

**Effective 7/1/2015**

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

As used in this chapter:

- (1)
  - (a) "Assessment" means a charge imposed or levied:
    - (i) by the association;
    - (ii) on or against a lot or a lot owner; and
    - (iii) pursuant to a governing document recorded with the county recorder.
  - (b) "Assessment" includes:
    - (i) a common expense; and
    - (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- (2)
  - (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:
    - (i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and
    - (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
      - (A) real property taxes;
      - (B) insurance premiums;
      - (C) maintenance costs; or
      - (D) for improvement of real property not owned by the member.
  - (b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.
- (3) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.
- (4) "Common areas" means property that the association:
  - (a) owns;
  - (b) maintains;
  - (c) repairs; or
  - (d) administers.
- (5) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.
- (6) "Declarant":
  - (a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and
  - (b) includes the person's successor and assign.
- (7) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- (8) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- (9)
  - (a) "Governing documents" means a written instrument by which the association may:
    - (i) exercise powers; or
    - (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.
  - (b) "Governing documents" includes:
    - (i) articles of incorporation;
    - (ii) bylaws;
    - (iii) a plat;
    - (iv) a declaration of covenants, conditions, and restrictions; and
    - (v) rules of the association.

- (10) "Independent third party" means a person that:
  - (a) is not related to the owner of the residential lot;
  - (b) shares no pecuniary interests with the owner of the residential lot; and
  - (c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.
- (11) "Judicial foreclosure" means a foreclosure of a lot:
  - (a) for the nonpayment of an assessment; and
  - (b)
    - (i) in the manner provided by law for the foreclosure of a mortgage on real property; and
    - (ii) as provided in Part 3, Collection of Assessments.
- (12) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
  - (a) by a person or persons other than the owner; and
  - (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.
- (13) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.
- (14) "Lot" means:
  - (a) a lot, parcel, plot, or other division of land:
    - (i) designated for separate ownership or occupancy; and
    - (ii)
      - (A) shown on a recorded subdivision plat; or
      - (B) the boundaries of which are described in a recorded governing document; or
  - (b)
    - (i) a unit in a condominium association if the condominium association is a part of a development; or
    - (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.
- (15)
  - (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.
  - (b) "Means of electronic communication" includes:
    - (i) web conferencing;
    - (ii) video conferencing; and
    - (iii) telephone conferencing.
- (16) "Meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.
- (17) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.
- (18) "Nonjudicial foreclosure" means the sale of a lot:
  - (a) for the nonpayment of an assessment; and
  - (b)
    - (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
    - (ii) as provided in Part 3, Collection of Assessments.
- (19) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:
  - (a) appoint or remove members of the association's board of directors; or
  - (b) exercise power or authority assigned to the association under the association's governing documents.

(20) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

Amended by Chapter 22, 2015 General Session

Amended by Chapter 34, 2015 General Session

Amended by Chapter 213, 2015 General Session

Amended by Chapter 325, 2015 General Session

Amended by Chapter 387, 2015 General Session