

Representative Michael T. Morley proposes the following substitute bill:

CONDOMINIUM LAW AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

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

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

AMENDS:

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

57-8-7, as last amended by Chapters 99 and 132, Laws of Utah 2000

57-8-10, as last amended by Chapter 132, Laws of Utah 2000

57-8-13, as last amended by Chapter 173, Laws of Utah 1975

57-8-13.2, as last amended by Chapter 39, Laws of Utah 1996

57-8-13.6, as enacted by Chapter 173, Laws of Utah 1975

57-8-13.10, as last amended by Chapter 12, Laws of Utah 1992



- 26 **57-8-14**, as enacted by Chapter 111, Laws of Utah 1963
- 27 **57-8-20**, as last amended by Chapter 3, Laws of Utah 1986
- 28 **57-8-21**, as enacted by Chapter 111, Laws of Utah 1963
- 29 **57-8-27**, as last amended by Chapter 84, Laws of Utah 1999
- 30 **57-8-35**, as last amended by Chapter 142, Laws of Utah 1997
- 31 **57-8-36**, as enacted by Chapter 173, Laws of Utah 1975

32 ENACTS:

33 **57-8-38**, Utah Code Annotated 1953

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

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

36 **57-8-3. Definitions.**

37 As used in this chapter:

38 (1) "Assessment" means any charge imposed by the association, including common
39 expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or
40 this chapter.

41 ~~(1)~~ (2) "Association of unit owners" means all of the unit owners acting as a group in
42 accordance with the declaration and bylaws.

43 ~~(2)~~ (3) "Building" means a building, containing units, and comprising a part of the
44 property.

45 ~~(3)~~ (4) "Common areas and facilities" unless otherwise provided in the declaration or
46 lawful amendments to the declaration means:

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

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

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

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

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

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

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

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

61 [~~(4)~~] (5) "Common expenses" means:

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

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

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

66 (d) expenses declared common expenses by this chapter, or by the declaration or the
67 bylaws.

68 [~~(5)~~] (6) "Common profits," unless otherwise provided in the declaration or lawful
69 amendments to the declaration, means the balance of all income, rents, profits, and revenues
70 from the common areas and facilities remaining after the deduction of the common expenses.

71 [~~(6)~~] (7) "Condominium" means the ownership of a single unit in a multiunit project
72 together with an undivided interest in common in the common areas and facilities of the
73 property.

74 (8) "Condominium plat" means a plat or plats of survey of land and units prepared in
75 accordance with Section 57-8-13.

76 [~~(7)~~] (9) "Condominium project" means a real estate condominium project; a plan or
77 project whereby two or more units, whether contained in existing or proposed apartments,
78 commercial or industrial buildings or structures, or otherwise, are separately offered or
79 proposed to be offered for sale. Condominium project also means the property when the
80 context so requires.

81 [~~(8)~~] (10) "Condominium unit" means a unit together with the undivided interest in the
82 common areas and facilities appertaining to that unit. Any reference in this chapter to a
83 condominium unit includes both a physical unit together with its appurtenant undivided interest
84 in the common areas and facilities and a time period unit together with its appurtenant
85 undivided interest, unless the reference is specifically limited to a time period unit.

86 [~~(9)~~] (11) "Contractible condominium" means a condominium project from which one
87 or more portions of the land within the project may be withdrawn in accordance with

88 provisions of the declaration and of this chapter. If the withdrawal can occur only by the
89 expiration or termination of one or more leases, then the condominium project is not a
90 contractible condominium within the meaning of this chapter.

91 ~~[(10)]~~ (12) "Convertible land" means a building site which is a portion of the common
92 areas and facilities, described by metes and bounds, within which additional units or limited
93 common areas and facilities may be created in accordance with this chapter.

94 ~~[(11)]~~ (13) "Convertible space" means a portion of the structure within the
95 condominium project, which portion may be converted into one or more units or common areas
96 and facilities, including~~[-but not limited to,]~~ limited common areas and facilities in accordance
97 with this chapter.

98 ~~[(12)]~~ (14) "Declarant" means all persons who execute the declaration or on whose
99 behalf the declaration is executed. From the time of the recordation of any amendment to the
100 declaration expanding an expandable condominium, all persons who execute that amendment
101 or on whose behalf that amendment is executed shall also come within this definition. Any
102 successors of the persons referred to in this subsection who come to stand in the same relation
103 to the condominium project as their predecessors also come within this definition.

104 ~~[(13)]~~ (15) "Declaration" means the instrument by which the property is submitted to
105 the provisions of this act, as it from time to time may be lawfully amended.

106 ~~[(14)]~~ (16) "Expandable condominium" means a condominium project to which
107 additional land or an interest in it may be added in accordance with the declaration and this
108 chapter.

109 ~~[(15)]~~ (17) "Leasehold condominium" means a condominium project in all or any
110 portion of which each unit owner owns an estate for years in his unit, or in the land upon which
111 that unit is situated, or both, with all those leasehold interests to expire naturally at the same
112 time. A condominium project including leased land, or an interest in the land, upon which no
113 units are situated or to be situated is not a leasehold condominium within the meaning of this
114 chapter.

115 ~~[(16)]~~ (18) "Limited common areas and facilities" means those common areas and
116 facilities designated in the declaration as reserved for use of a certain unit or units to the
117 exclusion of the other units.

118 ~~[(17)]~~ (19) "Majority" or "majority of the unit owners," unless otherwise provided in

119 the declaration or lawful amendments to the declaration, means the owners of more than 50%
120 in the aggregate in interest of the undivided ownership of the common areas and facilities.

