

**RENTAL RESTRICTIONS ON CONDOMINIUMS
AND COMMON INTEREST COMMUNITIES**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill modifies the powers of ~~H→ [a condominium association or common interest community]~~ **an association of unit owners or association ←H** to create rental restrictions.

Highlighted Provisions:

This bill:

▶ modifies the powers of ~~H→ [a condominium association or common interest community]~~ **an association of unit owners or association ←H**

to:

- create reasonable restrictions on the number and terms of rental units ~~H→ or lots ←H~~ ;
 - include rental restrictions in the ~~H→ [association or community declaration]~~ **association of unit owners' declaration or association's governing documents ←H** ;
 - include a hardship exemption in the rental restrictions;
 - include a grandfather clause for existing rental units ~~H→ or lots ←H~~ ; and
 - create procedures to track the number of rental units ~~H→ or lots ←H~~ ; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **57-8-10**, as last amended by Laws of Utah 2003, Chapter 265
 29 **57-8-13**, as last amended by Laws of Utah 2003, Chapter 265
 30 **57-8-13.8**, as last amended by Laws of Utah 1992, Chapter 12
 31 **57-8-13.10**, as last amended by Laws of Utah 2003, Chapter 265

32 ENACTS:

33 **57-8a-209**, Utah Code Annotated 1953



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

36 Section 1. Section **57-8-10** is amended to read:

37 **57-8-10. Contents of declaration.**

38 (1) As used in this section:

39 (a) "Additional land" means land that may be added to a condominium project.

40 (b) "Withdrawable land" means land that may be withdrawn from the condominium
 41 project.

42 ~~[(1)]~~ (2) (a) Prior to the conveyance of ~~[any]~~ a unit in a condominium project, an owner
 43 shall record a declaration ~~[shall be recorded]~~ that contains the covenants, conditions, and
 44 restrictions relating to the project that:

45 (i) shall be enforceable equitable servitudes~~[, where reasonable,];~~ and ~~[which]~~

46 (ii) shall run with the land.

47 (b) Unless otherwise provided, ~~[these]~~ the servitudes described in Subsection (2)(a)(i)
 48 may be enforced by ~~[any]~~ a unit owner and ~~[his]~~ the unit owner's successors in interest.

49 ~~[(2) (a) For every]~~ (3) The declaration of a condominium project, described in
 50 Subsection (2)(a), shall include:

51 ~~[(i) The declaration shall include]~~

52 (a) a description of the land or interests in real property included within the project~~[-];~~

53 ~~[(ii) The declaration shall contain]~~

54 (b) a description of any buildings, ~~[which states]~~ including the number of storeys and
 55 basements~~[-];~~

56 (c) the number of units~~[-];~~

57 (d) the principal building materials ~~[of which the building is or is to be constructed,~~
 58 and];

59 (e) a description of all other significant improvements contained or to be contained in
60 the project[-];

61 ~~[(iii) The declaration shall contain]~~

62 (f) the unit number of each unit[-];

63 (g) the square footage of each unit[-and];

64 (h) any other description or information necessary to properly identify each unit[-];

65 ~~[(iv) The declaration shall describe]~~

66 (i) a description of the common areas and facilities of the project[-];

67 ~~[(v) The declaration shall describe any]~~

68 (j) a description of the:

69 (A) limited common areas and facilities; and ~~[shall state to which]~~

70 (B) units ~~[the]~~ that are entitled to use of the limited common areas and facilities ~~[is~~
71 reserved.];

72 ~~[(b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or~~
73 ~~other apparatus intended to serve a single unit, but located outside the boundaries of the unit,~~
74 ~~shall constitute a limited common area and facility appertaining to that unit exclusively,~~
75 ~~whether or not the declaration makes such a provision.]~~

76 ~~[(c) The condominium plat recorded with the declaration may provide or supplement~~
77 ~~the information required under Subsections (2)(a) and (b).]~~

78 ~~[(d) (i) The declaration shall include]~~

79 (k) the percentage or fraction of undivided interest in the common areas and facilities
80 appurtenant to each unit and its owner for all purposes, including voting, derived and allocated
81 in accordance with Subsection 57-8-7(2)[-];

82 ~~[(ii) If any use restrictions are to apply, the declaration shall state the purposes for~~
83 ~~which the units are intended and restricted as to use.]~~

