

Senator Michael G. Waddoups proposes the following substitute bill:

1 **CONDOMINIUM AND LOT OWNERSHIP AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Michael G. Waddoups**

5 **This act modifies the Real Estate Code. The act adds definitions. The act entitles the**
6 **association of unit owners to recover all expenses incurred by the association in collecting**
7 **unpaid assessments, attorneys' fees, and other fees associated with collection. The act**
8 **provides that upon failure to pay an assessment, the association may terminate an**
9 **owner's utility services and access and use of recreational facilities until payment is**
10 **received unless an owner has requested an informal hearing to dispute the assessment.**
11 **The act provides the association the opportunity to collect all future lease payments from**
12 **a tenant who fails to pay any assessment for a period of more than 30 days. The act adds**
13 **provisions for setting up an account for assessment funds paid to the association. The act**
14 **indicates that funds received are to be disbursed to the association until the assessment is**
15 **paid in full, after which any remaining funds will be paid to the unit owner. The act**
16 **makes technical changes.**

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

18 AMENDS:

19 **57-8-3**, as last amended by Chapter 116, Laws of Utah 1994

20 **57-8-20**, as last amended by Chapter 3, Laws of Utah 1986

21 ENACTS:

22 **57-24-101**, Utah Code Annotated 1953

23 **57-24-102**, Utah Code Annotated 1953

24 **57-24-103**, Utah Code Annotated 1953

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



26 Section 1. Section 57-8-3 is amended to read:

27 **57-8-3. Definitions.**

28 As used in this chapter:

29 (1) "Assessment" means any charge imposed or levied by the association, including,
30 common expenses and fines imposed pursuant to Section 57-8-37, on or against a unit owner
31 pursuant to the provisions of the declaration, bylaws, or this chapter.

32 [~~(1)~~] (2) "Association of unit owners" means all of the unit owners acting as a group in
33 accordance with the declaration and bylaws.

34 [~~(2)~~] (3) "Building" means a building, containing units, and comprising a part of the
35 property.

36 [~~(3)~~] (4) "Common areas and facilities" unless otherwise provided in the declaration or
37 lawful amendments to the declaration means:

38 (a) the land included within the condominium project, whether leasehold or in fee
39 simple;

40 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
41 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

42 (c) the basements, yards, gardens, parking areas, and storage spaces;

43 (d) the premises for lodging of janitors or persons in charge of the property;

44 (e) installations of central services such as power, light, gas, hot and cold water,
45 heating, refrigeration, air conditioning, and incinerating;

46 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
47 apparatus and installations existing for common use;

48 (g) such community and commercial facilities as may be provided for in the
49 declaration; and

50 (h) all other parts of the property necessary or convenient to its existence, maintenance,
51 and safety, or normally in common use.

52 [~~(4)~~] (5) "Common expenses" means:

53 (a) all sums lawfully assessed against the unit owners;

54 (b) expenses of administration, maintenance, repair, or replacement of the common
55 areas and facilities;

56 (c) expenses agreed upon as common expenses by the association of unit owners; and

57 (d) expenses declared common expenses by this chapter, or by the declaration or the
58 bylaws.

59 [~~(5)~~] (6) "Common profits," unless otherwise provided in the declaration or lawful
60 amendments to the declaration, means the balance of all income, rents, profits, and revenues
61 from the common areas and facilities remaining after the deduction of the common expenses.

62 [~~(6)~~] (7) "Condominium" means the ownership of a single unit in a multiunit project
63 together with an undivided interest in common in the common areas and facilities of the
64 property.

65 [~~(7)~~] (8) "Condominium project" means a real estate condominium project; a plan or
66 project whereby two or more units, whether contained in existing or proposed apartments,
67 commercial or industrial buildings or structures, or otherwise, are separately offered or
68 proposed to be offered for sale. Condominium project also means the property when the
69 context so requires.

70 [~~(8)~~] (9) "Condominium unit" means a unit together with the undivided interest in the
71 common areas and facilities appertaining to that unit. Any reference in this chapter to a
72 condominium unit includes both a physical unit together with its appurtenant undivided interest
73 in the common areas and facilities and a time period unit together with its appurtenant
74 undivided interest, unless the reference is specifically limited to a time period unit.

