that:
- 1459 (A) the association of unit owners make the copies or electronic scans of the
- 1460 requested documents;
- 1461 (B) a recognized third party duplicating service make the copies or electronic
- 1462 scans of the requested documents;
- 1463 (C) the unit owner be allowed to bring any necessary imaging equipment to the
- 1464 place of inspection and make copies or electronic scans of the documents while
- 1465 inspecting the documents; or
- 1466 (D) the association of unit owners email the requested documents to an email
- 1467 address provided in the request.
- 1468 (4)(a) An association of unit owners shall comply with a request described in Subsection
- 1469 (3) within [~~two weeks~~] 10 business days after the day on which the association of unit
- 1470 owners receives the request.
- 1471 (b) If an association of unit owners produces the copies or electronic scans:
- 1472 (i) the copies or electronic scans shall be legible and accurate;
- 1473 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the
- 1474 copies and for time spent meeting with the unit owner, which may not exceed:
- 1475 (A) the actual cost that the association of unit owners paid to a recognized third
- 1476 party duplicating service to make the copies or electronic scans; or
- 1477 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other
- 1478 agent's time making the copies or electronic scans; and
- 1479 (iii) the association may not charge the unit owner for any costs associated with
- 1480 fulfilling a request for the electronic transmission of the documents described in
- 1481 Subsection (3).
- 1482 (c) If a unit owner requests a recognized third party duplicating service make the copies
- 1483 or electronic scans:
- 1484 (i) the association of unit owners shall arrange for the delivery and pick up of the
- 1485 original documents; and
- 1486 (ii) the unit owner shall pay the duplicating service directly.
- 1487 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the
- 1488 inspection, the association of unit owners shall provide the necessary space, light, and
- 1489 power for the imaging equipment.
- 1490 (e) An association may comply with a request described in Subsection (3) by posting the

- 1491 documents described in Subsection (3) to the association's website or online owner
1492 portal.
- 1493 (5) If, in response to a unit owner's request to inspect or copy documents, an association of
1494 unit owners fails to comply with a provision of this section, the association of unit
1495 owners shall pay:
- 1496 (a) the reasonable costs of inspecting and copying the requested documents;
- 1497 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner
1498 who made the request for each day the request continues unfulfilled, beginning the [
1499 ~~sixth day~~] eleventh business day after the day on which the unit owner made the
1500 request; and
- 1501 (c) reasonable attorney fees and costs [~~incurred by~~] that the unit owner incurs in
1502 obtaining the inspection and copies of the requested documents.
- 1503 (6)(a) In addition to any remedy in the association of unit owners' governing documents
1504 or as otherwise provided by law, a unit owner may file an action in court under this
1505 section if:
- 1506 (i) subject to Subsection (9), an association of unit owners fails to make documents
1507 available to the unit owner in accordance with this section, the association of unit
1508 owners' governing documents, or as otherwise provided by law; and
- 1509 (ii) the association of unit owners fails to timely comply with a notice described in
1510 Subsection (6)(d).
- 1511 (b) In an action described in Subsection (6)(a):
- 1512 (i) the unit owner may request:
- 1513 (A) injunctive relief requiring the association of unit owners to comply with the
1514 provisions of this section;
- 1515 (B) \$1,000 or actual [~~damage~~] damages, whichever is greater; or
- 1516 (C) any other relief provided by law; and
- 1517 (ii) the court may award costs and reasonable attorney fees to the prevailing party,
1518 including any reasonable attorney fees incurred before the action was filed that
1519 relate to the request that is the subject of the action.
- 1520 (c)(i) In an action described in Subsection (6)(a), upon motion by the unit owner
1521 made in accordance with Subsection (6)(b), notice to the association of unit
1522 owners, and a hearing in which the court finds a likelihood that the association of
1523 unit owners failed to comply with a provision of this section, the court shall order
1524 the association of unit owners to immediately comply with the provision.

- 1525 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
1526 after the day on which the unit owner files the motion.
- 1527 (d) At least 10 days before the day on which a unit owner files an action described in
1528 Subsection (6)(a), the unit owner shall deliver a written notice to the association of
1529 unit owners that states:
- 1530 (i) the unit owner's name, address, telephone number, and email address;
1531 (ii) each requirement of this section with which the association of unit owners has
1532 failed to comply;
1533 (iii) a demand that the association of unit owners comply with each requirement with
1534 which the association of unit owners has failed to comply; and
1535 (iv) a date by which the association of unit owners shall remedy the association of
1536 unit owners' noncompliance that is at least 10 days after the day on which the unit
1537 owner delivers the notice to the association of unit owners.
- 1538 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association of unit
1539 owners.
- 1540 (b) The provisions of this section apply regardless of any conflicting provision in Title
1541 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 1542 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that
1543 the unit owner has under this section.
- 1544 (9) An association of unit owners is not liable for identifying or providing a document in
1545 error, if the association of unit owners identified or provided the erroneous document in
1546 good faith.
- 1547 Section 15. Section **57-8-32** is amended to read:
- 1548 **57-8-32 . Sale of property and common areas and facilities.**
- 1549 (1) As used in this section:
- 1550 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
1551 (b) "Under threat of condemnation" means the same as that term is defined in Section
1552 78B-6-520.3.
- 1553 [(+) (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in
1554 the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and
1555 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect
1556 to sell, convey, transfer, or otherwise dispose of the property or all or part of the
1557 common areas and facilities.
- 1558 [(2)] (3) An affirmative vote described in Subsection [(+) (2)] (2) is binding upon all unit

1559 owners, and each unit owner shall execute and deliver the appropriate instruments and
 1560 perform all acts as necessary to affect the sale, conveyance, transfer, or other disposition
 1561 of the property or common areas and facilities.

1562 [~~(3)~~] (4) The general easement of ingress, egress, and use of the common areas and facilities
 1563 granted to an association and unit owners through recorded governing documents is
 1564 extinguished in any portion of the common areas and facilities the unit owners sell,
 1565 convey, transfer, or otherwise dispose of, if:

1566 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
 1567 portion of the common areas and facilities, comply with:

1568 (i) the provisions of this section; and
 1569 (ii) Section 10-20-809 or 17-79-709; and

1570 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
 1571 areas and facilities results in a person other than the association owning the portion of
 1572 the common areas and facilities.

1573 [~~(4)~~] (5) This section applies to an association of unit owners regardless of when the
 1574 association of unit owners is created.

1575 [~~(5)~~] (6) A declarant may not sell or otherwise encumber any part of the common areas and
 1576 facilities during the period of administrative control, except:

1577 (a) as allowed for convertible land or convertible space within a condominium project; [
 1578 ~~or~~]

1579 (b) as provided in Section 10-20-809 or 17-79-709[~~;~~] ; or

1580 (c) if the declarant sells or otherwise encumbers a part of the common areas and
 1581 facilities that are under threat of condemnation to a condemnor.

1582 [~~(6)~~] (7) Unless otherwise prohibited by the association's declaration or bylaws, an
 1583 authorized representative of the association may act as attorney-in-fact for the
 1584 association's unit owners in executing a sale, conveyance, transfer, or other disposition
 1585 of the common areas and facilities following an affirmative vote described in Subsection [
 1586 (4)] (2).