84 ~~[(iii) (A) The declaration shall include]~~

85 (l) if there are restrictions on a unit's use, the unit's intended purpose and the use
86 restriction;

87 (m) (i) the name of a person to receive service of process on behalf of the project~~[-in~~
88 ~~the cases provided by this chapter, together with the residence or place of business of that~~
89 ~~person.]~~ who is a resident of the state or maintains a place of business in the state; and

90 ~~[(B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall~~
91 ~~maintain a place of business within, this state.]~~

92 ~~[(iv) The declaration shall describe]~~

93 (ii) the Utah residence or Utah business address of the person described in Subsection
94 (3)(m)(i);

95 (n) the method [by which it may be amended] for amending the declaration that is
96 consistent with this chapter[-]; and

97 ~~[(v) Any further matters in connection with the property may be included in the~~
98 ~~declaration, which the person or persons executing the declaration may consider desirable~~
99 ~~consistent with this chapter.]~~

100 ~~[(vi) The declaration shall contain]~~

101 (o) a statement of [intention] intent that this chapter applies to the property.

102 (4) The declaration described in Subsection (2)(a) may include any other matter
103 consistent with this chapter.

104 (5) A shutter, awning, window box, doorstep, porch, balcony, patio, or other apparatus
105 intended to serve a single unit, but located outside the boundaries of the unit, shall constitute a
106 limited common area and facility appertaining to that unit exclusively.

107 (6) The condominium plat recorded with the declaration described in Subsection (2)(a)
108 may provide or supplement the information required under Subsections (3)(a) through (j).

109 ~~[(3)]~~ (7) (a) If the condominium project contains [any] convertible land, the declaration
110 described in Subsection (2)(a) shall:

111 ~~(i) [The declaration shall contain a legal description] describe,~~ by metes and bounds
112 ~~[of],~~ each area of convertible land within the condominium project[-];

113 ~~(ii) [The declaration shall]~~ state the maximum number of units that may be created
114 within each area of convertible land[-];

115 ~~(iii) [(A) The declaration shall]~~ state, with respect to each area of convertible land, the
116 maximum percentage of the aggregate land and floor area of all units that may be created and
117 the use of which will not or may not be restricted exclusively to residential purposes[-]; ~~(B) The~~
118 ~~statements described in Subsection (3)(a)(iii)(A) need not be supplied if], unless~~ none of the
119 units on other portions of the land within the project are restricted exclusively to residential
120 use[-];

121 ~~[(iv) The declaration shall state the extent to which any structure erected on any~~
 122 ~~convertible land will be compatible with structures on other portions of the land within the~~
 123 ~~condominium project in terms of quality of construction, the principal materials to be used, and~~
 124 ~~architectural style.]~~

125 (iv) state compatibility requirements for a structure erected on convertible land with
 126 other structures within the condominium project, including:

127 (A) construction quality;

128 (B) principal construction materials; and

129 (C) architectural style;

130 (v) ~~[The declaration shall]~~ describe all other improvements that may be made on each
 131 area of convertible land within the condominium project[-];

132 (vi) (A) ~~[The declaration shall]~~ state that ~~[any units]~~ a unit created within ~~[each]~~ an
 133 area of convertible land will be substantially identical to ~~[the]~~ other project units on other
 134 portions of the land ~~[within the project];~~ or ~~[it shall]~~

135 (B) describe in detail what other type of units may be created[-]; and

136 (vii) ~~[The declaration shall]~~ describe the declarant's reserved right~~[-if any,]~~ to create
 137 limited common areas and facilities within ~~[any]~~ convertible land ~~[in terms of the types, sizes,~~
 138 ~~and maximum number of the limited common areas within each convertible land.], including:~~

139 (A) the type of the limited common area in the convertible land;

140 (B) the size of the limited common area in the convertible land; and

141 (C) the maximum number of the limited common areas in the convertible land.

142 (b) The condominium plat recorded with the declaration described in Subsection (2)(a)
 143 may provide or supplement the information required under Subsection ~~[(3)]~~ (7)(a).