75 [~~(9)~~] (10) "Contractible condominium" means a condominium project from which one
76 or more portions of the land within the project may be withdrawn in accordance with
77 provisions of the declaration and of this chapter. If the withdrawal can occur only by the
78 expiration or termination of one or more leases, then the condominium project is not a
79 contractible condominium within the meaning of this chapter.

80 [~~(10)~~] (11) "Convertible land" means a building site which is a portion of the common
81 areas and facilities, described by metes and bounds, within which additional units or limited
82 common areas and facilities may be created in accordance with this chapter.

83 [~~(11)~~] (12) "Convertible space" means a portion of the structure within the
84 condominium project, which portion may be converted into one or more units or common areas
85 and facilities, including, but not limited to, limited common areas and facilities in accordance
86 with this chapter.

87 [~~(12)~~] (13) "Declarant" means all persons who execute the declaration or on whose

88 behalf the declaration is executed. From the time of the recordation of any amendment to the
89 declaration expanding an expandable condominium, all persons who execute that amendment
90 or on whose behalf that amendment is executed shall also come within this definition. Any
91 successors of the persons referred to in this subsection who come to stand in the same relation
92 to the condominium project as their predecessors also come within this definition.

93 ~~[(13)]~~ (14) "Declaration" means the instrument by which the property is submitted to
94 the provisions of this act, as it from time to time may be lawfully amended.

95 ~~[(14)]~~ (15) "Expandable condominium" means a condominium project to which
96 additional land or an interest in it may be added in accordance with the declaration and this
97 chapter.

98 ~~[(15)]~~ (16) "Leasehold condominium" means a condominium project in all or any
99 portion of which each unit owner owns an estate for years in his unit, or in the land upon which
100 that unit is situated, or both, with all those leasehold interests to expire naturally at the same
101 time. A condominium project including leased land, or an interest in the land, upon which no
102 units are situated or to be situated is not a leasehold condominium within the meaning of this
103 chapter.

104 ~~[(16)]~~ (17) "Limited common areas and facilities" means those common areas and
105 facilities designated in the declaration as reserved for use of a certain unit or units to the
106 exclusion of the other units.

107 ~~[(17)]~~ (18) "Majority" or "majority of the unit owners," unless otherwise provided in
108 the declaration or lawful amendments to the declaration, means the owners of more than 50%
109 in the aggregate in interest of the undivided ownership of the common areas and facilities.

110 ~~[(18)]~~ (19) "Management committee" means the committee as provided in the
111 declaration charged with and having the responsibility and authority to make and to enforce all
112 of the reasonable rules covering the operation and maintenance of the property.

113 ~~[(19)]~~ (20) "Par value" means a number of dollars or points assigned to each unit by the
114 declaration. Substantially identical units shall be assigned the same par value, but units located
115 at substantially different heights above the ground, or having substantially different views, or
116 having substantially different amenities or other characteristics that might result in differences
117 in market value, may, but need not, be considered substantially identical within the meaning of
118 this subsection. If par value is stated in terms of dollars, that statement may not be considered

119 to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal,
120 or fair market transaction at a different figure may affect the par value of any unit, or any
121 undivided interest in the common areas and facilities, voting rights in the unit owners'
122 association, liability for common expenses, or right to common profits, assigned on the basis
123 thereof.

124 ~~[(20)]~~ (21) "Person" means an individual, corporation, partnership, association, trustee,
125 or other legal entity.

126 ~~[(21)]~~ (22) "Property" means the land, whether leasehold or in fee simple, the building,
127 if any, all improvements and structures thereon, all easements, rights, and appurtenances
128 belonging thereto, and all articles of personal property intended for use in connection
129 therewith.

130 ~~[(22)]~~ (23) "Record," "recording," "recorded," and "recorder" have the meaning stated
131 in Title 57, Chapter 3, Recording of Documents.

132 ~~[(23)]~~ (24) "Record of survey map" means a plat or plats of survey of land and units
133 prepared in accordance with Section 57-8-13.

134 ~~[(24)]~~ (25) "Size" means the number of cubic feet, or the number of square feet of
135 ground or floor space, within each unit as computed by reference to the record of survey map
136 and rounded off to a whole number. Certain spaces within the units including, without
137 limitation, attic, basement, or garage space may, but need not, be omitted from the calculation
138 or be partially discounted by the use of a ratio, if the same basis of calculation is employed for
139 all units in the condominium project and if that basis is described in the declaration.