1587 Section 16. Section **57-8a-102** is amended to read:

1588 **57-8a-102 . Definitions.**

1589 As used in this chapter:

1590 (1)(a) "Assessment" means a charge imposed or levied:

1591 (i) by the association;

1592 (ii) on or against a lot or a lot owner; and

- 1593 (iii) in accordance with a governing document recorded with the county recorder.
- 1594 (b) "Assessment" includes:
- 1595 (i) a common expense; and
- 1596 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 1597 (2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or
- 1598 other legal entity, any member of which:
- 1599 (i) is an owner of a residential lot located within the jurisdiction of the association, as
- 1600 described in the governing documents; and
- 1601 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 1602 (A) real property taxes;
- 1603 (B) insurance premiums;
- 1604 (C) maintenance costs; or
- 1605 (D) for improvement of real property not owned by the member.
- 1606 (b) "Association" or "homeowner association" does not include an association created
- 1607 under Chapter 8, Condominium Ownership Act.
- 1608 (3) "Board meeting" means a gathering of a board, whether in person or by means of
- 1609 electronic communication, at which the board can take binding action.
- 1610 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
- 1611 authority to manage the affairs of the association.
- 1612 (5) "Common areas" means property that the association:
- 1613 (a) owns;
- 1614 (b) maintains;
- 1615 (c) repairs; or
- 1616 (d) administers.
- 1617 (6) "Common expense" means costs incurred by the association to exercise any of the
- 1618 powers provided for in the association's governing documents.
- 1619 (7) "Declarant":
- 1620 (a) means the person who executes a declaration and submits [it] the declaration for
- 1621 recording in the office of the recorder of the county in which the property described
- 1622 in the declaration is located; and
- 1623 (b) includes the person's successor and assign.
- 1624 (8) "Development right" means any right or combination of rights a declarant reserves in
- 1625 the declaration to:
- 1626 (a) add real estate to an association;

- 1627 (b) create lots, common elements, or limited common elements within an association;
- 1628 (c) subdivide lots or convert lots into common elements; or
- 1629 (d) withdraw real estate from an association.
- 1630 (9) "Director" means a member of the board of directors.
- 1631 (10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 1632 (11) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 1633 (12)(a) "Governing documents" means a written instrument by which the association
- 1634 may:
- 1635 (i) exercise powers; or
- 1636 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
- 1637 association.
- 1638 (b) "Governing documents" includes:
- 1639 (i) articles of incorporation;
- 1640 (ii) bylaws;
- 1641 (iii) a plat;
- 1642 (iv) a declaration of covenants, conditions, and restrictions; and
- 1643 (v) rules of the association.
- 1644 (13) "Independent third party" means a person that:
- 1645 (a) is not related to the owner of the residential lot;
- 1646 (b) shares no pecuniary interests with the owner of the residential lot; and
- 1647 (c) purchases the residential lot in good faith and without the intent to defraud a current
- 1648 or future lienholder.
- 1649 (14) "Judicial foreclosure" means a foreclosure of a lot:
- 1650 (a) for the nonpayment of an assessment;
- 1651 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 1652 (c) as provided in Part 3, Collection of Assessments.
- 1653 (15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 1654 (a) by a person or persons other than the owner; and
- 1655 (b) for which the owner receives a consideration or benefit, including a fee, service,
- 1656 gratuity, or emolument.
- 1657 (16) "Limited common areas" means common areas described in the declaration and
- 1658 allocated for the exclusive use of one or more lot owners.
- 1659 (17) "Lot" means:
- 1660 (a) a lot, parcel, plot, or other division of land:

- 1661 (i) designated for separate ownership or occupancy; and
 1662 (ii)(A) shown on a recorded subdivision plat; or
 1663 (B) the boundaries of which are described in a recorded governing document; or
 1664 (b)(i) a unit in a condominium association if the condominium association is a part of
 1665 a development; or
 1666 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
 1667 development.

1668 (18) "Manager" means a person with whom the board enters into a contract for the person
 1669 to:

- 1670 (a) provide administrative or financial services for the association; or
 1671 (b) act on behalf of the association in accordance with this chapter.

1672 [~~18~~] (19)(a) "Means of electronic communication" means an electronic system that
 1673 allows individuals to communicate orally in real time.

1674 (b) "Means of electronic communication" includes:

- 1675 (i) web conferencing;
 1676 (ii) video conferencing; and
 1677 (iii) telephone conferencing.

1678 [~~19~~] (20) "Mixed-use project" means a project under this chapter that has both residential
 1679 and commercial lots in the project.

1680 [~~20~~] (21) "Nonjudicial foreclosure" means the sale of a lot:

- 1681 (a) for the nonpayment of an assessment;
 1682 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
 1683 57-1-34; and
 1684 (c) as provided in Part 3, Collection of Assessments.

1685 [~~21~~] (22) "Period of administrative control" means the period during which the person who
 1686 filed the association's governing documents or the person's successor in interest retains
 1687 authority to:

- 1688 (a) appoint or remove members of the association's board of directors; or
 1689 (b) exercise power or authority assigned to the association under the association's
 1690 governing documents.

1691 [~~22~~] (23) "Political sign" means any sign or document that advocates:

- 1692 (a) the election or defeat of a candidate for public office; or
 1693 (b) the approval or defeat of a ballot proposition.

1694 [~~23~~] (24) "Protected area" means the same as that term is defined in Section 77-27-21.7.

- 1695 [(24)] (25) "Rentals" or "rental lot" means:
- 1696 (a) a lot that:
- 1697 (i) is not owned by an entity or trust; and
- 1698 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
- 1699 owner's primary residence;
- 1700 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 1701 (c) an internal accessory dwelling unit as defined in Section 10-21-101 or 17-80-101.
- 1702 [(25)] (26) "Residential lot" means a lot, the use of which is limited by law, covenant, or
- 1703 otherwise to primarily residential or recreational purposes.
- 1704 [(26)] (27)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an
- 1705 association that:
- 1706 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
- 1707 declaration; and
- 1708 (ii) governs:
- 1709 (A) the conduct of persons; or
- 1710 (B) the use, quality, type, design, or appearance of real property or personal
- 1711 property.
- 1712 (b) "Rule" does not include the internal business operating procedures of a board.
- 1713 [(27)] (28) "Sex offender" means an individual who is a sex offender as described in
- 1714 Subsection 53-29-202(2)(b) if the offense that the individual committed that resulted in
- 1715 the individual being a sex offender was committed against an individual younger than 18
- 1716 years old.
- 1717 [(28)] (29) "Solar energy system" means:
- 1718 (a) a system that is used to produce electric energy from sunlight; and
- 1719 (b) the components of the system described in Subsection [(28)(a)] (29)(a).
- 1720 Section 17. Section **57-8a-103** is amended to read:
- 1721 **57-8a-103 . Scope of chapter -- Applicability of chapter.**
- 1722 (1) Remedies provided in this chapter, by law, or in equity are not mutually exclusive.
- 1723 (2) This chapter applies to an association if:
- 1724 (a) the association's declaration states that this chapter applies; or
- 1725 (b) if the association's declaration does not state whether this chapter or Chapter 8,
- 1726 Condominium Ownership Act, applies to the lot, the plats within the association are
- 1727 not designated as condominium plats.
- 1728 (3) This section applies regardless of when an association is created.