121 ~~[(18)]~~ (20) "Management committee" means the committee as provided in the
122 declaration charged with and having the responsibility and authority to make and to enforce all
123 of the reasonable rules covering the operation and maintenance of the property.

124 ~~[(19)]~~ (21) "Par value" means a number of dollars or points assigned to each unit by the
125 declaration. Substantially identical units shall be assigned the same par value, but units located
126 at substantially different heights above the ground, or having substantially different views, or
127 having substantially different amenities or other characteristics that might result in differences
128 in market value, may~~[-, but need not,]~~ be considered substantially identical within the meaning
129 of this subsection. If par value is stated in terms of dollars, that statement may not be
130 considered to reflect or control the sales price or fair market value of any unit, and no opinion,
131 appraisal, or fair market transaction at a different figure may affect the par value of any unit, or
132 any undivided interest in the common areas and facilities, voting rights in the unit owners'
133 association, liability for common expenses, or right to common profits, assigned on the basis
134 thereof.

135 ~~[(20)]~~ (22) "Person" means an individual, corporation, partnership, association, trustee,
136 or other legal entity.

137 ~~[(21)]~~ (23) "Property" means the land, whether leasehold or in fee simple, the building,
138 if any, all improvements and structures thereon, all easements, rights, and appurtenances
139 belonging thereto, and all articles of personal property intended for use in connection
140 therewith.

141 ~~[(22)]~~ (24) "Record," "recording," "recorded," and "recorder" have the meaning stated
142 in Title 57, Chapter 3, Recording of Documents.

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

145 ~~[(24)]~~ (25) "Size" means the number of cubic feet, or the number of square feet of
146 ground or floor space, within each unit as computed by reference to the record of survey map
147 and rounded off to a whole number. Certain spaces within the units including~~[-, without~~
148 ~~limitation,]~~ attic, basement, or garage space may~~[-, but need not,]~~ be omitted from the
149 calculation or be partially discounted by the use of a ratio, if the same basis of calculation is

150 employed for all units in the condominium project and if that basis is described in the
151 declaration.

152 ~~[(25)]~~ (26) "Time period unit" means an annually recurring part or parts of a year
153 specified in the declaration as a period for which a ~~[physical]~~ unit is separately owned and
154 includes a timeshare estate as defined in Subsection 57-19-2(17).

155 ~~[(26)]~~ (27) "Unit" means either a separate physical part of the property intended for any
156 type of independent use, including one or more rooms or spaces located in one or more floors
157 or part or parts of floors in a building or a time period unit, as the context may require. A
158 convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A
159 proposed condominium unit under an expandable condominium project, not constructed, is a
160 unit two years after the date the recording requirements of Section 57-8-13.6 are met.

161 ~~[(27)]~~ (28) "Unit number" means the number, letter, or combination of numbers and
162 letters designating the unit in the declaration and in the record of survey map.

163 ~~[(28)]~~ (29) "Unit owner" means the person or persons owning a unit in fee simple and
164 an undivided interest in the fee simple estate of the common areas and facilities in the
165 percentage specified and established in the declaration or, in the case of a leasehold
166 condominium project, the person or persons whose leasehold interest or interests in the
167 condominium unit extend for the entire balance of the unexpired term or terms.

168 Section 2. Section **57-8-7** is amended to read:

169 **57-8-7. Common areas and facilities.**

170 (1) As used in this section:

171 (a) "emergency repairs" means any repairs which if not made in a timely manner will
172 likely result in immediate and substantial damage to the common areas and facilities or to
173 another unit or units; and

174 (b) "reasonable notice" means written notice which is hand delivered to the unit at least
175 24 hours prior to the proposed entry.

176 (2) Each unit owner shall be entitled to an undivided interest in the common areas and
177 facilities in the percentages or fractions expressed in the declaration. The declaration may
178 allocate to each unit an undivided interest in the common areas and facilities proportionate to
179 either the size or par value of the unit. Otherwise, the declaration shall allocate to each unit an
180 equal undivided interest in the common areas and facilities, subject to the following exception:

181 each convertible space depicted on the [~~record of survey map~~] condominium plat shall be
182 allocated an undivided interest in the common areas and facilities proportionate to the size of
183 the space vis-a-vis the aggregate size of all units so depicted, while the remaining undivided
184 interest in the common areas and facilities shall be allocated equally among the other units so
185 depicted. The undivided interest in the common areas and facilities allocated in accordance
186 with this Subsection (2) shall add up to one if stated as fractions or to 100% if stated as
187 percentages. If an equal undivided interest in the common areas and facilities is allocated to
188 each unit, the declaration may simply state that fact and need not express the fraction or
189 percentage so allocated. Otherwise, the undivided interest allocated to each unit shall be
190 reflected by a table in the declaration, or by an exhibit or schedule accompanying the
191 declaration and recorded simultaneously with it, containing columns. The first column shall
192 identify the units, listing them serially or grouping them together in the case of units to which
193 identical undivided interests are allocated. Corresponding figures in the second and third
194 columns shall set forth the respective sizes or par values of those units and the fraction or
195 percentage of undivided interest in the common areas and facilities allocated thereto.

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

205 (4) The common areas and facilities shall remain undivided and no unit owner or any
206 other person shall bring any action for partition or division of any part thereof, unless the
207 property has been removed from the provisions of this act as provided in Sections 57-8-22 and
208 57-8-31. Any covenants to the contrary shall be null and void.

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

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

215 (7) The manager or management committee shall have the right to have access to each
216 unit:

217 (a) from time to time during reasonable hours and after reasonable notice to the
218 occupant of the unit being entered, as may be necessary for the maintenance, repair, or
219 replacement of any of the common areas and facilities; or

220 (b) for making emergency repairs necessary to prevent damage to the common areas
221 and facilities or to another unit or units, provided that a reasonable effort is made to provide
222 notice to the occupant of the unit prior to entry.