140 ~~[(25)]~~ (26) "Time period unit" means an annually recurring part or parts of a year
141 specified in the declaration as a period for which a physical unit is separately owned and
142 includes a timeshare estate as defined in Subsection 57-19-2(17).

143 ~~[(26)]~~ (27) "Unit" means either a separate physical part of the property intended for any
144 type of independent use, including one or more rooms or spaces located in one or more floors
145 or part or parts of floors in a building or a time period unit, as the context may require. A
146 convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A
147 proposed condominium unit under an expandable condominium project, not constructed, is a
148 unit two years after the date the recording requirements of Section 57-8-13.6 are met.

149 ~~[(27)]~~ (28) "Unit number" means the number, letter, or combination of numbers and

150 letters designating the unit in the declaration and in the record of survey map.

151 ~~[(28)]~~ (29) "Unit owner" means the person or persons owning a unit in fee simple and
152 an undivided interest in the fee simple estate of the common areas and facilities in the
153 percentage specified and established in the declaration or, in the case of a leasehold
154 condominium project, the person or persons whose leasehold interest or interests in the
155 condominium unit extend for the entire balance of the unexpired term or terms.

156 Section 2. Section **57-8-20** is amended to read:

157 **57-8-20. Lien for nonpayment of assessments.**

158 (1) Every unit owner shall pay his proportionate share of the common expenses.
159 Payment shall be in the amounts and at the times determined by the management committee in
160 accordance with the terms of the declaration or the bylaws.

161 (2) ~~(a) [The amount of common expenses assessed]~~ An assessment levied against each
162 unit is a debt of the owner at the time the assessment is made and is collectible as such.

163 (b) The association is entitled to recover all expenses incurred by the association in
164 collecting any unpaid assessment, including reasonable attorneys' fees, whether an action is
165 brought against an owner under Subsection (3), or whether a suit to foreclose the lien upon the
166 unit is instituted under Subsection (4).

167 (3) Suit to recover a money judgment for any unpaid [common expenses] assessment is
168 maintainable without foreclosing or waiving the lien securing it. The prevailing party in the
169 action is entitled to recover its costs of suit and reasonable attorneys' fees. [H]

170 (4) (a) Subject to Subsection 57-8-37(6), if any unit owner fails or refuses to [make any
171 payment of the common expenses] pay an assessment when due, that amount constitutes a lien
172 on the interest of the owner in the property, and upon the recording of notice of lien by the
173 manager or management committee it is a lien upon the unit owner's interest in the property
174 prior to all other liens and encumbrances, recorded or unrecorded, except:

175 ~~[(a)]~~ (i) tax and special assessment liens on the unit in favor of any assessing unit or
176 special improvement district; and

177 ~~[(b)]~~ (ii) encumbrances on the interest of the unit owner recorded prior to the date such
178 notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

179 ~~[(3)]~~ The manager or management committee shall, upon the written request of any unit
180 owner or any encumbrancer or prospective encumbrancer of a unit, and upon payment of a

181 reasonable fee not to exceed \$10, issue to the requesting person or persons, a written statement
182 setting forth the unpaid common expenses with respect to the unit covered by the request. This
183 written statement of indebtedness is conclusive upon the remaining unit owners and upon the
184 manager and management committee in favor of all persons who rely on the written statement
185 in good faith. Unless the manager or management committee complies with the request for a
186 statement of indebtedness within ten days, all unpaid common expenses which became due
187 prior to the date such request was made are subordinate to the lien held by the person
188 requesting the statement. Any encumbrancer holding a lien on a unit may pay any unpaid
189 common expenses payable with respect to the unit and upon payment the encumbrancer has a
190 lien on the unit for the amounts paid of the same rank as the lien of his encumbrance.]

191 [(4)] (b) The lien for nonpayment of [common expenses] an assessment may be
192 enforced by sale or foreclosure of the unit owner's interest by the manager or management
193 committee. The sale or foreclosure shall be conducted in the same manner as foreclosures in
194 deeds of trust or mortgages or in any other manner permitted by law.

195 (c) In any foreclosure or sale, the unit owner shall pay the costs and expenses of such
196 proceedings and reasonable attorneys' fees. If so provided in the declaration or bylaws, in the
197 case of foreclosure, the owner shall pay a reasonable rental for the unit, and the plaintiff in the
198 foreclosure action may require the appointment of a receiver to collect the rental without regard
199 to the value of the mortgage security.