1729 Section 18. Section **57-8a-105** is amended to read:

1730 **57-8a-105 . Registration with Department of Commerce.**

1731 (1) As used in this section, "department" means the Department of Commerce created in
1732 Section 13-1-2.

1733 (2)(a) No later than 90 days after the recording of a declaration of covenants, conditions,
1734 and restrictions establishing an association, the association shall register with the
1735 department in the manner established by the department.

1736 (b) An association existing under a declaration of covenants, conditions, and restrictions
1737 recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
1738 department in the manner established by the department.

1739 (3) The department shall require an association registering as required in this section to
1740 provide with each registration:

1741 (a) the name and address of the association;

1742 (b) the name, [~~address,~~]telephone number, and, if applicable, email address of the chair
1743 of the association board;

1744 (c) contact information for the manager;

1745 (d) the name, address, telephone number, and, if the contact person wishes to use email
1746 or facsimile transmission for communicating payoff information, the email address or
1747 facsimile number, as applicable, of a primary contact person who has association
1748 payoff information that a closing agent needs in connection with the closing of a lot
1749 owner's financing, refinancing, or sale of the owner's lot; and

1750 (e) a registration fee [~~set by~~]the department sets in accordance with Section 63J-1-504.

1751 (4)(a) An association shall annually renew the association's registration described in
1752 Subsection (2).

1753 (b) The department may impose and set the amount of a renewal registration fee in
1754 accordance with Section 63J-1-504.

1755 (5) An association that has registered under Subsection (2) shall submit to the department
1756 an update to the association's registration information, in the manner established by the
1757 department, within 90 days after a change in any of the information provided under
1758 Subsection (3).

1759 (6)(a) During any period of noncompliance with the registration requirement described
1760 in Subsection (2) or the requirement for an updated registration described in
1761 Subsection (5):

1762 (i) a lien may not arise under Section 57-8a-301; and

- 1763 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
- 1764 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1765 with the updated registration requirement of Subsection (5) does not begin until after
1766 the expiration of the 90-day period specified in Subsection (2) or (5), respectively.
- 1767 (c) An association that is not in compliance with the registration requirement described
1768 in Subsection (2) may end the period of noncompliance by registering with the
1769 department in the manner established by the department under Subsection (2).
- 1770 (d) An association that is not in compliance with the updated registration requirement
1771 described in Subsection (5) may end the period of noncompliance by submitting to
1772 the department an updated registration in the manner established by the department
1773 under Subsection (5).
- 1774 (e) Except as described in Subsection (6)(f), beginning on the date an association ends a
1775 period of noncompliance:
- 1776 (i) a lien may arise under Section 57-8a-301 for any event that:
- 1777 (A) occurred during the period of noncompliance; and
- 1778 (B) would have given rise to a lien under Section 57-8a-301 had the association
1779 been in compliance with the registration requirements described in this section;
1780 and
- 1781 (ii) an association may enforce a lien described in this Subsection (6)(e) or a lien that
1782 existed before the period of noncompliance.
- 1783 (f) If an owner's residential lot is conveyed to an independent third party during a period
1784 of noncompliance described in this Subsection (6):
- 1785 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
1786 lot became final is extinguished when the conveyance of the residential lot
1787 becomes final; and
- 1788 (ii) an event that occurred before the conveyance of the residential lot became final,
1789 and that would have given rise to a lien under Section 57-8a-301 had the
1790 association been in compliance with the registration requirements of this section,
1791 may not give rise to a lien under Section 57-8a-301 if the conveyance of the
1792 residential lot becomes final before the association ends the period of
1793 noncompliance.
- 1794 [~~(7) The department shall publish educational materials on the department's website
1795 providing, in simple and easy to understand language, a brief overview of state law
1796 governing associations, including:~~]

1797 ~~[(a) a description of the rights and responsibilities provided in this chapter to any party~~
 1798 ~~under the jurisdiction of an association; and]~~

1799 ~~[(b) instructions regarding how an association may be organized and dismantled in~~
 1800 ~~accordance with this chapter.]~~

1801 ~~[(8)(a) Unless otherwise expressly exempted, this chapter applies to an association that~~
 1802 ~~registers, or renews or updates the association's registration, with the department~~
 1803 ~~under this section.]~~

1804 ~~[(b) This section applies to an association regardless of when the association is created.]~~

1805 Section 19. Section **57-8a-105.1** is amended to read:

1806 **57-8a-105.1 . Information required before sale to independent third party.**

1807 (1) Before the sale of ~~[any]~~ a lot under the jurisdiction of an association to an independent
 1808 third party, the grantor shall provide to the independent third party:

1809 (a) a copy of the association's recorded governing documents; and

1810 (b) a link or other access point to the ~~[department's]~~ educational materials described in
 1811 Subsection ~~[57-8a-105(6)]~~ 13-79-103(4).

1812 (2) The grantor shall provide the information described in Subsection (1) before closing.

1813 (3) The association shall, upon request by the grantor, provide to the grantor the
 1814 information described in Subsection (1).

1815 (4) This section applies to each association, regardless of when the association is formed.

1816 Section 20. Section **57-8a-209** is amended to read:

1817 **57-8a-209 . Rental restrictions.**

1818 (1)(a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

1819 (i) create restrictions on the number and term of rentals in an association; or

1820 (ii) prohibit rentals in the association.

1821 (b) Except as provided in Subsection (1)(c), an association that creates a rental
 1822 restriction or prohibition in accordance with Subsection (1)(a) shall create the rental
 1823 restriction or prohibition in a recorded declaration of covenants, conditions, and
 1824 restrictions, or by amending the recorded declaration of covenants, conditions, and
 1825 restrictions.

1826 (c) An association may establish, by rule, a minimum lease term of six months or less.

1827 (2) If an association prohibits or imposes a restriction on the number and term of rentals or
 1828 charges a fee described in Subsection (9)(c), the association shall:

1829 (a) exempt the following from the prohibition, restriction, or fee:

1830 (i) a lot owner in the military for the period of the lot owner's deployment;

- 1831 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 1832 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
- 1833 (iv) a lot owned by an entity that is occupied by an individual who:
- 1834 (A) has voting rights under the entity's organizing documents; and
- 1835 (B) has a 25% or greater share of ownership, control, and right to profits and
- 1836 losses of the entity; or
- 1837 (v) a lot owned by a trust or other entity created for estate planning purposes if the
- 1838 trust or other estate planning entity was created for:
- 1839 (A) the estate of a current resident of the lot; or
- 1840 (B) the parent, child, or sibling of the current resident of the lot;
- 1841 (b) allow a lot owner who has a rental in the association before the time the rental
- 1842 restriction described in Subsection ~~[(1)(a) is recorded with the county recorder of the~~
- 1843 ~~county in which the association is located]~~ (1) becomes effective to continue renting
- 1844 without a fee described in Subsection (9)(c) until:
- 1845 (i) the lot owner occupies the lot;
- 1846 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
- 1847 similar position of ownership or control of an entity or trust that holds an
- 1848 ownership interest in the lot, occupies the lot; or
- 1849 (iii) the lot is transferred; and
- 1850 (c) create, by rule or resolution, procedures to:
- 1851 (i) determine and track the number of rentals and lots in the association subject to the
- 1852 provisions described in Subsections (2)(a) and (b); and
- 1853 (ii) ensure consistent administration and enforcement of any rental prohibition,
- 1854 restriction, or fee.
- 1855 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
- 1856 following occur:
- 1857 (a) the conveyance, sale, or other transfer of a lot by deed;
- 1858 (b) the granting of a life estate in the lot; or
- 1859 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
- 1860 business entity, the sale or transfer of more than 75% of the business entity's share,
- 1861 stock, membership interests, or partnership interests in a 12-month period.
- 1862 (4) This section does not limit or affect residency age requirements for an association that
- 1863 complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
- 1864 3607.