223 Section 3. Section **57-8-10** is amended to read:

224 **57-8-10. Contents of declaration.**

225 (1) Prior to the conveyance of any unit in a condominium project, a declaration shall be
226 recorded that contains the covenants, conditions, and restrictions relating to the project that
227 shall be enforceable equitable servitudes, where reasonable, and which shall run with the land.
228 Unless otherwise provided, these servitudes may be enforced by any unit owner and his
229 successors in interest.

230 (2) (a) For every condominium project:

231 (i) The declaration shall include a description of the land or interests in real property
232 included within the project.

233 (ii) The declaration shall contain a description of any buildings, which states the
234 number of storeys and basements, the number of units, the principal materials of which the
235 building is or is to be constructed, and a description of all other significant improvements
236 contained or to be contained in the project.

237 (iii) The declaration shall contain the unit number of each unit, the square footage of
238 each unit, and any other description or information necessary to properly identify each unit.

239 (iv) The declaration shall describe the common areas and facilities of the project.

240 (v) The declaration shall describe any limited common areas and facilities and shall
241 state to which units the use of the common areas and facilities is reserved.

242 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or

243 other apparatus intended to serve a single unit, but located outside the boundaries of the unit,
244 shall constitute a limited common area and facility appertaining to that unit exclusively,
245 whether or not the declaration makes such a provision.

246 (c) The [~~record of survey map~~] condominium plat recorded with the declaration may
247 provide or supplement the information required under Subsections (2)(a) and (b).

248 (d) (i) The declaration shall include the percentage or fraction of undivided interest in
249 the common areas and facilities appurtenant to each unit and its owner for all purposes,
250 including voting, derived and allocated in accordance with Subsection 57-8-7(2).

251 (ii) If any use restrictions are to apply, the declaration shall state the purposes for which
252 the units are intended and restricted as to use.

253 (iii) (A) The declaration shall include the name of a person to receive service of
254 process on behalf of the project, in the cases provided by this chapter, together with the
255 residence or place of business of that person.

256 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall
257 maintain a place of business within, this state.

258 (iv) The declaration shall describe the method by which it may be amended consistent
259 with this chapter.

260 (v) Any further matters in connection with the property may be included in the
261 declaration, which the person or persons executing the declaration may consider desirable
262 consistent with this chapter.

263 (vi) The declaration shall contain a statement of intention that this chapter applies to
264 the property.

265 (3) (a) If the condominium project contains any convertible land:

266 (i) The declaration shall contain a legal description by metes and bounds of each area
267 of convertible land within the condominium project.

268 (ii) The declaration shall state the maximum number of units that may be created
269 within each area of convertible land.

270 (iii) (A) The declaration shall state, with respect to each area of convertible land, the
271 maximum percentage of the aggregate land and floor area of all units that may be created and
272 the use of which will not or may not be restricted exclusively to residential purposes.

273 (B) The statements described in Subsection (3)(a)(iii)(A) need not be supplied if none

274 of the units on other portions of the land within the project are restricted exclusively to
275 residential use.

276 (iv) The declaration shall state the extent to which any structure erected on any
277 convertible land will be compatible with structures on other portions of the land within the
278 condominium project in terms of quality of construction, the principal materials to be used, and
279 architectural style.

280 (v) The declaration shall describe all other improvements that may be made on each
281 area of convertible land within the condominium project.

282 (vi) The declaration shall state that any units created within each area of convertible
283 land will be substantially identical to the units on other portions of the land within the project
284 or it shall describe in detail what other type of units may be created.

285 (vii) The declaration shall describe the declarant's reserved right, if any, to create
286 limited common areas and facilities within any convertible land in terms of the types, sizes, and
287 maximum number of the limited common areas within each convertible land.

288 (b) The [~~record of survey map~~] condominium plat recorded with the declaration may
289 provide or supplement the information required under Subsection (3)(a).

290 (4) If the condominium is an expandable condominium project:

291 (a) (i) (A) The declaration shall contain an explicit reservation of an option to expand
292 the project.

293 (B) The declaration shall include a statement of any limitations on the option to
294 expand, including a statement as to whether the consent of any unit owners shall be required
295 and, a statement as to the method by which consent shall be ascertained, or a statement that
296 there are no such limitations.

297 (ii) The declaration shall include a time limit, not exceeding seven years from the date
298 of the recording of the declaration, upon which the option to expand the condominium project
299 shall expire, together with a statement of any circumstances which will terminate the option
300 prior to expiration of the specified time limits.

301 (iii) The declaration shall contain a legal description by metes and bounds of all land
302 that may be added to the condominium project, which is known as additional land.

303 (iv) The declaration shall state:

304 (A) if any of the additional land is added to the condominium project, whether all of it

305 or any particular portion of it must be added;

306 (B) any limitations as to what portions may be added; or

307 (C) a statement that there are no such limitations.

308 (v) The declaration shall include a statement as to whether portions of the additional
309 land may be added to the condominium project at different times, together with any limitations
310 fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds
311 of these lands and regulating the order in which they may be added to the condominium
312 project.

313 (vi) The declaration shall include a statement of any limitations as to the locations of
314 any improvements that may be made on any portions of the additional land added to the
315 condominium project, or a statement that no assurances are made in that regard.

316 (vii) The declaration shall state the maximum number of units that may be created on
317 the additional land. If portions of the additional land may be added to the condominium project
318 and the boundaries of those portions are fixed in accordance with Subsection (4)(a)(v), the
319 declaration shall also state the maximum number of units that may be created on each portion
320 added to the condominium project. If portions of the additional land may be added to the
321 condominium project and the boundaries of those portions are not fixed in accordance with
322 Subsection (4)(a)(v), then the declaration shall also state the maximum number of units per
323 acre that may be created on any portion added to the condominium project.

