

HOMEOWNERS' ASSOCIATION FINE AUTHORIZATION

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Judy Ann Buffmire

This act modifies the Condominium Ownership Act. The act grants fine authority to the management committee of a residential condominium project for violations of the association's rules and regulations where authorized in the condominium declaration or bylaws. The act sets limits on the fines and provides for interest and late fees. The act requires that notice of a violation and a period to remedy the violation be given prior to the assessment of a fine. The act provides for informal hearings and the initiation of a civil action to contest a fine. The act creates a lien for unpaid fines.

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

ENACTS:

57-8-37, Utah Code Annotated 1953

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

Section 1. Section **57-8-37** is enacted to read:

57-8-37. Fines.

(1) (a) If authorized in the declaration, bylaws, or association rules, the management committee of a residential condominium project may assess a fine against a unit owner after the requirements of Subsection (2) have been met for a violation of the rules and regulations of the association of unit owners which have been promulgated in accordance with this chapter and the declaration and bylaws.

(b) The management committee of a nonresidential condominium project may not assess a fine against a unit owner.

(2) Before assessing a fine under Subsection (1), the management committee shall give notice to the unit owner of the violation and inform the owner that a fine will be imposed if the violation is not cured within the time provided in the declaration, bylaws, or association rules, which shall be at least 48 hours.

(3) (a) A fine assessed under Subsection (1) shall:

(i) be made only for a violation of a rule or regulation which is specifically listed in the declaration, bylaws, or association rules as an offense which is subject to a fine;

(ii) be in the amount specifically provided for in the declaration, bylaws, or association rules for that specific type of violation, not to exceed \$500; and

(iii) accrue interest and late fees as provided in the declaration, bylaws, or association rules.

(b) Cumulative fines for a continuing violation may not exceed \$500 per month.

(4) A unit owner who is assessed a fine under Subsection (1) may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards provided in the declaration, bylaws, or association rules. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

(5) A unit owner may appeal a fine issued under Subsection (1) by initiating a civil action within 180 days after:

(a) a hearing has been held and a final decision has been rendered by the management committee under Subsection (4); or

(b) the time to request an informal hearing under Subsection (4) has expired without the unit owner making such a request.

(6) A fine assessed under Subsection (1) which remains unpaid after the time for appeal under Subsection (5) has expired becomes a lien against the unit owner's interest in the property in accordance with the same standards as a lien for the nonpayment of common expenses under Section 57-8-20.