

**REAL PROPERTY AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Kenneth W. Sumsion

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**LONG TITLE**

**General Description:**

This bill provides restrictions on the use of arbitration in condominium projects and community associations.

**Highlighted Provisions:**

This bill:

- ▶ prohibits arbitration in condominium and community association developments unless the relevant governing documents, bylaws, ~~§~~ [rules,] ~~§~~ or separate agreement allow arbitration;
- ▶ addresses the remedies for a party objecting to a prohibited arbitration; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**57-8-38**, as last amended by Chapter 90, Laws of Utah 2004

ENACTS:

**57-8a-209**, Utah Code Annotated 1953

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S.B. 262



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

29 Section 1. Section **57-8-38** is amended to read:

30 **57-8-38. Arbitration.**

31 (1) The declaration, bylaws, or association rules may provide that disputes between the  
32 parties shall be submitted to arbitration pursuant to Title 78, Chapter 31a, Utah Uniform  
33 Arbitration Act.

34 (2) A dispute concerning a condominium may be submitted to arbitration only if  
35 allowed by the declaration, bylaws, ~~§~~→ [association rules,] ←~~§~~ or an agreement signed by each  
35a party to  
36 the arbitration or each party's predecessor-in-interest.

37 (3) If a matter is submitted to arbitration in violation of Subsection (2):

38 (a) any document arising from the arbitration that is recorded and in any way  
39 encumbers the property of any person who objects to the arbitration constitutes a wrongful lien  
40 for purposes of Title 38, Chapter 9, Wrongful Liens and Wrongful Judgment Liens; or

41 (b) any person who suffers damage and objects to the arbitration has a civil action for  
42 actual damages, costs, and attorney fees against the person who institutes the arbitration  
43 proceeding.

44 Section 2. Section **57-8a-209** is enacted to read:

45 **57-8a-209. Arbitration.**

46 (1) The governing documents may provide that disputes between the parties shall be  
47 submitted to arbitration pursuant to Title 78, Chapter 31a, Utah Uniform Arbitration Act.

48 (2) A dispute concerning a lot may be submitted to arbitration only if allowed by the  
49 governing documents or an agreement signed by each party to the arbitration or each party's  
50 predecessor-in-interest.

51 (3) If a matter is submitted to arbitration in violation of Subsection (2):

52 (a) (i) any document arising from the arbitration that is recorded and in any way  
53 encumbers the property of any person who objects to the arbitration constitutes a wrongful lien  
54 for purposes of Title 38, Chapter 9, Wrongful Liens and Wrongful Judgment Liens; or

55 (ii) any person who suffers damage and objects to the arbitration has a civil action for  
56 actual damages, costs, and attorney fees against the person who institutes the arbitration  
57 proceeding; and

58 (b) the arbitrator's decision is not valid or binding on the parties.

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**Legislative Review Note**  
as of 2-9-07 11:48 AM

**Office of Legislative Research and General Counsel**

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**S.B. 262 - Real Property Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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