324 (viii) With respect to the additional land and to any portion of it that may be added to
325 the condominium project, the declaration shall state the maximum percentage of the aggregate
326 land and floor area of all units that may be created on it, the use of which will not or may not
327 be restricted exclusively to residential purposes. However, these statements need not be
328 supplied if none of the units on the land originally within the project are restricted exclusively
329 to residential use.

330 (ix) The declaration shall state the extent to which any structures erected on any
331 portion of the additional land added to the condominium project will be compatible with
332 structures on the land originally within the project in terms of quality of construction, the
333 principal materials to be used, and architectural style. The declaration may also state that no
334 assurances are made in those regards.

335 (x) The declaration shall describe all other improvements that will be made on any

336 portion of the additional land added to the condominium project, or it shall contain a statement
337 of any limitations as to what other improvements may be made on it. The declaration may also
338 state that no assurances are made in that regard.

339 (xi) The declaration shall contain a statement that any units created on any portion of
340 the additional land added to the condominium project will be substantially identical to the units
341 on the land originally within the project, or a statement of any limitations as to what types of
342 units may be created on it. The declaration may also contain a statement that no assurances are
343 made in that regard.

344 (xii) The declaration shall describe the declarant's reserved right, if any, to create
345 limited common areas and facilities within any portion of the additional land added to the
346 condominium project, in terms of the types, sizes, and maximum number of limited common
347 areas within each portion. The declaration may also state that no assurances are made in those
348 regards.

349 (b) The ~~[record of survey map]~~ condominium plat recorded with the declaration may
350 provide or supplement the information required under Subsections (4)(a)(iii) through (a)(vi)
351 and (a)(ix) through (a)(xii).

352 (5) If the condominium project is a contractible condominium:

353 (a) (i) The declaration shall contain an explicit reservation of an option to contract the
354 condominium project.

355 (ii) The declaration shall contain a statement of any limitations on the option to
356 contract, including a statement as to whether the consent of any unit owners shall be required,
357 and if so, a statement as to the method by which this consent shall be ascertained. The
358 declaration may also contain a statement that there are no such limitations.

359 (iii) The declaration shall state the time limit, not exceeding seven years from the
360 recording of the declaration, upon which the option to contract the condominium project shall
361 expire, together with a statement of any circumstances which will terminate this option prior to
362 expiration of the specified time limit.

363 (b) (i) The declaration shall include a legal description by metes and bounds of all land
364 that may be withdrawn from the condominium project, which is known as withdrawable land.

365 (ii) The declaration shall include a statement as to whether portions of the
366 withdrawable land may be withdrawn from the condominium project at different times,

367 together with any limitations fixing the boundaries of those portions by legal descriptions
368 setting forth the metes and bounds and regulating the order in which they may be withdrawn
369 from the condominium project.

370 (iii) The declaration shall include a legal description by metes and bounds of all of the
371 land within the condominium project to which the option to contract the project does not
372 extend.

373 (c) The ~~[record of survey map]~~ condominium plat recorded with the declaration may
374 provide or supplement the information required under Subsection (5)(b).

375 (6) (a) If the condominium project is a leasehold condominium, then with respect to
376 any ground lease or other leases the expiration or termination of which will or may terminate or
377 contract the condominium project:

378 (i) The declaration shall include recording information enabling the location of each
379 lease in the official records of the county recorder.

380 (ii) The declaration shall include the date upon which each lease is due to expire.

381 (iii) The declaration shall state whether any land or improvements will be owned by the
382 unit owners in fee simple. If there is to be fee simple ownership, the declaration shall include:

383 (A) a description of the land or improvements, including without limitation, a legal
384 description by metes and bounds of the land; or

385 (B) a statement of any rights the unit owners have to remove these improvements
386 within a reasonable time after the expiration or termination of the lease or leases involved, or a
387 statement that they shall have no such rights.

388 (iv) The declaration shall include a statement of the rights the unit owners have to
389 extend or renew any of the leases or to redeem or purchase any of the reversions, or a statement
390 that they have no such rights.

391 (b) After the recording of the declaration, no lessor who executed the declaration, and
392 no successor in interest to this lessor, has any right or power to terminate any part of the
393 leasehold interest of any unit owner who:

394 (i) makes timely payment of his share of the rent to the persons designated in the
395 declaration for the receipt of the rent; and

396 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
397 the lease if they were violated.

398 (7) (a) If the condominium project contains time period units, the declaration shall also
399 contain the location of each condominium unit in the calendar year. This information shall be
400 set out in a fourth column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the
401 exhibit or schedule accompanies the declaration.

402 (b) The declaration shall also put timeshare owners on notice that tax notices will be
403 sent to the management committee, not each timeshare owner.

404 (c) The time period units created with respect to any given physical unit shall be such
405 that the aggregate of the durations involved constitute a full calendar year.

406 (8) (a) The declaration, bylaws, and [~~record of survey map~~] condominium plat shall be
407 duly executed and acknowledged by all of the owners and any lessees of the land which is
408 made subject to this chapter.

409 (b) As used in Subsection (8)(a), "owners and lessees" does not include, in their
410 respective capacities, any mortgagee, any trustee or beneficiary under a deed of trust, any other
411 lien holder, any person having an equitable interest under any contract for the sale or lease of a
412 condominium unit, or any lessee whose leasehold interest does not extend to any portion of the
413 common areas and facilities.