144 ~~[(4)]~~ (8) (a) If the condominium is an expandable condominium project~~[-(a)(i)(A)-~~
 145 ~~The],~~ the declaration described in Subsection (2)(a) shall:

146 (i) contain;

147 (A) an explicit reservation of an option to expand the project[-]; and

148 (B) (I) ~~[The declaration shall include]~~ a statement of ~~[any]~~ limitations on the option to
 149 expand, including ~~[a statement as to whether the consent of any unit owners shall be required~~
 150 ~~and, a statement as to the method by which consent shall be ascertained, or];~~

151 (Aa) whether a unit owner's consent is required; and

152 (Bb) how the unit owner shall consent; or
153 (II) a statement that there are no [such] limitations[-] on the option to expand;
154 ~~[(ii) The declaration shall include a time limit, not exceeding seven years from the date~~
155 ~~of the recording of the declaration, upon]~~
156 (ii) include:
157 (A) a date no later than seven years after the date on which the declaration is recorded,
158 after which the option to expand the condominium project shall expire[-, together with a
159 statement of any]; and
160 (B) the circumstances [which] that will terminate the option [prior to expiration of the
161 specified time limits:] to expand, before the expiration date described in Subsection
162 (8)(a)(ii)(A);
163 ~~(iii) [The declaration shall contain a legal description]~~ describe additional land by
164 metes and bounds [of all land that may be added to the condominium project, which is known
165 as additional land.];
166 ~~(iv) [The declaration shall]~~ state:
167 (A) if ~~[any of the]~~ additional land is added to the condominium project, whether all of
168 ~~[it] the additional land~~ or ~~[any particular]~~ a portion of it must be added; and
169 (B) (I) [any] limitations [as to] on what portions of the additional land may be added;
170 or
171 ~~[(C) a statement]~~ (II) that there are no [such] limitations[-] on what portions of the
172 additional land may be added;
173 ~~[(v) The declaration shall include a statement as to whether]~~
174 (v) state:
175 (A) whether portions of the additional land may be added to the condominium project
176 at different times[-, together with any];
177 (B) any limitations:
178 (I) fixing the boundaries of [those portions by legal descriptions] each portion of
179 additional land described in Subsection (8)(a)(v)(A) by a description setting forth the metes and
180 bounds of [these lands] each portion of additional land; and
181 (II) regulating the order in which [they] the portions of additional land described in
182 Subsection (8)(a)(v)(A) may be added to the condominium project[-]; and

183 ~~[(vi) The declaration shall include a statement of any]~~
 184 ~~(C) (I) any limitations [as to the locations of any improvements] on the location of an~~
 185 ~~improvement that may be made on [any portions] a portion of [the] additional land [added to~~
 186 ~~the condominium project, or a statement that] described in Subsection (8)(a)(v)(A); or~~
 187 ~~(II) that there are no assurances [are made in that regard.] on the limitations described~~
 188 ~~in Subsection (8)(a)(v)(C)(I);~~
 189 ~~[(vii) The declaration shall]~~
 190 ~~(vi) state the maximum number of units that may be created;~~
 191 ~~(A) on the additional land[. If portions of the additional land may be added to the~~
 192 ~~condominium project and the boundaries of those portions are fixed in accordance with~~
 193 ~~Subsection (4)(a)(v), the declaration shall also state the maximum number of units that may be~~
 194 ~~created on each portion added to the condominium project. If portions of the additional land~~
 195 ~~may be added to the condominium project and the boundaries of those portions are not fixed in~~
 196 ~~accordance with Subsection (4)(a)(v), then the declaration shall also state the maximum~~
 197 ~~number of units per acre that may be created on any portion added to the condominium~~
 198 ~~project.];~~
 199 ~~[(viii) With respect to the additional land and to any portion of it that may be added to~~
 200 ~~the condominium project, the declaration shall state the maximum percentage of the aggregate~~
 201 ~~land and floor area of all units that may be created on it, the use of which will not or may not~~
 202 ~~be restricted exclusively to residential purposes. However, these statements need not be~~
 203 ~~supplied if none of the units on the land originally within the project are restricted exclusively~~
 204 ~~to residential use.]~~
 205 ~~[(ix) The declaration shall state the extent to which any structures erected on any~~
 206 ~~portion of the additional land added to the condominium project will be compatible with~~
 207 ~~structures on the land originally within the project in terms of quality of]~~
 208 ~~(B) on each portion of additional land for which the boundaries are fixed; and~~
 209 ~~(C) per acre on each portion of additional land that is not fixed;~~
 210 ~~(vii) (A) include a compatibility requirement for a structure erected on additional land~~
 211 ~~with existing structures, including:~~
 212 ~~(I) construction[; the] quality;~~
 213 ~~(II) principal materials [to be used;]; and~~