200 [(5)] (d) Unless otherwise provided in the declaration, the manager or management
201 committee may bid in the unit at foreclosure or other sale and hold, lease, mortgage, or convey
202 the unit.

203 (5) (a) When authorized in the declaration, bylaws, or rules adopted by resolution of
204 the management committee or association, if the owner fails or refuses to pay any assessment
205 when due, the management committee may, after giving notice and an opportunity to be heard
206 in accordance with Subsection (5)(b), and in the case of a fine, the expiration of the time for
207 appeal under Subsection 57-8-37(5):

208 (i) terminate an owner's right to receive utility services paid as a common expense; and

209 (ii) terminate an owner's right of access and use of recreational facilities.

210 (iii) If, pursuant to this Subsection (5)(a), the tenant is paying regular and customary
211 rent to the association, the association shall not terminate either the right to receive utility

212 services paid as a common expense or the right of access and use of recreational facilities.

213 (b) Before terminating utility services or right of access and use of recreational
214 facilities under Subsection (5)(a), the manager or management committee shall give written
215 notice to the unit owner in the manner provided in the declaration, bylaws, or association rules.

216 The notice shall state:

217 (i) utility services or right of access and use of recreational facilities will be terminated
218 if payment of the assessment is not received within the time provided in the declaration,
219 bylaws, or association rules, which time shall be stated and be at least 48 hours;

220 (ii) the amount of the assessment due, including any interest or late payment fee; and

221 (iii) the right to request a hearing under Subsection (5)(c).

222 (c) Except for a fine imposed pursuant to 57-8-37, a unit owner who is given notice
223 under Subsection (5)(b) may request an informal hearing to dispute the assessment by
224 submitting a written request to the management committee within 14 days from the date the
225 notice is received.

226 (i) The hearing shall be conducted in accordance with the standards provided in the
227 declaration, bylaws, or association rules.

228 (ii) If a hearing is requested, utility services or right of access and use or recreational
229 facilities may not be terminated until after the hearing has been conducted and a final decision
230 has been entered.

231 (d) Upon payment of the assessment due, including any interest or late payment fee, the
232 manager or management committee shall take action to reinstate the terminated utility services
233 to the unit as soon as reasonably possible.

234 (6) (a) If authorized in the declaration, bylaws, or rules adopted by resolution of the
235 management committee, if the owner of a unit who is leasing the unit fails to pay any
236 assessment for a period of more than 30 days after it is due and payable, the management
237 committee, upon compliance with this Subsection (6)(a), and in the case of any fine, the
238 expiration of the time for appeal under Subsection 57-8-37(5), may demand the tenant to pay to
239 the association all future lease payments due owner, commencing with the next monthly or
240 other periodic payment, until the amount due to the association is paid.

241 (b) The manager or management committee shall give the unit owner written notice, in
242 accordance with the declaration, bylaws, or association rules of its intent to demand that tenant

243 pay the association the amount of the assessment due. The notice shall state:

244 (i) provide notice to the tenant that full payment of remaining lease payments will
245 commence with the next monthly or other periodic payment unless the assessment is received
246 within the time period provided in the declaration, bylaws, or association rules;

247 (ii) state the amount of the assessment due, including any interest or late payment fee;

248 (iii) state that any costs of collection, not to exceed \$150, and other assessments that
249 become due may be added to the total amount due; and

250 (iv) provide the requirements and rights described in Subsections (6)(c) through (f).

251 (c) If the unit owner fails to pay the amount of the assessment due by the date specified
252 in the notice, the manager or management committee may deliver written notice to the tenant,
253 in accordance with the declaration, bylaws, or association rules, that demands future payments
254 due to the owner be paid to the association pursuant to Subsection (6)(d). A copy of the notice
255 must be mailed to the unit owner. The notice provided to the tenant must state:

256 (i) that due to the owner's failure to pay the assessment within the time period allowed,
257 the owner has been notified of the management committee's intent to collect all lease payments
258 due to the association pursuant to Subsection (6)(a);

259 (ii) that until notification by the association that the assessment due, including any
260 interest or late payment fee, has been paid, all future lease payments due to the owner are to be
261 paid to the association; and

262 (iii) payment by the tenant to the association in compliance with this Subsection (6)
263 will not constitute a default under the terms of the lease agreement. If payment is in
264 compliance with this Subsection (6) suit or other action may not be initiated by the owner
265 against the tenant for failure to pay.