414 Section 4. Section **57-8-13** is amended to read:

415 **57-8-13. Condominium plat to be recorded.**

416 (1) (a) Simultaneously with the recording of the declaration there shall be recorded a
417 standard size, original linen (21" x 31") [~~record of survey map~~] condominium plat with 6-1/4"
418 x 1-1/2" recording information block, which map shall be made by a registered Utah land
419 surveyor and shall set forth:

420 [~~(a)~~] (i) a description of the surface of the land included within the project, including
421 all angular and linear data along the exterior boundaries of the property;

422 [~~(b)~~] (ii) the linear measurement and location, with reference to the exterior
423 boundaries, of the building or buildings, if any, located or to be located on the property other
424 than within the boundaries of any convertible lands;

425 [~~(c)~~] (iii) diagrammatic floor plans of the building or buildings, if any, built or to be
426 built on the property, other than within the boundaries of any convertible lands, in sufficient
427 detail to identify each convertible space and physical unit contained within a building,
428 including its identifying number or symbol, the official datum elevations of the finished or

429 unfinished interior surfaces of the floors and ceilings and the linear measurements of the
430 finished or unfinished interior surfaces of the perimeter walls, and the lateral extensions, of
431 every such convertible space and unit;

432 ~~[(d)]~~ (iv) a description or delineation of the boundaries of any unit or convertible space
433 not contained or to be contained in a building or whose boundaries are not to be coextensive
434 with walls, ceilings, or floors within a building, other than units located within the boundaries
435 of any convertible lands, including the horizontal (upper and lower) boundaries, if any, as well
436 as the vertical (lateral or perimetric) boundaries;

437 ~~[(e)]~~ (v) a distinguishing number or other symbol for every physical unit identified on
438 the ~~[record of survey map]~~ condominium plat;

439 ~~[(f)]~~ (vi) to the extent feasible, the location and dimensions of all easements
440 appurtenant to the land included within the project;

441 ~~[(g)]~~ (vii) the label "convertible space" for each such space, if any;

442 ~~[(h)]~~ (viii) the location and dimensions of any convertible lands within the
443 condominium project, with each such convertible land labeled as such, and if there be more
444 than one such land, with each labeled with a different letter or number;

445 ~~[(i)]~~ (ix) the location and dimensions of any withdrawable lands, with each such
446 withdrawable land labelled as such, and if there be more than one such land, with each labelled
447 with a different letter or number;

448 ~~[(j)]~~ (x) if with respect to any portion or portions, but less than all, of the land included
449 within the project the unit owners are to own only an estate for years, the location and
450 dimensions of any such portion, with each labelled as a leased land, and if there be more than
451 one such land, with each labelled with a different letter or number; and

452 ~~[(k)]~~ (xi) any encroachments by or on any portion of the condominium project.

453 (b) Each such ~~[record of survey map]~~ condominium plat shall be certified as to its
454 accuracy and compliance with the provisions of this Subsection (1) by the land surveyor who
455 prepared or who supervised the preparation of the same and shall be executed and
456 acknowledged as provided in Subsection 57-8-10(8).

457 (2) When converting all or any portion of any convertible land or when adding
458 additional land to an expandable condominium, the declarant shall record a new or
459 supplemental ~~[record of survey map]~~ condominium plat which shall contain the information

460 necessary to comply with the requirements of Subsection (1) of this section. In any case where
461 less than all of a convertible land is being converted, the [~~record of survey map~~] condominium
462 plat shall show the location and dimensions of the remaining portion or portions of the land in
463 addition to otherwise meeting such requirements.

464 (3) When converting all or any portion of any convertible space into one or more units
465 or limited common areas and facilities, the declarant shall record, with regard to the structure
466 or portion of it constituting that convertible space, a supplemental [~~record of survey map~~]
467 condominium plat showing the location and dimensions of the vertical and horizontal
468 boundaries of each unit formed out of this space. The supplemental map shall be certified as to
469 its accuracy and compliance with this Subsection (3) by the land surveyor who prepared or who
470 supervised the preparation of it.

471 (4) In interpreting the [~~record of survey map~~] condominium plat or any deed or other
472 instrument affecting a building or unit, the boundaries of the building or unit constructed or
473 reconstructed in substantial accordance with the [~~record of survey map~~] condominium plat
474 shall be conclusively presumed to be the actual boundaries rather than the description
475 expressed in the [~~record of survey map~~] condominium plat, regardless of the settling or lateral
476 movement of the building and regardless of minor variance between boundaries shown on the
477 [~~record of survey map~~] condominium plat and those of the building or unit.

478 Section 5. Section **57-8-13.2** is amended to read:

479 **57-8-13.2. Conversion of convertible land -- Amendment to declaration --**

480 **Limitations.**

481 (1) The declarant may convert all or any portion of any convertible land into one or
482 more units or limited common areas and facilities subject to any restrictions and limitations
483 which the declaration may specify. Any such conversion shall be deemed to have occurred at
484 the time of the recordation of the appropriate instruments under Subsection (2) of this section
485 and Subsection 57-8-13(2).

486 (2) Simultaneously with the recording of the [~~record of survey map~~] condominium plat
487 pursuant to Subsection 57-8-13(2), the declarant shall prepare, execute, and record an
488 amendment to the declaration describing the conversion. The amendment shall assign an
489 identifying number to each unit formed out of a convertible land and shall reallocate undivided
490 interests in the common areas and facilities in accordance with Subsection 57-8-13.10(2). The

491 amendment shall describe or delineate the limited common areas and facilities formed out of
492 the convertible land, showing or designating the unit or units to which each is assigned.

493 (3) All convertible lands shall be deemed part of the common areas and facilities
494 except for such portions of them as are converted in accordance with this section. No such
495 conversions shall occur after five years from the recordation of the declaration, or such shorter
496 period of time as the declaration may specify, unless three-fourths of unit owners vote in favor
497 of converting the land after the time period has expired.

