

**INSURANCE COVERAGE AND COMMON AREA
AMENDMENTS FOR CONDOMINIUMS**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Marda Dillree

AN ACT RELATING TO THE CONDOMINIUM OWNERSHIP ACT; REQUIRING CONDOMINIUM ASSOCIATIONS TO OBTAIN INSURANCE COVERING ALL COMMON AREAS AND BUILDINGS; AMENDING PROVISIONS RELATING TO COMMON AREAS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

57-8-7, as last amended by Chapter 173, Laws of Utah 1975

57-8-29, as enacted by Chapter 111, Laws of Utah 1963

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-8-7** is amended to read:

57-8-7. Common areas and facilities.

(1) Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the percentages or fractions expressed in the declaration. The declaration may allocate to each unit an undivided interest in the common areas and facilities proportionate to either the size or par value of such unit. Otherwise, the declaration shall allocate to each unit an equal undivided interest in the common areas and facilities, subject to the following exception: each convertible space depicted on the record of survey map shall be allocated an undivided interest in the common areas and facilities proportionate to the size of such space vis-a-vis the aggregate size of all units so depicted, while the remaining undivided interest in the common areas and facilities shall be allocated equally among the other units so depicted. The undivided interest in the common areas and facilities allocated in accordance with this subsection shall add up to one if stated as fractions or to 100% if stated as percentages. If an equal undivided interest in the common areas and facilities is allocated to each unit, the declaration may simply state that fact and need not express the fraction or percentage so allocated. Otherwise, the undivided interest allocated to each unit shall be

reflected by a table in the declaration, or by an exhibit or schedule accompanying the declaration and recorded simultaneously with it, containing columns. The first column shall identify the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated. Corresponding figures in the second and third columns shall set forth the respective sizes or par values of those units and the fraction or percentage of undivided interest in the common areas and facilities allocated thereto.

(2) Except as otherwise expressly provided by this act, the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of ~~an~~ two-thirds of the unit owners expressed in an amended declaration duly recorded. The undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. A time period unit may not be further divided into shorter time periods by a conveyance or disclaimer.

(3) The common areas and facilities shall remain undivided and no unit owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this act as provided in Sections 57-8-22 and 57-8-31. Any covenants to the contrary shall be null and void.

(4) Each unit owner may use the common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other unit owners.

(5) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereon shall be carried out only as provided in this act or in the declaration or bylaws.

(6) The manager or management committee shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities or for making emergency repairs necessary to prevent damage to the common areas and facilities or to another unit or units.

Section 2. Section **57-8-29** is amended to read:

57-8-29. Insurance.

(1) The manager, management committee, or association of unit owners ~~[- if required by the declaration, bylaws or by a majority of the unit owners, or at the request of a mortgagee having a first mortgage of record covering a unit, shall have the authority to, and shall, obtain insurance for the property]~~ shall obtain insurance against loss or damage by fire and ~~[such]~~ other hazards ~~[under such terms and for such amounts as shall be required or requested.]~~ for:

(a) all common areas and facilities; and

(b) all buildings that contain more than one condominium unit, including any improvement which is a permanent part of a building.

(2) Insurance coverage shall be written on the property in the name of the manager, management committee, or association of unit owners, as trustee for each of the unit owners in the percentages established in the declaration.

(3) Premiums on insurance required by this section shall be common expenses.

(4) Provision for insurance shall be without prejudice to the right of each unit owner to insure his own unit for his benefit.