

Effective 5/6/2026

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

(1) As used in this section:

- (a) "Administrative setup fee" means a fee, charge, or payment that is:
 - (i) related to the sale of real property; and
 - (ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:
 - (A) a common interest association; or
 - (B) a person acting on behalf of the common interest association.
- (b) "Association expenses" means expenses incurred by a common interest association for:
 - (i) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of association facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;
 - (ii) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of property owners, tenants, common areas, the burdened property, or property governed by the common interest association; or
 - (iii) other facilities, activities, services, or programs that are required or permitted under the common interest association's organizational documents.
- (c) "Association facilities" means any real property, improvements on real property, or personal property owned, leased, constructed, developed, managed, or used by a common interest association, including common areas.
- (d) "Burdened property" means the real property that is subject to a reinvestment fee covenant or transfer fee covenant.
- (e)
 - (i) "Capital-intensive infrastructure maintenance" means maintenance of infrastructure or facilities that a common interest association owns, operates, or maintains that:
 - (A) have a projected useful life exceeding five years after the day on which construction on the infrastructure or facilities finishes;
 - (B) require periodic replacement, reconstruction, or major rehabilitation; and
 - (C) reasonably require advance funding through capital reserves, replacement reserves, or special assessments.
 - (ii) "Capital-intensive infrastructure maintenance" does not include the following activities done to infrastructure or facilities that a common interest association owns, operates, or maintains:
 - (A) performing routine maintenance;
 - (B) landscaping;
 - (C) installing signage; or
 - (D) installing perimeter fencing.
- (f) "Common areas" means areas described within:
 - (i) the definition of "common areas and facilities" under Section 57-8-3; and
 - (ii) the definition of "common areas" under Section 57-8a-102.
- (g)
 - (i) "Common interest association" means:
 - (A) an association, as defined in Section 57-8a-102;
 - (B) an association of unit owners, as defined in Section 57-8-3; or
 - (C) a nonprofit association.
 - (ii) "Common interest association" includes a person authorized by an association, association of unit owners, or nonprofit association.
- (h) "Large master planned development" means an approved development:

- (i) of at least 500 acres or 500 units; and
- (ii) that includes a commitment to fund, construct, develop, or maintain:
 - (A) common infrastructure;
 - (B) association facilities;
 - (C) community programming;
 - (D) resort facilities;
 - (E) open space; or
 - (F) recreation amenities.
- (i) "Low-amenity association" means a common interest association that:
 - (i) is comprised of only detached single-family homes; and
 - (ii) does not provide capital intensive infrastructure maintenance services to the members of the association.
- (j) "Nonprofit association" means a nonprofit corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern, manage, or maintain burdened property.
- (k) "Organizational documents" means:
 - (i) for an association, as that term is defined in Section 57-8a-102, governing documents as that term is defined in Section 57-8a-102;
 - (ii) for an association of unit owners, as that term is defined in Section 57-8-3, a declaration as that term is defined in Section 57-8-3; and
 - (iii) for a nonprofit association:
 - (A) a written instrument by which the nonprofit association exercises powers or manages, maintains, or otherwise affects the property under the jurisdiction of the nonprofit association; and
 - (B) articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and declarations of covenants, conditions, and restrictions.
- (l) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:
 - (i) upon a buyer or seller of real property;
 - (ii) upon and as a result of a transfer of the real property; and
 - (iii) that is dedicated to benefitting the common areas, including payment for:
 - (A) common planning, facilities, and infrastructure;
 - (B) obligations arising from an environmental covenant;
 - (C) community programming;
 - (D) resort facilities;
 - (E) open space;
 - (F) recreation amenities;
 - (G) charitable purposes;
 - (H) association expenses; or
 - (I) capital intensive infrastructure maintenance.
- (m) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:
 - (i) affects real property; and
 - (ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon and as a result of a transfer of the real property, a fee that is dedicated to benefitting the burdened property, including payment for:
 - (A) common planning, facilities, and infrastructure;
 - (B) obligations arising from an environmental covenant;
 - (C) community programming;