- 1865 (5) A declaration of covenants, conditions, and restrictions or amendments to the
1866 declaration of covenants, conditions, and restrictions recorded before the transfer of the
1867 first lot from the initial declarant may prohibit or restrict rentals without providing for
1868 the exceptions, provisions, and procedures required under Subsection (2).
- 1869 (6)(a) Subsections (1) through (5) do not apply to:
- 1870 (i) an association that contains a time period unit as defined in Section 57-8-3;
 - 1871 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
 - 1872 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
1873 unless, on or after May 12, 2015, the association:
 - 1874 (A) adopts a rental restriction or prohibition; or
 - 1875 (B) amends an existing rental restriction or prohibition.
- 1876 (b) An association that adopts a rental restriction or amends an existing rental restriction
1877 or prohibition before May 9, 2017, is not required to include the exemption described
1878 in Subsection (2)(a)(iv).
- 1879 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an
1880 exception described in Subsection (2) if:
- 1881 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
 - 1882 (b) when the restriction or prohibition requires an amendment to the association's
1883 recorded declaration of covenants, conditions, and restrictions, the association fulfills
1884 all other requirements for amending the recorded declaration of covenants,
1885 conditions, and restrictions described in the association's governing documents.
- 1886 (8) Except as provided in Subsection (9), an association may not require a lot owner who
1887 owns a rental lot to:
- 1888 (a) obtain the association's approval of a prospective renter;
 - 1889 (b) give the association:
 - 1890 (i) a copy of a rental application;
 - 1891 (ii) a copy of a renter's or prospective renter's credit information or credit report;
 - 1892 (iii) a copy of a renter's or prospective renter's background check; or
 - 1893 (iv) documentation to verify the renter's age;
 - 1894 (c) pay an additional assessment, fine, or fee because the lot is a rental lot;
 - 1895 (d) use a lease agreement provided by the association; or
 - 1896 (e) obtain the association's approval of a lease agreement.
- 1897 (9)(a) A lot owner who owns a rental lot shall give an association the documents
1898 described in Subsection (8)(b) if the lot owner is required to provide the documents

- 1899 by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 1900 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
- 1901 prohibits or restricts occupancy of the lots by a certain class of individuals, the
- 1902 association may require a lot owner who owns a rental lot to give the association the
- 1903 information described in Subsection (8)(b), if:
- 1904 (i) the information helps the association determine whether the renter's occupancy of
- 1905 the lot complies with the association's declaration of covenants, conditions, and
- 1906 restrictions; and
- 1907 (ii) the association uses the information to determine whether the renter's occupancy
- 1908 of the lot complies with the association's declaration of covenants, conditions, and
- 1909 restrictions.
- 1910 (c) An association that permits at least 35% of the lots in the association to be rental lots
- 1911 may charge a lot owner who owns a rental lot a fee of up to \$200 once every 12
- 1912 months to defray the association's additional administrative expenses directly related
- 1913 to a lot that is a rental lot, as detailed in a notice described in Subsection (12).
- 1914 (d) An association may require a lot owner who owns a rental lot and the renter of the lot
- 1915 owner's rental lot to sign an addendum to a lease agreement provided by the
- 1916 association.
- 1917 (e) Before an association may charge a fee described in Subsection (9)(c), an association
- 1918 shall:
- 1919 (i) provide notice to each lot owner in the association of a board meeting described in
- 1920 Subsection (9)(e)(ii) 15 days before the day on which the association holds the
- 1921 board meeting;
- 1922 (ii) hold a board meeting to discuss and allow lot members to publicly comment on:
- 1923 (A) the new administrative expenses that the association intends to cover using the
- 1924 funds from the fee; and
- 1925 (B) the circumstances that require the association to impose or increase the fee;
- 1926 and
- 1927 (iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board
- 1928 approves the fee by a majority vote.
- 1929 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
- 1930 rental of an internal accessory dwelling unit, as defined in Section 10-21-101 or
- 1931 17-80-101, constructed within a lot owner's residential lot, if the internal accessory
- 1932 dwelling unit complies with all applicable:

- 1933 (a) land use ordinances;
- 1934 (b) building codes;
- 1935 (c) health codes; and
- 1936 (d) fire codes.
- 1937 (11) The provisions of Subsections (8) through (10) apply to an association regardless of
- 1938 when the association is created.
- 1939 (12) Within 30 days after the day on which the association imposes a fee described in
- 1940 Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a
- 1941 notice describing:
- 1942 (a) the new administrative expenses that the association intends to cover using the funds
- 1943 from the fee; and
- 1944 (b) the circumstances that require the association to impose or increase the fee.
- 1945 (13)(a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the
- 1946 association a written request that the association waive the fee if:
- 1947 (i) the association fails to provide the notice described in Subsection (12) within 30
- 1948 days after the day on which the association imposes the fee; or
- 1949 (ii) the notice the association provides to the lot owner does not contain the
- 1950 information required in Subsection (12).
- 1951 (b) If a lot owner contests a fee under this Subsection (13) by submitting a written
- 1952 request, an association of lot owners shall waive the fee if:
- 1953 (i) the association does not provide the notice described in Subsection (12) to the lot
- 1954 owner; or
- 1955 (ii) a notice provided by the association does not contain the information required in
- 1956 Subsection (12).
- 1957 (14)(a) A lot owner of a rental lot may designate, in a written notice to the association, a
- 1958 primary contact individual who is not the lot owner with whom the association may
- 1959 communicate as though the primary contact individual is the lot owner.
- 1960 (b) If a lot owner designates a primary contact individual under this Subsection (14), the
- 1961 association shall provide the lot owner a written notice that confirms the association
- 1962 has changed the association's records to identify the primary contact individual
- 1963 designated by the lot owner.
- 1964 Section 21. Section **57-8a-212** is amended to read:
- 1965 **57-8a-212 . Content of a declaration.**
- 1966 (1) An initial declaration [~~recorded on or after May 10, 2011~~] shall contain:

- 1967 (a) the name of the project;
- 1968 (b) the name of the association;
- 1969 (c) a statement that the project is not a cooperative;
- 1970 (d) a statement indicating any portions of the project that contain condominiums
- 1971 governed by Chapter 8, Condominium Ownership Act;
- 1972 (e) a statement that the project is governed by this chapter;
- 1973 [~~(e)~~] (f) if the declarant desires to reserve the option to expand the project, a statement
- 1974 reserving the option to expand the project;
- 1975 [~~(f)~~] (g) the name of each county in which any part of the project is located;
- 1976 [~~(g)~~] (h) a legally sufficient description of the real estate included in the project;
- 1977 [~~(h)~~] (i) a description of any limited common areas and any real estate that is or is
- 1978 required to become common areas;
- 1979 [~~(i)~~] (j) any restriction on the alienation of a lot, including a restriction on leasing; and
- 1980 [~~(j)~~] (k)(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i)
- 1981 or (iv); and
- 1982 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
- 1983 U.C.A. Sections 57-1-20 and 57-8a-302 to (name of trustee), with power of sale,
- 1984 the lot and all improvements to the lot for the purpose of securing payment of
- 1985 assessments under the terms of the declaration."
- 1986 (2) A declaration may contain any other information the declarant considers appropriate,
- 1987 including [~~any~~] a restriction on the use of a lot, the number of persons who may occupy a
- 1988 lot, or other qualifications of a person who may occupy a lot.
- 1989 (3) The location of a limited common area or real estate described in Subsection (1)(g) may
- 1990 be shown on a subdivision plat.
- 1991 (4) A declaration, or an amendment to a declaration may not:
- 1992 (a) prohibit a lot owner from displaying in a window of the owner's lot:
- 1993 (i) a for-sale sign;
- 1994 (ii) a political sign; or
- 1995 (iii) a flag;
- 1996 (b) regulate the content or establish specific design criteria for the content of a political
- 1997 sign or flag, except to restrict a political sign or flag that contains obscene, profane,
- 1998 or commercial content;
- 1999 (c) prohibit low water use on lawns during drought conditions;
- 2000 (d) except where reasonably necessary for erosion control, prohibit or restrict the

- 2001 conversion of a grass park strip of less than eight feet wide to water-efficient
2002 landscaping;
- 2003 (e) prohibit a lot owner from making modifications, consistent with industry standards,
2004 for radon mitigation, unless the modifications would violate:
- 2005 (i) a local land use ordinance;
2006 (ii) a building code;
2007 (iii) a health code; or
2008 (iv) a fire code;
- 2009 (f) restrict an individual from parking an operable vehicle in a driveway where the
2010 vehicle has a legal right to park, unless the vehicle is:
- 2011 (i) a commercial vehicle, as that term is defined in Section 72-9-102;
2012 (ii) a motor home, as that term is defined in Section 13-20-2;
2013 (iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2;
2014 (iv) a trailer, as that term is defined in Section 41-1a-102;
2015 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
2016 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
2017 (vii) a motorboat, as that term is defined in Section 73-18-2;
- 2018 (g) restrict an individual from operating a vehicle that is not a commercial vehicle, as
2019 that term is defined in Section 72-9-102, in accordance with state traffic laws;
- 2020 (h) impose a requirement or restriction on the use of a public street, as that term is
2021 defined in Section 10-20-102;
- 2022 (i) restrict an individual from:
- 2023 (i) installing, displaying, or storing an item that the individual has a legal right to
2024 store if the item is not visible to an individual standing outside the unit; or
- 2025 (ii) hiring a contractor or worker solely because the contractor or worker:
- 2026 (A) is not on the association's preferred vendor list; or
2027 (B) does not have a professional or occupational license, unless the license is
2028 required by law;
- 2029 (j) restrict a lot owner from displaying a religious or holiday sign, symbol, or decoration
2030 on:
- 2031 (i) the lot; or
2032 (ii) the exterior of the lot, unless the association has an ownership interest in, or
2033 maintenance, repair, or replacement obligation for the exterior;
- 2034 (k) interfere with reasonable activity of a lot owner within the confines of the lot, to the

- 2035 extent that the activity is in compliance with local laws and ordinances, including
 2036 nuisance laws and ordinances;
- 2037 (l)(i) prohibit the transfer of a lot; or
 2038 (ii) require the consent of the association or management committee to transfer a lot;
 2039 (m) prohibit a unit owner from installing a personal security camera immediately
 2040 adjacent to the entryway, window, or other outside entry point of the lot; or
 2041 (n) impose a restriction on the interior of a dwelling, except as reasonably necessary for
 2042 the safety of adjacent lots and the occupants of the lots.
- 2043 (5) A declaration, or an amendment to a declaration may:
- 2044 (a) require that an individual park in a garage appurtenant to a unit before parking
 2045 elsewhere;
- 2046 (b) enforce a reduced speed limit on a private roadway;
- 2047 (c) reasonably regulate the size and time, place, and manner of posting a for-sale sign, a
 2048 political sign, or a flag;
- 2049 (d) restrict a sex offender from accessing a protected area that is maintained, operated, or
 2050 owned by the association, subject to the exceptions described in Subsection
 2051 53-29-306(3); or
- 2052 (e) adopt a reasonable time, place, and manner restriction with respect to a religious or
 2053 holiday sign, symbol, or decoration that is:
- 2054 (i) outside of or on the lot; or
 2055 (ii) visible from outside the dwelling.

2056 Section 22. Section **57-8a-215** is amended to read:

2057 **57-8a-215 . Budget.**

- 2058 (1) At least once annually the board shall prepare and adopt a budget for the association.
- 2059 (2) The board shall present the adopted budget to association members at a meeting of the
 2060 members.
- 2061 (3) A budget is disapproved if within 45 days after the date of the meeting under Subsection
 2062 (2) at which the board presents the adopted budget:
- 2063 (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of
 2064 the lot owners in the association; and
- 2065 (b) the vote is taken at a special meeting called for that purpose by lot owners under the
 2066 declaration, articles, or bylaws.
- 2067 (4) If a budget is disapproved under Subsection (3)[,] or not adopted under Subsection (1),
 2068 then the budget that the board last adopted [~~that was not disapproved by members~~]

2069 continues as the budget until [~~and unless the board presents another budget to members~~
2070 ~~and that budget is not disapproved]~~ the board prepares and adopts a new budget for the
2071 association.

2072 [~~(5) During the period of administrative control, association members may not disapprove a~~
2073 ~~budget.]~~

2074 Section 23. Section **57-8a-218** is amended to read:

2075 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
2076 **design criteria.**

2077 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
2078 owners similarly.

2079 (b) A rule may:

2080 (i) vary according to the level and type of service that the association provides to lot
2081 owners;

2082 (ii) differ between residential and nonresidential uses; and

2083 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
2084 limit on the number of individuals who may use the common areas and facilities
2085 as guests of the lot tenant or lot owner.

2086 (2)(a) Except as provided in Subsection (2)(b), if a lot owner owns a rental lot and is in
2087 compliance with the association's governing documents and any rule that the
2088 association adopts under Subsection (4), a rule may not treat the lot owner differently
2089 because the lot owner owns a rental lot.