266 (d) All funds paid to the association pursuant to Subsection (6)(c) shall be deposited in
267 the association's account with credit to the owner, and disbursed to the association until the
268 assessment due, together with any cost of administration, which may not exceed \$25, is paid in
269 full. Upon written request from the owner, any remaining balance, after assessment and
270 administrative fees are fully paid, must be paid to the owner within five business days.

271 (e) Within five business days of payment in full of the assessment, including any
272 interest or late payment fee, the manager or management committee must notify the tenant in
273 writing that future lease payments are no longer due to the association. A copy of this

274 notification must be mailed to the unit owner.

275 (f) As used in this Subsection (6), "lease" or "leasing" means regular, exclusive
276 occupancy of a unit by any person or persons, other than the unit owner, for which the unit
277 owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

278 (7) (a) The manager or management committee shall, upon the written request of any
279 unit owner and upon payment of a reasonable fee not to exceed \$10, issue a written statement
280 indicating any unpaid assessments with respect to the unit covered by the request. This written
281 statement of unpaid assessments is conclusive upon the remaining unit owners and upon the
282 manager and management committee in favor of all persons who rely on the written statement
283 in good faith.

284 (b) Unless the manager or management committee complies with the request for a
285 statement of any unpaid assessments within ten days, all unpaid assessments which became due
286 prior to the date the request was made are subordinate to the lien held by the person requesting
287 the statement.

288 (8) Any encumbrancer holding a lien on a unit may pay any unpaid assessment due
289 with respect to the unit. Upon payment, the encumbrancer has a lien on the unit for the
290 amounts paid.

291 (9) Remedies provided in this section, by law, or in equity are not considered to be
292 mutually exclusive.

293 Section 3. Section **57-24-101** is enacted to read:

294 **CHAPTER 24. LOT OWNERSHIP ACT**

295 **57-24-101. Title**

296 This chapter is known as the "Lot Ownership Act."

297 Section 4. Section **57-24-102** is enacted to read:

298 **57-24-102. Definitions.**

299 (1) As used in this chapter:

300 (a) "Assessment" means any change imposed or levied by the association on or against
301 a lot or a lot owner pursuant to provisions of a governing document recorded in the official
302 records of the county recorder.

303 (b) (i) "Association" or "homeowners' association" means a corporation,
304 unincorporated association, or other legal entity, each member of which is an owner of a

305 residential lot located within the association's jurisdiction, as described in the governing
306 documents, and by virtue of membership or ownership of such lot is obligated to pay real
307 property taxes, insurance premiums, maintenance costs, or for improvement of real property
308 other than that which is owned by the member.

309 (ii) "Homeowners' association" does not mean an association created under Title 57,
310 Chapter 8.

311 (c) "Board of directors" or "board" means the body, regardless of name, with primary
312 authority to manage the affairs of the association.

313 (d) "Common area" means property owned, or otherwise maintained, repaired, or
314 administered by the association.

315 (e) "Common expense" means the costs incurred by the association to exercise any of
316 the powers provided for in its governing documents.

317 (f) "Governing document" mean the articles of incorporation, bylaws, plat, declaration
318 of covenants, conditions, and restrictions, rules and regulations of the association, or other
319 written instruments by which the association has the authority to exercise powers or to manage,
320 maintain, or otherwise affect the property under its jurisdiction.

321 (g) "Lot" means:

322 (i) any lot, parcel, or other division of land designated for separate ownership or
323 occupancy shown on a recorded subdivision plat or the boundaries described in a recorded
324 governing document; or

325 (ii) a unit in a condominium association or a unit in a real estate cooperative if the
326 condominium or cooperative is part of the development.

327 (h) "Residential lot" means any lot having a limit on its use, by law or covenant, to
328 primarily residential or recreational use.

329 Section 5. Section **57-24-103** is enacted to read:

330 **57-24-103. Lien for nonpayment of assessments.**

331 (1) Every owner shall pay his proportionate share of the common expenses and all
332 other assessments levied by the association. Payment shall be in the amounts and at the time
333 determined by the board of directors in accordance with the terms of the declaration or bylaws.