498 Section 6. Section **57-8-13.6** is amended to read:

499 **57-8-13.6. Expansion of project.**

500 A condominium project may be expanded under the provisions of the declaration and of
501 this act. Any such expansion shall be deemed to have occurred at the time of the recordation of
502 the [~~record of survey map~~] condominium plat under Subsection 57-8-13(2), together with an
503 amendment to the declaration, duly executed and acknowledged by the declarant, including,
504 without limitation, all of the owners and lessees of the additional land added to the
505 condominium project. The amendment shall contain a legal description by metes and bounds of
506 the land added to the condominium project and shall reallocate undivided interests in the
507 common areas and facilities in accordance with Subsection 57-8-13.10(2).

508 Section 7. Section **57-8-13.10** is amended to read:

509 **57-8-13.10. Condominiums containing convertible land -- Expandable**
510 **condominiums -- Allocation of interests in common areas and facilities.**

511 (1) If a condominium project contains any convertible land or is an expandable
512 condominium, then the declaration may not allocate undivided interests in the common areas
513 and facilities on the basis of par value unless the declaration:

514 (a) prohibits the creation of any units not substantially identical to the units depicted on
515 the [~~record of survey map~~] condominium plat recorded pursuant to Subsection 57-8-13 (1); or

516 (b) prohibits the creation of any units not described under Subsection 57-8-10 (3)
517 (a)(vii) in the case of convertible land, Subsection 57-8-10 (4) (a)(xi) in the case of additional
518 land, and contains from the outset a statement of the par value that shall be assigned to every
519 unit that may be created.

520 (2) (a) Interests in the common areas and facilities may not be allocated to any units to
521 be created within any convertible land or within any additional land until a [~~record of survey~~

522 ~~map]~~ condominium plat depicting the same is recorded pursuant to Subsection 57-8-13 (2).

523 (b) Simultaneously with the recording of the supplemental [~~record of survey map~~]
524 condominium plat required under Subsection (a), the declarant shall execute and record an
525 amendment to the declaration which reallocates undivided interests in the common areas and
526 facilities so that the units depicted on the supplemental [~~record of survey map~~] condominium
527 plat shall be allocated undivided interests in the common areas and facilities on the same basis
528 as the units depicted on the [~~record of survey map~~] condominium plat that was recorded
529 simultaneously with the declaration pursuant to Subsection 57-8-13 (1).

530 (3) If all of a convertible space is converted into common areas and facilities, including
531 limited common areas and facilities, then the undivided interest in the common areas and
532 facilities appertaining to the convertible space shall afterward appertain to the remaining units
533 and shall be allocated among them in proportion to their undivided interests in the common
534 areas and facilities. The principal officer of the unit owners' association or of the management
535 committee, or any other officer specified in the declaration, shall immediately prepare, execute,
536 and record an amendment to the declaration reflecting the reallocation of undivided interest
537 produced by the conversion.

538 (4) (a) If the expiration or termination of any lease of a leasehold condominium causes
539 a contraction of the condominium project which reduces the number of units, or if the
540 withdrawal of withdrawable land of a contractible condominium causes a contraction of the
541 condominium project which reduces the number of units, the undivided interest in the common
542 areas and facilities appertaining to any units so withdrawn shall afterward appertain to the
543 remaining units, being allocated among them in proportion to their undivided interests in the
544 common areas and facilities.

545 (b) The principal officer of the unit owners' association or of the management
546 committee, or any other officer specified in the declaration shall immediately prepare, execute,
547 and record an amendment to the declaration, reflecting the reallocation of undivided interests
548 produced by the reduction of units.

549 Section 8. Section **57-8-14** is amended to read:

550 **57-8-14. Legal description of units.**

551 Every deed, lease, mortgage or other instrument may legally describe a unit by its
552 identifying number or symbol as designated in the declaration or as shown on the [~~record of~~

553 ~~survey map]~~ condominium plat, and every such description shall be deemed good and
 554 sufficient for all purposes, and shall be deemed to convey, transfer, encumber or otherwise
 555 affect the unit owner's corresponding percentage of ownership in the common areas and
 556 facilities even though the same is not expressly mentioned or described.

557 Section 9. Section **57-8-20** is amended to read:

558 **57-8-20. Lien for nonpayment of common expenses.**

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

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

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

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

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

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

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

580 ~~[(3) The manager or management committee shall, upon the written request of any unit~~
 581 ~~owner or any encumbrancer or prospective encumbrancer of a unit, and upon payment of a~~
 582 ~~reasonable fee not to exceed \$10, issue to the requesting person or persons, a written statement~~
 583 ~~setting forth the unpaid common expenses with respect to the unit covered by the request. This~~

584 ~~written statement of indebtedness is conclusive upon the remaining unit owners and upon the~~
585 ~~manager and management committee in favor of all persons who rely on the written statement~~
586 ~~in good faith. Unless the manager or management committee complies with the request for a~~
587 ~~statement of indebtedness within ten days, all unpaid common expenses which became due~~
588 ~~prior to the date such request was made are subordinate to the lien held by the person~~
589 ~~requesting the statement. Any encumbrancer holding a lien on a unit may pay any unpaid~~
590 ~~common expenses payable with respect to the unit and upon payment the encumbrancer has a~~
591 ~~lien on the unit for the amounts paid of the same rank as the lien of his encumbrance.]~~

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

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

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

604 (5) (a) When authorized in the declaration or bylaws, if the owner fails or refuses to
605 pay any assessment when due, the management committee may, after giving notice and an
606 opportunity to be heard in accordance with Subsection (5)(b):

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

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

609 (b) Before terminating utility services or right of access and use of recreational
610 facilities under Subsection (5)(a), the manager or management committee shall give written
611 notice to the unit owner in the manner provided in the declaration, bylaws, or association rules.
612 The notice shall state:

613 (i) utility services or right of access and use of recreational facilities will be terminated
614 if payment of the assessment is not received within the time provided in the declaration,

615 bylaws, or association rules, which time shall be stated and be at least 48 hours;

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

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

618 (c) A unit owner who is given notice under Subsection (5)(b) may request an informal

619 hearing to dispute the assessment by submitting a written request to the management

620 committee within 14 days from the date the notice is received.