214 (III) architectural style~~[- The declaration may also state that]; or~~
215 (B) state that there are no assurances ~~[are made in those regards.]~~ of compatibility as
216 described in Subsection (8)(a)(vii)(A);
217 ~~[(x) The declaration shall]~~
218 (viii) (A) describe ~~[all]~~ other improvements that will be made on ~~[any portion of the]~~
219 additional land ~~[added to the condominium project, or it shall contain a statement of any]; and~~
220 (B) (I) state limitations ~~[as to what other]~~ on additional land improvements ~~[may be~~
221 made on it. The declaration may also]; or
222 (II) state that there are no assurances ~~[are made in that regard.]~~ on additional land
223 improvements;
224 ~~[(xi) The declaration shall contain a statement that any units]~~
225 (ix) state that a unit ~~created on~~ ~~[any portion of the]~~ additional land ~~[added to the~~
226 condominium project] will be substantially identical to the units on the land originally within
227 the project~~[- or a statement of any];~~
228 (x) (A) describe the limitations ~~[as to what types of units may be]~~ on a unit created on
229 [it. The declaration may also contain a statement that] additional land; or
230 (B) state that there are no assurances ~~[are made in that regard.]~~ that a unit created on
231 additional land be substantially identical to units on the land originally within the project; and
232 ~~[(xii) The declaration shall]~~
233 (xi) (A) describe ~~[the declarant's]~~ any reserved right~~[- if any,]~~ of the declarant to create
234 a limited common ~~[areas and facilities]~~ area and facility within ~~[any portion of the]~~ additional
235 land ~~[added to the condominium project, in terms of the types, sizes, and maximum number of~~
236 limited common areas within each portion. The declaration may also], including:
237 (I) the type of the limited common area and facility;
238 (II) the size of the limited common area and facility; and
239 (III) the maximum number of limited common areas; or
240 (B) state that there are no assurances ~~[are made in those regards]~~ that a declarant has or
241 does not have a reserved right to create a limited common area and facility within additional
242 land.
243 (b) The condominium plat recorded with the declaration described in Subsection (2)(a)
244 may provide or supplement the information required under Subsections ~~[(4)]~~ (8)(a)(iii) through

245 ~~[(a)(vi)](v)~~ and ~~(8)(a)[(ix)](viii)~~ through ~~[(a)(xii)](xi)~~.

246 (c) (i) Except as provided in Subsection (8)(c)(ii), the declaration described in
 247 Subsection (2)(a) shall state the maximum percentage of the aggregate land and floor area of all
 248 units that may be created on additional land or a portion of additional land that will not or may
 249 not be restricted exclusively to residential purposes.

250 (ii) Subsection (8)(c)(i) does not apply if none of the units on the land originally within
 251 the project are restricted exclusively to residential use.

252 ~~[(5)] (9)~~ If the condominium project is a contractible condominium, the declaration
 253 described in Subsection (2)(a) shall:

254 ~~[(a) (i) The declaration shall]~~

255 (a) contain an explicit reservation of an option to contract the condominium project[-];

256 ~~[(ii) The declaration shall contain a statement of any]~~

257 (b) state limitations on the option to contract, [including a statement as to whether the
 258 consent of any unit owners shall be required, and if so, a statement as to the method by which
 259 this consent shall be ascertained. The declaration may also contain a statement] including:

260 (i) (A) whether a unit owner's consent is required; and

261 (B) how the unit owner shall consent; or

262 (ii) that there are no [such] limitations[-] on the option to contract;

263 ~~[(iii) The declaration shall state the time limit, not exceeding seven years from the~~
 264 ~~recording of the declaration, upon]~~

265 (c) (i) state a date, no later than seven years after the date on which the declaration is
 266 recorded, after which the option to contract the condominium project shall expire[-, together
 267 with a statement of any]; and

268 (ii) state the circumstances [which] that will terminate [this] the option to contract prior
 269 to expiration of the specified time limit[-];

270 ~~[(b) (i) The declaration shall include a legal description]~~

271 (d) describe, by metes and bounds [of all land that may be withdrawn from the
 272 condominium project, which is known as], withdrawable land[-];

273 ~~[(ii) The declaration shall include a statement as to whether]~~

274 (e) state whether portions of the withdrawable land may be withdrawn from the

275 condominium project at different times, [together with any] including limitations fixing the

276 boundaries of those portions by ~~[legal descriptions setting forth]~~ describing the metes and
277 bounds and regulating the order in which they may be withdrawn from the condominium
278 project~~[-]; and~~

279 ~~[(iii) The declaration shall include a legal description]~~

280 (f) describe, by metes and bounds [of all of], the land within the condominium project
281 ~~[to which]~~ that is not included in the option to contract ~~[the project does not extend].~~

282 ~~[(e)]~~ (10) The condominium plat recorded with the declaration described in Subsection
283 (2)(a) may provide or supplement the information required under Subsection ~~[(5)]~~ (9)(b).

