

Effective 5/3/2023

Effective until 5/1/2024

57-8a-209 Rental restrictions.

- (1)
 - (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
 - (i) create restrictions on the number and term of rentals in an association; or
 - (ii) prohibit rentals in the association.
 - (b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.
- (2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:
 - (a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:
 - (i) a lot owner in the military for the period of the lot owner's deployment;
 - (ii) a lot occupied by a lot owner's parent, child, or sibling;
 - (iii) a lot owner whose employer has relocated the lot owner for two years or less;
 - (iv) a lot owned by an entity that is occupied by an individual who:
 - (A) has voting rights under the entity's organizing documents; and
 - (B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or
 - (v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:
 - (A) the estate of a current resident of the lot; or
 - (B) the parent, child, or sibling of the current resident of the lot;
 - (b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:
 - (i) the lot owner occupies the lot;
 - (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or
 - (iii) the lot is transferred; and
 - (c) a requirement that the association create, by rule or resolution, procedures to:
 - (i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and
 - (ii) ensure consistent administration and enforcement of the rental restrictions.
- (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:
 - (a) the conveyance, sale, or other transfer of a lot by deed;
 - (b) the granting of a life estate in the lot; or
 - (c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.
- (4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

- (5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).
- (6)
 - (a) Subsections (1) through (5) do not apply to:
 - (i) an association that contains a time period unit as defined in Section 57-8-3;
 - (ii) any other form of timeshare interest as defined in Section 57-19-2; or
 - (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:
 - (A) adopts a rental restriction or prohibition; or
 - (B) amends an existing rental restriction or prohibition.
 - (b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).
- (7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:
 - (a) the restriction or prohibition receives unanimous approval by all lot owners; and
 - (b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.
- (8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:
 - (a) obtain the association's approval of a prospective renter;
 - (b) give the association:
 - (i) a copy of a rental application;
 - (ii) a copy of a renter's or prospective renter's credit information or credit report;
 - (iii) a copy of a renter's or prospective renter's background check; or
 - (iv) documentation to verify the renter's age; or
 - (c) pay an additional assessment, fine, or fee because the lot is a rental lot.
- (9)
 - (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.
 - (b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:
 - (i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and
 - (ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.
 - (c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental lot an annual fee of up to \$200 to defray the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in an accounting provided to the lot owner.

- (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:
- (a) land use ordinances;
 - (b) building codes;
 - (c) health codes; and
 - (d) fire codes.
- (11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.