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

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

626 (d) Upon payment of the assessment due, including any interest or late payment fee, the
627 manager or management committee shall immediately take action to reinstate the terminated
628 utility services to the unit.

629 (e) The remedies provided in this Subsection (5) shall only apply to residential
630 condominium units.

631 (6) (a) If authorized in the declaration or bylaws, the owner of a unit who is leasing the
632 unit fails to pay any assessment for a period of more than 60 days after it is due and payable,
633 the management committee, upon compliance with this Subsection (6)(a), may demand the
634 tenant to pay to the association all future lease payments due the owner, commencing with the
635 next monthly or other periodic payment, until the amount due to the association is paid.

636 (b) The manager or management committee must give the unit owner written notice, in
637 accordance with the declaration, bylaws, or association rules, of its intent to demand full
638 payment from the tenant. This notice shall:

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

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

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

645 (iv) provide the requirements and rights described in Subsections (6)(b) through (f).

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

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

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

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

661 (d) All funds paid to the association pursuant to Subsection (6)(c) shall be deposited in
662 a separate account and disbursed to the association until the assessment due, together with any
663 cost of administration which may not exceed \$25, is paid in full. Any remaining balance must
664 be paid to the owner within five business days of payment in full to the association.

665 (e) Within five business days of payment in full of the assessment, including any
666 interest or late payment fee, the manager or management committee must notify the tenant in
667 writing that future lease payments are no longer due to the association. A copy of this
668 notification must be mailed to the unit owner.

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

672 (7) (a) The manager or management committee shall, upon the written request of any
673 unit owner and upon payment of a reasonable fee not to exceed \$10, issue a written statement
674 indicating any unpaid assessments with respect to the unit covered by the request. This written
675 statement of unpaid assessments is conclusive upon the remaining unit owners and upon the
676 manager and management committee in favor of all persons who rely on the written statement

677 in good faith.

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

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

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

687 Section 10. Section **57-8-21** is amended to read:

688 **57-8-21. Acquisition through tax deed or foreclosure of liens.**

689 In the event any person shall acquire, through foreclosure, exercise of power of sale, or
690 other enforcement of any lien, or by tax deed, the interest of any unit owner, the interest
691 acquired shall be subject to all the provisions of this act and to the covenants, conditions and
692 restrictions contained in the declaration, the ~~[record of survey map]~~ condominium plat, the
693 bylaws, the house rules, or any deed affecting the interest then in force.

694 Section 11. Section **57-8-27** is amended to read:

695 **57-8-27. Separate taxation.**

696 (1) Each unit and its percentage of undivided interest in the common areas and
697 facilities shall be considered to be a parcel and shall be subject to separate assessment and
698 taxation by each assessing unit and special district for all types of taxes authorized by law,
699 including ad valorem levies and special assessments. Neither the building or buildings, the
700 property, nor any of the common areas and facilities may be considered a parcel.

701 (2) In the event any of the interests in real property made subject to this chapter by the
702 declaration are leasehold interests, if the lease creating these interests is of record in the office
703 of the county recorder, if the balance of the term remaining under the lease is at least 40 years
704 at the time the leasehold interest is made subject to this chapter, if units are situated or are to be
705 situated on or within the real property covered by the lease, and if the lease provides that the
706 lessee shall pay all taxes and assessments imposed by governmental authority, then until ten
707 years prior to the date that the leasehold is to expire or until the lease is terminated, whichever

708 first occurs, all taxes and assessments on the real property covered by the lease shall be levied
709 against the owner of the lessee's interest. If the owner of the reversion under the lease has
710 executed the declaration and [~~record of survey map~~] condominium plat, until ten years prior to
711 the date that the leasehold is to expire, or until the lease is terminated, whichever first occurs,
712 all taxes and assessments on the real property covered by the lease shall be separately levied
713 against the unit owners having an interest in the lease, with each unit owner for taxation
714 purposes being considered the owner of a parcel consisting of his undivided condominium
715 interest in the fee of the real property affected by the lease.

716 (3) No forfeiture or sale of the improvements or the property as a whole for delinquent
717 real estate taxes, special assessments, or charges shall divest or in anywise affect the title to an
718 individual unit if the real estate taxes or duly levied share of the assessments and charges on the
719 individual unit are currently paid.

720 (4) Any exemption from taxes that may exist on real property or the ownership of the
721 property may not be denied by virtue of the submission of the property to this chapter.

722 (5) Timeshare interests and timeshare estates, as defined in Subsection 57-19-2 (17),
723 may not be separately taxed but shall be valued, assessed, and taxed at the unit level. The
724 value of timeshare interests and timeshare estates, for purposes of ad valorem taxation, shall be
725 determined by valuing the real property interest associated with the timeshare interest or
726 timeshare estate, exclusive of the value of any intangible property and rights associated with
727 the acquisition, operation, ownership, and use of the timeshare interest or timeshare estate,
728 including the fees and costs associated with the sale of timeshare interests and timeshare estates
729 that exceed those fees and costs normally incurred in the sale of other similar properties, the
730 fees and costs associated with the operation, ownership, and use of timeshare interests and
731 timeshare estates, vacation exchange rights, vacation conveniences and services, club
732 memberships, and any other intangible rights and benefits available to a timeshare unit owner.
733 Nothing in this section shall be construed as requiring the assessment of any real property
734 interest associated with a timeshare interest or timeshare estate at less than its fair market
735 value. Notice of assessment, delinquency, sale, or any other purpose required by law is
736 considered sufficient for all purposes if the notice is given to the management committee.