2090 (b) A rule may:

2091 (i) limit or prohibit a rental lot owner from using the common areas for purposes
2092 other than attending an association meeting or managing the rental lot;

2093 (ii) if the rental lot owner retains the right to use the association's common areas,
2094 even occasionally:

2095 (A) charge a rental lot owner a fee to use the common areas; or

2096 (B) for a lot that an owner leases for a term of less than 30 days, impose a
2097 reasonable limit on the number of individuals who may use the common areas
2098 and facilities as guests of the lot tenant or lot owner; or

2099 (iii) include a provision in the association's governing documents that:

2100 (A) requires each tenant of a rental lot to abide by the terms of the governing
2101 documents; and

2102 (B) holds the tenant and the rental lot owner jointly and severally liable for a

- 2103 violation of a provision of the governing documents.
- 2104 (3)(a) Except as provided in Subsection (3)(b), a rule may not abridge the rights of a lot
2105 owner to display a religious or holiday sign, symbol, or decoration on:
- 2106 (i) a lot;
- 2107 (ii) the exterior of the dwelling, unless the association has an ownership interest in, or
2108 a maintenance, repair, or replacement obligation for, the exterior; or
- 2109 (iii) the front yard of the dwelling, unless the association has an ownership interest in,
2110 or a maintenance, repair, or replacement obligation for, the yard.
- 2111 (b) The association may adopt a reasonable time, place, and manner restriction with
2112 respect to a display that is:
- 2113 (i) outside a dwelling on:
- 2114 (A) a lot;
- 2115 (B) the exterior of the dwelling; or
- 2116 (C) the front yard of the dwelling; and
- 2117 (ii) visible from outside the lot.
- 2118 (4)(a) A rule may not prohibit a lot owner from displaying a political sign or flag on:
- 2119 (i) a lot;
- 2120 (ii) the exterior of the dwelling, regardless of whether the association has an
2121 ownership interest in the exterior; or
- 2122 (iii) the front yard of the dwelling, regardless of whether the association has an
2123 ownership interest in the yard.
- 2124 (b) Except as provided in Subsection (4)(c), a rule may not regulate the content of a
2125 political sign or flag.
- 2126 (c) A rule may restrict a political sign or flag that contains obscene, profane, or
2127 commercial content.
- 2128 (d) A rule may reasonably regulate the time, place, and manner of posting a political
2129 sign or flag.
- 2130 (e) An association design provision may not establish design criteria for a political sign
2131 or flag.
- 2132 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign on:
- 2133 (i) a lot;
- 2134 (ii) the exterior of the dwelling, regardless of whether the association has an
2135 ownership interest in the exterior; or
- 2136 (iii) the front yard of the dwelling, regardless of whether the association has an

- 2137 ownership interest in the yard.
- 2138 (b) A rule may reasonably regulate the time, place, and manner of posting a for-sale sign.
- 2139 (6)(a) Except as provided in Subsection (6)(b), a rule may not interfere with the freedom
- 2140 of a lot owner to determine the composition of the lot owner's household.
- 2141 (b) An association may:
- 2142 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
- 2143 or
- 2144 (ii) limit the total number of occupants permitted in each residential dwelling on the
- 2145 basis of the residential dwelling's:
- 2146 (A) size and facilities; and
- 2147 (B) fair use of the common areas.
- 2148 (7)(a) Except as provided in Subsection (7)(b), a rule may not interfere with a reasonable
- 2149 activity of a lot owner within the confines of a dwelling or lot, including backyard
- 2150 landscaping or amenities, to the extent that the activity is in compliance with local
- 2151 laws and ordinances, including nuisance laws and ordinances.
- 2152 (b) A rule may prohibit an activity within the confines of a dwelling or lot, including
- 2153 backyard landscaping or amenities, if the activity:
- 2154 (i) is not normally associated with a project restricted to residential use; or
- 2155 (ii)(A) creates monetary costs for the association or other lot owners;
- 2156 (B) creates a danger to the health or safety of occupants of other lots;
- 2157 (C) generates excessive noise or traffic;
- 2158 (D) creates unsightly conditions visible to an individual standing outside the
- 2159 dwelling;
- 2160 (E) creates an unreasonable source of annoyance to persons outside the lot; or
- 2161 (F) if there are attached dwellings, creates the potential for smoke to enter another
- 2162 lot owner's dwelling, the common areas, or limited common areas.
- 2163 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
- 2164 that affect the use of or behavior inside the dwelling.
- 2165 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
- 2166 objection to the board, alter the allocation of financial burdens among the various lots.
- 2167 (b) An association may:
- 2168 (i) change the common areas available to a lot owner;
- 2169 (ii) adopt generally applicable rules for the use of common areas; or
- 2170 (iii) deny use privileges to a lot owner who:

- 2171 (A) is delinquent in paying assessments;
- 2172 (B) abuses the common areas; or
- 2173 (C) violates the governing documents.
- 2174 (c) This Subsection (8) does not permit a rule that:
- 2175 (i) alters the method of levying assessments; or
- 2176 (ii) increases the amount of assessments as provided in the declaration.
- 2177 (9) A rule may not:
- 2178 (a) prohibit the transfer of a lot; or
- 2179 (b) require the consent of the association or board to transfer a lot.
- 2180 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
- 2181 on a lot before the adoption of the rule or design criteria if the personal property was
- 2182 in compliance with all rules and other governing documents previously in force.
- 2183 (b) The exemption in Subsection (10)(a):
- 2184 (i) applies during the period of the lot owner's ownership of the lot; and
- 2185 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
- 2186 of the rule described in Subsection (10)(a).
- 2187 (11) A rule or action by the association or action by the board may not unreasonably
- 2188 impede a declarant's ability to satisfy existing development financing for community
- 2189 improvements and right to develop:
- 2190 (a) the project; or
- 2191 (b) other properties in the vicinity of the project.
- 2192 (12) A rule or association or board action may not interfere with:
- 2193 (a) the use or operation of an amenity that the association does not own or control; or
- 2194 (b) the exercise of a right associated with an easement.
- 2195 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
- 2196 completed application for design review, or to proceed in accordance with another
- 2197 approval process, under the terms of the governing documents in existence at the time
- 2198 the completed application was submitted by the owner for review.
- 2199 (14) Unless otherwise provided in the declaration, an association may by rule:
- 2200 (a) regulate the use, maintenance, repair, replacement, and modification of common
- 2201 areas;
- 2202 (b) impose and receive any payment, fee, or charge for:
- 2203 (i) the use, rental, or operation of the common areas, except limited common areas;
- 2204 and

- 2205 (ii) a service provided to a lot owner;
- 2206 (c) impose a charge for a late payment of an assessment; or
- 2207 (d) provide for the indemnification of the association's officers and board consistent with
- 2208 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 2209 (15)(a) For any area for which one or more lot owners, but not the association, are
- 2210 responsible for landscape maintenance of any landscaping within the lot owner's lot
- 2211 or the common areas, the association shall adopt rules supporting water wise
- 2212 landscaping as defined in Section 57-8a-231 including:
- 2213 (i) low water use requirements on lawns during drought conditions;
- 2214 (ii) design criterion for water wise landscaping; and
- 2215 (iii) limiting permissible plant material to specific water wise plant material.
- 2216 (b) A rule may not:
- 2217 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
- 2218 as defined in Section 57-8a-231; or
- 2219 (ii) prohibit low water use on lawns during drought conditions.
- 2220 (16)(a) Except as provided in Subsection (16)(b), a rule may not prohibit the owner of a
- 2221 residential lot from constructing an internal accessory dwelling unit, as defined in
- 2222 Section 10-21-101 or 17-80-101, within the owner's residential lot.
- 2223 (b) Subsection (16)(a) does not apply if the construction would violate:
- 2224 (i) a local land use ordinance;
- 2225 (ii) a building code;
- 2226 (iii) a health code; or
- 2227 (iv) a fire code.
- 2228 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
- 2229 residential lot from making modifications, consistent with industry standards, for
- 2230 radon mitigation.
- 2231 (b) Subsection (17)(a) does not apply if the modifications would violate:
- 2232 (i) a local land use ordinance;
- 2233 (ii) a building code;
- 2234 (iii) a health code; or
- 2235 (iv) a fire code.
- 2236 (c) A rule governing the placement or external appearance of modifications for radon
- 2237 mitigation does not apply to a lot owner's modifications if the rule would:
- 2238 (i) unreasonably interfere with the modifications' functionality; or

