

**Effective 7/1/2014**

**57-8-40 Organization of an association of unit owners under other law -- Reorganization.**

- (1) As used in this section, "organizational documents" means the documents related to the formation or operation of a nonprofit corporation or other legal entity formed by the management committee or the declarant.
- (2) If permitted, required, or acknowledged by the declaration, the management committee may organize an association of unit owners as:
  - (a) a nonprofit corporation in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or
  - (b) any other entity organized under other law.
- (3) Organizational documents for a nonprofit corporation or other entity formed in accordance with Subsection (2) shall, to the extent possible, not conflict with the rights and obligations found in the declaration and any of the association's bylaws recorded at the time of the formation of a nonprofit corporation or other entity.
- (4) Notwithstanding any conflict with the declaration or any recorded bylaws, the organizational documents of a nonprofit corporation or other entity formed in accordance with Subsection (2) may include any additional indemnification and liability limitation provision for:
  - (a) board members, directors, and officers; or
  - (b) similar persons in a position of control.
- (5) In the event of a conflict between this chapter's provisions, a statute under which the association of unit owners is organized, documents concerning the organization of the association of unit owners as a nonprofit corporation or other entity, the declaration, the bylaws, and association rules, the following order prevails:
  - (a) this chapter controls over a conflicting provision found in any of the sources listed in Subsections (5)(b) through (f);
  - (b) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or any other law under which an entity is organized controls over a conflicting provision in any of the sources listed in Subsections (5)(c) through (f);
  - (c) an organizational document filed in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or any other law under which an entity is organized controls over a conflicting provision in any of the sources listed in Subsections (5)(d) through (f);
  - (d) the declaration controls over a conflicting provision in any of the sources listed in Subsections (5)(e) or (f);
  - (e) the bylaws control over a conflicting provision in association rules; and
  - (f) the association rules yield to a conflicting provision in any of the sources listed in Subsection (5)(a) through (e).
- (6) Immediately upon the legal formation of an entity in compliance with this section, the association and unit owners are subject to any right, obligation, procedure, and remedy applicable to that entity.
- (7)
  - (a) A form "articles of incorporation" or similar organizational document attached to a declaration may be modified by the management committee for filing or re-filing if the modified version is otherwise consistent with this section's provisions.
  - (b) An organizational document attached to a declaration that is filed and concerns the organization of an entity may be amended in accordance with its own terms or any applicable law, notwithstanding the fact that the organizational document might be recorded.
  - (c) Except for amended bylaws, an initial or amended organizational document properly filed with the state does not need to be recorded.

- (8) This section applies to the reorganization of an association of unit owners previously organized if the entity's status is terminated or dissolved without the possibility of reinstatement.
- (9)
  - (a) This section applies to all condominium projects, whether established before or after May 5, 2008.
  - (b) This section does not validate or invalidate the organization of an association that occurred before May 5, 2008, whether or not the association was otherwise in compliance with this section.

Amended by Chapter 152, 2013 General Session