- (D) resort facilities;
 - (E) open space;
 - (F) recreation amenities;
 - (G) charitable purposes;
 - (H) association expenses; or
 - (I) capital intensive infrastructure maintenance.
- (n) "Reserve funds" means:
- (i) for an association, as that term is defined in Section 57-8a-102, reserve funds as that term is defined in Section 57-8a-211; and
 - (ii) for an association of unit owners, as that term is defined in Section 57-8-3, reserve funds as that term is defined in Section 57-8-7.5.
- (o)
- (i) "Transfer fee covenant" means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other instrument or document:
 - (A) that affects real property;
 - (B) that is imposed on a future buyer or seller of real property, other than a person who is a party to the covenant, restriction, agreement, or other instrument or document; and
 - (C) to pay a fee upon and as a result of a transfer of the real property.
 - (ii) "Transfer fee covenant" does not include:
 - (A) an obligation imposed by a court judgment, order, or decree;
 - (B) an obligation imposed by the federal government or a state or local government entity; or
 - (C) a reinvestment fee covenant.
- (2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.
- (3)
- (a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a common interest association that was formed to benefit the burdened property.
 - (b) A common interest association may assign or pledge to a lender the right to receive payment under a reinvestment fee covenant if:
 - (i) the assignment or pledge is as collateral for a credit facility; and
 - (ii) the lender releases the collateral interest upon payment in full of all amounts that the common interest association owes to the lender under the credit facility.
- (4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if the reinvestment fee covenant is intended to affect property that is the subject of a previously recorded transfer fee covenant or reinvestment fee covenant.
- (5) Unless the burdened property is part of a large master planned development, a reinvestment fee covenant recorded on or after May 6, 2026, may not obligate the payment of a fee that exceeds:
- (a) .5% of the value of the burdened property if the burdened property is located in a common interest association that is not a low-amenity association; or
 - (b) .25% of the value of the burdened property, if the burdened property is located in a low-amenity association.
- (6)
- (a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment fee covenant, is recorded in the office of the recorder of each county in which any of the burdened property is located.
 - (b) A notice under Subsection (6)(a) shall:

- (i) state the name and address of the common interest association to which the fee under the reinvestment fee covenant is required to be paid;
 - (ii) include the notarized signature of the common interest association's authorized representative;
 - (iii) state that the burden of the reinvestment fee covenant is intended to run with the land and to bind successors in interest and assigns;
 - (iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property;
 - (v) state the duration of the reinvestment fee covenant;
 - (vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and
 - (vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the burdened property.
- (c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of Subsection (6)(b) is valid and effective.
- (7)
- (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not enforceable after May 31, 2010, unless:
 - (i) a notice that is consistent with the notice described in Subsection (6) is recorded in the office of the recorder of each county in which any of the burdened property is located; or
 - (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in Subsection (7)(b), is recorded in the office of the recorder of each county in which any of the burdened property is located.
 - (b) A notice under Subsection (7)(a)(ii) shall:
 - (i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee covenant, or the beneficiary's authorized representative;
 - (ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer fee covenant;
 - (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is intended to run with the land and to bind successors in interest and assigns; and
 - (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.
 - (c)
 - (i) A recorded notice of reinvestment fee covenant or transfer fee covenant that substantially complies with the requirements of Subsection (7)(b) is valid and effective, unless the notice of transfer fee covenant is a wrongful lien as that term is defined in Section 38-9-102.
 - (ii) A county recorder is not required to determine whether a notice of transfer fee covenant is a wrongful lien for purposes of this Subsection (7)(c).
 - (d) A notice under Subsection (7)(b):
 - (i) that is recorded after May 31, 2010, is not enforceable; and
 - (ii) shall comply with the requirements of Section 57-1-47.
 - (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010, seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is not an enforceable amendment.
- (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:
- (a) an involuntary transfer;
 - (b) a transfer that results from a court order;
 - (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity;

- (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or
 - (e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest association's costs directly related to the transfer of the burdened property, not to exceed \$250.
- (9)
- (a) An administrative setup fee imposed on or after May 7, 2025, is void and unenforceable unless the association uses the fee only to pay expenses related to the transfer of real property.
 - (b) No later than December 31 each year, if a manager collects an administrative setup fee, the manager shall provide to the association an annual accounting of each administrative setup fee the manager collects in a calendar year.
- (10) On or after May 6, 2026, an association may not impose a reinvestment fee unless:
- (a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant;
 - (b) a majority of voting interests in the association, or a higher percentage if required in the organizational documents, approves the reinvestment fee; and
 - (c) if the association is not a large master planned development, the association deposits at least 50% of the reinvestment fee into reserve funds.
- (11) After a vote approving the reinvestment fee described in Subsection (10)(b), an association may set the amount of a reinvestment fee only:
- (a) in accordance with the terms of the declaration or a reinvestment fee covenant; and
 - (b) upon providing notice in accordance with Section 57-8a-214.
- (12) Members of the association may remove or amend a reinvestment fee by holding a vote at a special meeting:
- (a) called by the members for the purpose of removing or amending the reinvestment fee; and
 - (b) at which:
 - (i) at least 51% of the voting interests attend and vote; and
 - (ii) a majority of the voting interests that attend vote to remove or amend the reinvestment fee.

Amended by Chapter 123, 2026 General Session