- 2239 (ii) add more than 40% of the modifications' original cost to the cost of installing the
 2240 modifications.
- 2241 (d) A rule may require that a lot owner making modifications related to radon mitigation:
 2242 (i) demonstrate or provide proof of radon contamination; and
 2243 (ii) provide proof that the modifications and any related construction will be
 2244 performed by a licensed person.
- 2245 (18) A rule may restrict a sex offender from accessing a protected area that is maintained,
 2246 operated, or owned by the association, subject to the exceptions described in Subsection
 2247 53-29-306(3).
- 2248 (19)(a) As used in this Subsection (19), "vegetable garden" means a plot of ground or
 2249 elevated soil bed where vegetables, herbs, fruits, flowers, pollinator plants, leafy
 2250 greens, or other edible plants are cultivated.
- 2251 (b) A rule may not prohibit a vegetable garden on the rear yard of a lot on which the
 2252 association does not have an ownership interest or a maintenance responsibility.
- 2253 (c) A rule may:
 2254 (i) impose reasonable regulations that do not significantly increase the cost of
 2255 cultivating a vegetable garden or significantly decrease the efficiency of
 2256 cultivating a vegetable garden, including reasonable regulations on plant height,
 2257 water use, fertilizer use, and weed maintenance; and
 2258 (ii) prohibit the cultivation of invasive or unlawful species.
- 2259 (20)(a) Except as provided in Subsection (20)(b), a rule may not restrict an individual
 2260 from parking an operable vehicle in a driveway where the vehicle has a legal right to
 2261 park, unless the vehicle is:
 2262 (i) a commercial vehicle, as defined in Section 72-9-102;
 2263 (ii) a motor home, as defined in Section 13-20-2;~~[-or]~~
 2264 (iii) a recreational vehicle trailer, as defined in Section 13-20-2~~[-]~~ ;
 2265 (iv) a trailer, as that term is defined in Section 41-1a-102;
 2266 (v) an off-highway vehicle, as that term is defined in Section 41-22-2;
 2267 (vi) special mobile equipment, as that term is defined in Section 41-1a-102; or
 2268 (vii) a motorboat, as that term is defined in Section 73-18-2.
- 2269 (b) A rule may require that an individual park in a garage appurtenant to a dwelling
 2270 before parking elsewhere.
- 2271 (21)(a) Except as provided in Subsection (21)(b), a rule may not restrict an individual
 2272 from operating a vehicle that is not a commercial vehicle, as defined in Section

- 2273 72-9-102, in conformance with state traffic laws.
- 2274 (b) A rule may enforce a reduced speed limit on a private roadway.
- 2275 (22) A rule may not:
- 2276 (a) prohibit a lot owner from installing a personal security camera immediately adjacent
- 2277 to the entryway, window, or other outside entry point of the owner's dwelling unit;
- 2278 (b) impose a requirement or restriction on:
- 2279 (i) a dwelling's interior, except as reasonably necessary for the safety of adjacent lots
- 2280 and the occupants of those lots; or
- 2281 (ii) the use of a public street, as defined in Section 10-20-102;
- 2282 (c) restrict an individual from:
- 2283 (i) installing, displaying, or storing an item that the individual has a legal right to
- 2284 store if the item is not visible to an individual standing outside the lot;
- 2285 (ii) installing or keeping a properly maintained basketball standard on the individual's
- 2286 driveway or property if the driveway or property where the basketball standard is
- 2287 located is:
- 2288 (A) privately owned and maintained; and
- 2289 (B) abutting a public street; or
- 2290 (iii) hiring a contractor or worker solely because the contractor or worker:
- 2291 (A) is not on the association's preferred vendor list; or
- 2292 (B) does not have a professional or occupational license, unless the license is
- 2293 required by law; or
- 2294 (d) be inconsistent with a provision of the association's declaration, bylaws, or articles of
- 2295 incorporation.
- 2296 (23) A rule shall be reasonable.
- 2297 (24) A declaration, or an amendment to a declaration, may [~~vary any of the requirements of~~
- 2298 ~~Subsections (1), (2), (6), and (8) through (14), except~~] not vary the requirements of
- 2299 Subsection (1)(b)(ii).
- 2300 (25) This section applies to an association regardless of when the association is created.
- 2301 Section 24. Section **57-8a-227** is amended to read:
- 2302 **57-8a-227 . Records -- Availability for examination.**
- 2303 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association is
- 2304 incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an
- 2305 association shall keep and make available to lot owners:
- 2306 (i) each record identified in Subsections 16-6a-1601(1) through (5), in the manner

- 2307 described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605,
 2308 16-6a-1606, and 16-6a-1610; and
- 2309 (ii) a copy of the association's:
- 2310 (A) governing documents;
- 2311 (B) most recent approved minutes;
- 2312 (C) most recent annual budget and financial statement;
- 2313 (D) most recent reserve analysis;
- 2314 (E) certificate of insurance for each insurance policy the association holds;
- 2315 (F) board meeting minutes from the previous three calendar years;
- 2316 (G) [a-]profit and loss statement for the previous three fiscal years; and
- 2317 (H) [a-]balance sheet for the previous three fiscal years[;] .
- 2318 (b) An association may redact the following information from any document the
 2319 association produces for inspection or copying:
- 2320 (i) a Social Security number;
- 2321 (ii) a bank account number; or
- 2322 (iii) any communication subject to attorney-client privilege.
- 2323 (c) The following are considered property of the association:
- 2324 (i) a record or document described in Subsection (1)(a)(i) or (ii); and
- 2325 (ii) the funds contained in an account described in Section 57-8a-230.
- 2326 (d) If a person other than the association has control over or possession of a record
 2327 described in Subsection (1)(a)(i) or (ii), the person shall, upon the association's
 2328 request, provide the record to the association without charge.
- 2329 (2)(a) In addition to the requirements described in Subsection (1), an association shall:
- 2330 (i) make documents available to lot owners in accordance with the association's
 2331 governing documents; and
- 2332 (ii)(A) if the association has an active website, make the documents described in
 2333 Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge,
 2334 through the website; or
- 2335 (B) if the association does not have an active website, make physical copies of the
 2336 documents described in Subsections (1)(a)(ii)(A) through (C) available to lot
 2337 owners during regular business hours at the association's address registered
 2338 with the Department of Commerce under Section 57-8a-105.
- 2339 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 2340 (c) If a provision of an association's governing documents conflicts with a provision of