737 Section 12. Section **57-8-35** is amended to read:

738 **57-8-35. Effect of other laws -- Compliance with ordinances and codes --**

739 **Approval of projects by municipality or county.**

740 (1) The provisions of this chapter shall be in addition and supplemental to all other
741 provisions of law, statutory or judicially declared, provided that wherever the application of the
742 provisions of this chapter conflict with the application of such other provisions, this chapter
743 shall prevail: provided further, for purposes of Sections 10-9-805, 10-9-811, and 17-27-804
744 and provisions of similar import and any law or ordinance adopted pursuant thereto, a
745 condominium project shall be considered to be a subdivision, and a [~~record of survey map~~]
746 condominium plat or supplement thereto prepared pursuant to this chapter shall be considered
747 to be a subdivision map or plat, only with respect to:

748 (a) such real property or improvements, if any, as are intended to be dedicated to the
749 use of the public in connection with the creation of the condominium project or portion thereof
750 concerned; and

751 (b) those units, if any, included in the condominium project or portion thereof
752 concerned which are not contained in existing or proposed buildings.

753 (2) Nothing in this chapter shall be interpreted to state or imply that a condominium
754 project, unit, association or unit owners, or management committee is exempt by this chapter
755 from compliance with the zoning ordinance, building and sanitary codes, and similar
756 development regulations which have been adopted by a municipality or county. No
757 condominium project or any use within said project or any unit or parcel or parcel of land
758 indicated as a separate unit or any structure within said project shall be permitted which is not
759 in compliance with said ordinances and codes.

760 (3) From and after the time a municipality or county shall have established a planning
761 commission, no condominium project or any [~~record of survey map~~] condominium plat,
762 declaration, or other material as required for recordation under this chapter shall be recorded in
763 the office of the county recorder unless and until the following mentioned attributes of said
764 condominium project shall have been approved by the municipality or county in which it is
765 located. In order to more fully avail itself of this power, the legislative body of a municipality
766 or county may provide by ordinance for the approval of condominium projects proposed within
767 its limits. This ordinance may include and shall be limited to a procedure for approval of
768 condominium projects, the standards and the criteria for the geographical layout of a
769 condominium project, facilities for utility lines and roads which shall be constructed, the

770 percentage of the project which must be devoted to common or recreational use, and the
771 content of the declaration with respect to the standards which must be adhered to concerning
772 maintenance, upkeep, and operation of any roads, utility facilities, recreational areas, and open
773 spaces included in the project.

774 (4) Any ordinance adopted by the legislative body of a municipality or county which
775 outlines the procedures for approval of a condominium project shall provide for:

776 (a) a preliminary approval, which, among other things, will then authorize the
777 developer of the condominium project to proceed with the project; and

778 (b) a final approval which will certify that all of the requirements set forth in the
779 preliminary approval either have been accomplished or have been assured of accomplishment
780 by bond or other appropriate means. No declaration or ~~[record of survey map]~~ condominium
781 plat shall be recorded in the office of the county recorder until a final approval has been
782 granted.

783 Section 13. Section **57-8-36** is amended to read:

784 **57-8-36. Existing projects -- Effect of statutory amendments.**

785 Any condominium project established by instruments filed for record prior to the
786 effective date of the foregoing amendments to the Condominium Ownership Act (hereinafter
787 referred to as an "existing project") and the rights and obligations of all parties interested in any
788 such existing project shall, to the extent that the declaration, bylaws, and ~~[record of survey~~
789 ~~map]~~ condominium plat concerning the existing project are inconsistent with the provisions of
790 these amendments, be governed and controlled by the provisions of the Condominium
791 Ownership Act as they existed prior to these amendments and by the terms of the existing
792 project's declaration, bylaws, and ~~[record of survey map]~~ condominium plat to the extent that
793 these terms are consistent with applicable law other than these amendments. Any existing
794 project containing or purporting to contain time period units, convertible land, or convertible
795 space, any existing project which is or purports to be a contractible, expandable, or leasehold
796 condominium, the validity of any such project, and the validity and enforceability of any
797 provisions concerning time period units, convertible land, convertible space, withdrawable
798 land, additional land, or leased land which are set forth in an existing project's declaration,
799 bylaws, or ~~[record of survey map]~~ condominium plat, shall be governed by applicable law in
800 effect prior to these amendments, including principles relating to reasonableness, certainty, and

801 constructive and actual notice, shall not necessarily be ineffective or defeated in whole or in
802 part because the project or provision in question does not comply or substantially comply with
803 those requirements of the foregoing amendments which would have been applicable had the
804 instruments creating the project been recorded after the effective date of these amendments, but
805 shall, in any event, be valid, effective, and enforceable if the project or provision in question
806 either substantially complies with those requirements of the foregoing amendments which
807 relate to the subject at issue or employs an arrangement which substantially achieves the same
808 policy as underlies those requirements of the foregoing amendments which relate to the subject
809 at issue.

810 Section 14. Section **57-8-38** is enacted to read:

811 **57-8-38. Arbitration.**

812 The declaration, bylaws, or association rules may provide that disputes between the
813 parties shall be submitted to arbitration pursuant to Title 78, Chapter 31a, Utah Arbitration Act.