334 (2) An assessment levied against each lot is a debt of the owner at the time the
335 assessment is made and is collectible as such. The association shall be entitled to recover all

336 expenses incurred by the association in collecting such unpaid assessments, including
337 reasonable attorneys' fees, whether an action is brought against the owner under Subsection (3),
338 or whether a suit to foreclose the lien upon the unit is instituted under Subsection (4), and at
339 trial or any subsequent appeal.

340 (3) A suit to recover a money judgment for an unpaid assessment is maintainable
341 without foreclosing or waiving the securing lien. The prevailing party in the action is entitled
342 to recover the costs of the suit and reasonable attorneys' fees.

343 (4) (a) If an owner fails or refuses to pay an assessment when due, the assessment
344 amount constitutes a lien on the owner's interest in the property, and upon the recording of
345 notice of lien by the manager or board of directors, it is a lien upon the lot owner's interest in
346 the property prior to all other liens and encumbrances, recorded or unrecorded, except:

347 (i) tax and special assessment liens on the lot in favor of any assessing lot or special
348 improvement district; and

349 (ii) encumbrances on the interest of the lot owner recorded prior to the date the notice
350 is recorded.

351 (b) The lien for nonpayment of assessments may be enforced by sale or foreclosure of
352 the owner's interest by the manager or board of directors. The sale or foreclosure shall be
353 conducted in the same manner as a foreclosure in deeds of trust or mortgages or in any other
354 manner permitted by law.

355 (c) In any foreclosure or sale, the owner shall pay the costs and expenses arising from
356 the proceedings and reasonable attorneys' fees.

357 (d) Unless otherwise provided in the declaration, the manager or board of directors
358 may bid at foreclosure or other sale and hold, lease, mortgage, or convey the lot.

359 (5) (a) As authorized in the declaration, bylaws, or rules adopted by resolution of the
360 board of directors, if the owner fails or refuses to pay an assessment when due, the board may,
361 after giving notice and an opportunity to be heard in accordance with Subsection (5)(c):

362 (i) terminate the owner's right to receive utility services paid as a common expense;
363 and

364 (ii) terminate the owner's right of access and use of recreational facilities.

365 (b) If, pursuant to subsection (5)(a), the tenant is paying regular and customary rent to
366 the association the association shall not terminate either the right to receive utility services paid

367 as a common expense or the right of access and use of recreational facilities.

368 (c) Before terminating utility services or right of access and use of recreational
369 facilities under Subsection (5)(a), the manager or board of directors shall give written notice to
370 the owner in the manner provided in the declaration, bylaws, or association rules. This notice
371 shall state:

372 (i) that utility services or right of access and use of recreational facilities will be
373 terminated if payment of the assessment is not received within the time provided in the
374 declaration, bylaws, or association rules.

375 (ii) the amount of the assessment due, including any interest or late payment fee; and
376 (iii) the right to request a hearing under Subsection (5)(d).

377 (d) (i) An owner who is given notice under Subsection (5)(c) may request an informal
378 hearing to dispute the assessment by submitting a written request to the management
379 committee within 14 days from the date of the notice.

380 (ii) The hearing shall be conducted in accordance with the standards provided in the
381 declaration, bylaws, or association rules.

382 (iii) If a hearing is requested, utility services or right of access and use of recreational
383 facilities may not be terminated until after the hearing has been conducted and a final decision
384 has been rendered.

385 (e) Upon payment of the assessment due, the manager or board of directors shall take
386 action to reinstate the terminated utility services as soon as reasonably possible.

387 (6) (a) As authorized in the declaration, bylaws, or rules adopted by resolution of the
388 board of directors, if the owner of a lot who is leasing the lot fails to pay an assessment for a
389 period of more than 30 days after it becomes due and payable, the board of directors, in
390 compliance with this Subsection (6)(a), may demand the tenant to pay the association all future
391 lease payments due to the owner, commencing with the next monthly or other periodic
392 payment, until the amount due to the association is paid.

393 (b) The manager or board of directors shall give the lot owner written notice, in
394 accordance with the declaration, bylaws, or association rules, of its intent to demand that the
395 tenant pay the association the amount of the assessment due. The notice shall state:

396 (i) the board of directors intends to give the tenant notice of demand that the tenant pay
397 to the association future lease payments, commencing with the next monthly or other periodic

398 payment, if the assessment is not received within at least seven business days;

399 (ii) the amount of the assessment due, including any interest or late payment fee;

400 (iii) that any costs of collection, which may not exceed \$150, and other assessments
401 that become due may be added to the amount due; and

402 (iv) the requirements and rights described in Subsections (6)(c) through (6)(g).

