H.B. 217 Homeowners' Association Amendments

Background

HOA's are becoming more common. In many areas, it is difficult to buy a new home that is not in an HOA. In the past, consumers had many options with or without an HOA. Today, we need stronger protections given there is less consumer choice.

While many HOAs are being managed well, the primary policy objective is addressing over-reach where private property rights are being infringed.

I have met with Utah residents living in HOAs, Community Association Institute, representatives from the Property Rights Coalition, and the Department of Commerce to receive input on this bill.

This bill

1. Establishes an HOA Ombudsman. Opinions are advisory, the member can't be in litigation, they must have exhausted all remedies under the organizing documents, and the dispute must be a matter of state law.
2. Requires that reinvestment fees be part of the declaration. After the period of administrative control, gives members the final say on reinvestment fees.
3. Requires that reinvestment fees benefit the members. They can't be a pass through to a management company.
4. Limits penalties and interest on late or unpaid assessments to $50 or 10% of the assessment and 1.5% per month.
5. Requires governing documents, rules, board minutes, budgets, financials be available to members either in an owner portal or electronic transmission without charge.
6. Prohibits a declarant from selling common areas
7. Requires member approval to amend the declaration after the period of administrative control.
8. Requires HOAs to annually update their list of officers with the Department of Commerce.

This bill does NOT

1. Allow the HOA Ombudsman to address private party disputes (paint color, HOA rules, architectural controls, etc).
2. Ban reinvestment fees or limit their use for member benefits such as community programming.
3. Circumvent dispute resolution processes in HOA governing documents.

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