- 2341 this section, the provision of this section governs.
- 2342 (3) In a written request to inspect or copy documents:
- 2343 (a) a lot owner shall include:
- 2344 (i) the association's name;
- 2345 (ii) the lot owner's name;
- 2346 (iii) the lot owner's property address;
- 2347 (iv) the lot owner's email address;
- 2348 (v) a description of the documents requested; and
- 2349 (vi) any election or request described in Subsection (3)(b); and
- 2350 (b) a lot owner may:
- 2351 (i) elect whether to inspect or copy the documents;
- 2352 (ii) if the lot owner elects to copy the documents, request hard copies or electronic
- 2353 scans of the documents; or
- 2354 (iii) subject to Subsection (4), request that:
- 2355 (A) the association make the copies or electronic scans of the requested
- 2356 documents;
- 2357 (B) a recognized third party duplicating service make the copies or electronic
- 2358 scans of the requested documents;
- 2359 (C) the lot owner be allowed to bring any necessary imaging equipment to the
- 2360 place of inspection and make copies or electronic scans of the documents while
- 2361 inspecting the documents; or
- 2362 (D) the association email the requested documents to an email address provided in
- 2363 the request.
- 2364 (4)(a) An association shall comply with a request described in Subsection (3) within [
2365 ~~two weeks~~] 10 business days after the day on which the association receives the
2366 request.
- 2367 (b) If an association produces the copies or electronic scans:
- 2368 (i) the copies or electronic scans shall be legible and accurate;
- 2369 (ii) the lot owner shall pay the association the reasonable cost of the copies and for
- 2370 time spent meeting with the lot owner, which may not exceed:
- 2371 (A) the actual cost that the association paid to a recognized third party duplicating
- 2372 service to make the copies or electronic scans; or
- 2373 (B) 10 cents per page and \$20 per hour for the employee's, manager's, or other
- 2374 agent's time; and

- 2375 (iii) the association may not charge the lot owner for any costs associated with
2376 fulfilling a request for electronic transmission of the documents described in
2377 Subsection (3).
- 2378 (c) If a lot owner requests a recognized third party duplicating service make the copies
2379 or electronic scans:
- 2380 (i) the association shall arrange for the delivery and pick up of the original
2381 documents; and
2382 (ii) the lot owner shall pay the duplicating service directly.
- 2383 (d) If a lot owner requests to bring imaging equipment to the inspection, the association
2384 shall provide the necessary space, light, and power for the imaging equipment.
- 2385 (e) An association may fulfill the request described in Subsection (3) by posting the
2386 documents described in Subsection (3) to the association's website or online owner
2387 portal.
- 2388 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy
2389 documents, an association fails to comply with a provision of this section, the
2390 association shall pay:
- 2391 (a) the reasonable costs of inspecting and copying the requested documents;
2392 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner
2393 who made the request for each day the request continues unfulfilled, beginning the [
2394 ~~sixth~~] eleventh business day after the day on which the lot owner made the request;
2395 and
2396 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the
2397 inspection and copies of the requested documents.
- 2398 (6)(a) In addition to any remedy in the association's governing documents or otherwise
2399 provided by law, a lot owner may file an action in court against the association under
2400 this section if:
- 2401 (i) subject to Subsection (9), an association fails to make documents available to the
2402 lot owner in accordance with this section, the association's governing documents,
2403 or as otherwise provided by law; and
2404 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 2405 (b) In an action described in Subsection (6)(a):
- 2406 (i) the lot owner may request:
- 2407 (A) injunctive relief requiring the association to comply with the provisions of this
2408 section;

- 2409 (B) \$1,000 or actual damage, whichever is greater; or
2410 (C) any other relief provided by law; and
2411 (ii) the court may award costs and reasonable attorney fees to the prevailing party,
2412 including any reasonable attorney fees incurred before the action was filed that
2413 relate to the request that is the subject of the action.
- 2414 (c)(i) In an action described in Subsection (6)(a), upon motion by the lot owner made
2415 in accordance with Subsection (6)(b), notice to the association, and a hearing in
2416 which the court finds a likelihood that the association failed to comply with a
2417 provision of this section, the court shall order the association to immediately
2418 comply with the provision.
- 2419 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
2420 after the day on which the lot owner files the motion.
- 2421 (d) At least 10 days before the day on which a lot owner files an action described in
2422 Subsection (6)(a), the lot owner shall deliver a written notice to the association that
2423 states:
- 2424 (i) the lot owner's name, address, telephone number, and email address;
2425 (ii) each requirement of this section with which the association has failed to comply;
2426 (iii) a demand that the association comply with each requirement with which the
2427 association has failed to comply; and
2428 (iv) a date by which the association shall remedy the association's noncompliance
2429 that is at least 10 days after the day on which the lot owner delivers the notice to
2430 the association.
- 2431 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association.
- 2432 (b) The provisions of this section apply regardless of any conflicting provision in Title
2433 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 2434 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the
2435 lot owner has under this section.
- 2436 (9) An association is not liable for identifying or providing a document in error, if the
2437 association identified or provided the erroneous document in good faith.
- 2438 Section 25. Section **57-8a-232** is amended to read:
2439 **57-8a-232 . Sale of common areas.**
- 2440 (1) As used in this section:
- 2441 (a) "Condemnor" means the same as that term is defined in Section 78B-6-520.3.
2442 (b) "Under threat of condemnation" means the same as that term is defined in Section

2443 78B-6-520.3.

2444 [(1)] (2) Subject to Subsection 10-20-809(5) or 17-79-709(5), unless otherwise provided in
 2445 the governing documents, an association may by an affirmative vote of at least 67% of
 2446 the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose
 2447 of all or part of the common areas.

2448 [(2)] (3) An affirmative vote described in Subsection [(1)] (2) is binding upon all lot owners,
 2449 and each lot owner shall execute and deliver the appropriate instruments and perform all
 2450 acts as necessary to effect the sale, conveyance, transfer, or other disposition of the
 2451 common areas.

2452 [(3)] (4) The general easement of ingress, egress, and use of the common areas and facilities
 2453 granted to an association and lot owners through recorded governing documents is
 2454 extinguished in any portion of the common areas the association sells, conveys,
 2455 transfers, or otherwise disposes of, if:

2456 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
 2457 portion of the common areas, comply with:

2458 (i) the provisions of this section; and

2459 (ii) Section 10-20-809 or 17-79-709; and

2460 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
 2461 areas results in a person other than the association owning the portion of the common
 2462 areas.

2463 [(4)] (5) This section applies to an association regardless of when the association is created.

2464 [(5)] (6) A declarant may not sell or otherwise encumber any part of the common areas
 2465 during the period of administrative control, except:

2466 (a) [-]as provided in Section 10-20-809 or 17-79-709[-] ; or

2467 (b) if the declarant sells or otherwise encumbers a part of the common areas and
 2468 facilities that are under threat of condemnation to a condemnor.

2469 [(6)] (7) Unless otherwise prohibited by the association's governing documents, an
 2470 authorized representative of the association may act as attorney-in-fact for the
 2471 association's lot owners in executing a sale, conveyance, transfer, or other disposition of
 2472 the common areas following an affirmative vote described in Subsection [(1)] (2).

2473 Section 26. **Effective Date.**

2474 This bill takes effect on May 6, 2026.