403 (c) If the owner fails to pay the amount of the assessment due by the date specified in
404 the notice, the manager or board of directors may deliver written notice to the tenant, in
405 accordance with the declaration, bylaws, or association rules, that the association demands that
406 future lease payments due to the owner are to be paid to the association pursuant to Subsection
407 (6)(e). A copy of any notice to the tenant shall be mailed to the unit owner. The notice to the
408 tenant shall state:

409 (i) the owner has been notified that the management committee intends to demand the
410 tenant to pay all future lease payments to the association under Subsection (6)(b) and the owner
411 has failed to pay the assessment due by the date specified in the notice;

412 (ii) that pursuant to Subsection (6)(3) demand is made that all future lease payments
413 due to the owner, commencing with the next monthly or other periodic payment, be paid to the
414 association until notification from the association under Subsection (6)(f) that the assessment
415 has been paid;

416 (iii) that payment by the tenant to the association in compliance with Subsection (7)
417 shall not constitute a default under the terms of the lease agreement and no suit or other action
418 may be initiated against tenant for failing to pay to the owner amounts due under the lease
419 agreement; and

420 (iv) if a tenant who receives the notice described in this Subsection (6)(c) fails to make
421 any payment to the association the association may initiate appropriate suit or action to compel
422 tenant to comply.

423 (d) (i) A tenant who receives the notice described in Subsection (6)(c) shall:

424 (A) pay to the association all future lease payments due to the owner, commencing
425 with the next monthly or other periodic payment, until notification by the association that the
426 assessment has been paid; and

427 (B) pay to the association, upon written demand, all late charges, fines, interest, and
428 costs of collection, including reasonable attorneys' fees incurred, to the same extent that the

429 tenant would be required to make payment to the association if the tenant were the owner of the
430 lot during the term of lease and any other period of occupancy by the tenant.

431 (ii) Payment by a tenant to the association in compliance with this section shall not
432 constitute a default under the terms of the lease agreement and no suit or other action may be
433 initiated against the tenant for failing to pay to the owner amounts due under the lease
434 agreement.

435 (iii) If a tenant who receives the notice described in Subsection (6)(c) fails to make any
436 payment to the association in accordance with Subsection (6)(d)(i), the association may initiate
437 any appropriate suit or action to compel the tenant to comply with Subsection (6)(d)(i).

438 (e) All funds paid to the association pursuant to Subsection (6)(d) shall be deposited in
439 the associations account and disbursed in the following manner:

440 (i) to the association until the assessment due, together with any cost of administration
441 not to exceed \$25, is paid in full; and

442 (ii) within five business days of receipt of payment in full, the association must pay the
443 owner any remaining balance.

444 (f) Within five business days of payment in full of the assessment, the manager or
445 board of trustees must notify the tenant in writing that future lease payments are no longer due
446 to the association. A copy of this notification must be mailed to the owner.

447 (g) As used in this Subsection (6), "lease" means regular, exclusive occupancy of a lot
448 by any person or persons, other than the unit owner, for which the owner receives any
449 consideration or benefit, including a fee, service, gratuity, or emolument.

450 (7) (a) The manager or board of trustees shall, upon the written request of any owner or
451 any encumbrancer or prospective encumbrancer of a lot, and upon payment of a reasonable fee
452 not to exceed \$10, issue a written statement indicating the unpaid assessments with respect to
453 the lot covered by the request. This written statement of indebtedness is conclusive upon the
454 remaining lot owners and upon the manager and board of directors in favor of all persons who
455 rely on the written statement in good faith.

456 (b) Unless the manager or board of directors complies with the request for a statement
457 of indebtedness within ten days, all unpaid assessments which became due prior to the date the
458 request was made are subordinate to the lien held by the person requesting the statement.

459 (8) Any encumbrancer holding a lien on a lot may pay any unpaid common expenses

460 due with respect to the lot. Upon payment the encumbrancer has a lien on the unit for the
461 amounts paid.
462 (9) Remedies provided in this chapter, by law, or in equity may not be deemed
463 mutually exclusive.