284 ~~[(6)]~~ (11) (a) ~~[If the condominium project is a leasehold condominium, then with~~
285 ~~respect to any]~~ A declaration for a leasehold condominium with provisions for a ground lease
286 or other leases the expiration or termination of which will or may terminate or contract the
287 condominium project shall include:

288 (i) ~~[The declaration shall include]~~ recording information ~~[enabling]~~ for the location of
289 each lease in the official records of the county recorder~~[-];~~

290 ~~[(ii) The declaration shall include the date upon which each lease is due to expire.]~~

291 (ii) the expiration date of each lease;

292 ~~[(iii) [The declaration shall state whether any]~~ a statement regarding whether land or
293 improvements will be owned by the unit owners in fee simple~~[-. If there is to be fee simple~~
294 ownership, the declaration shall include:]; and

295 ~~[(A) a description of the land or improvements, including without limitation, a legal~~
296 description by metes and bounds of the land; or]

297 ~~[(B) a statement of any rights the unit owners have to remove these improvements~~
298 within a reasonable time after the expiration or termination of the lease or leases involved, or a
299 statement that they shall have no such rights.]

300 (iv) (A) ~~[The declaration shall include]~~ a statement of the rights ~~[the]~~ a unit [owners
301 have to] owner has to:

302 (I) extend or renew [any of the leases or to] a lease;

303 (II) redeem or purchase [any of the reversions;] a reversion; or

304 (B) a statement that [they have no such rights] the unit owner does not have the rights
305 described in Subsection (11)(a)(iv)(A).

306 (b) If land or improvements are owned in fee simple, the declaration shall:

307 (i) describe the land or improvements, including a description, by metes and bounds, of
308 the land or improvements; and

309 (ii) (A) describe a unit owner's right to remove improvements within a reasonable time
310 after the expiration or termination of the lease; or

311 (B) state that a unit owner has no right to remove improvements.

312 ~~[(b)]~~ (c) After [the] recording [of the] a declaration described in Subsection (11)(a),
313 ~~[no] a lessor who executed the declaration[, and no] or the lessor's successor in interest [to this~~
314 ~~lessor, has any right or power to] may not terminate [any part of the] a leasehold interest of~~
315 ~~[any] a unit owner who:~~

316 ~~[(i) makes timely payment of his share of the rent to the persons designated in the~~
317 ~~declaration for the receipt of the rent; and]~~

318 (i) pays rent on time; and

319 (ii) [otherwise] complies with all covenants [which] that would entitle the lessor to
320 terminate the lease if [they] the covenants were violated.

321 ~~[(7)]~~ (12) (a) If [the] a condominium project contains a time period [units] unit, the
322 declaration shall [also] contain the location of each [condominium] time period unit [in] for the
323 calendar year. [This information shall be set out in a fourth column of the exhibit or schedule
324 referred to in Subsection 57-8-7(2), if the exhibit or schedule accompanies the declaration.]

325 (b) [The] If a condominium project contains a time period unit, the declaration shall
326 [also put] give timeshare owners [on] notice that tax notices will be sent to the management
327 committee[;] and not to each timeshare owner.

328 (c) If an exhibit or schedule described in Subsection 57-8-7(2) accompanies the
329 declaration, the information described in Subsection (12)(a) shall be set out in a fourth column
330 of the exhibit or schedule.

331 ~~[(e)]~~ (d) The time period units created with respect to [any given] a physical unit shall
332 be such that the aggregate of the durations involved constitute a full calendar year.

333 ~~[(8) (a) The declaration, bylaws, and condominium plat shall be duly executed and~~
334 ~~acknowledged by all of the owners and any lessees of the land which is made subject to this~~
335 ~~chapter.]~~

336 (13) (a) Except as provided in Subsection (13)(b), an owner or lessee of land subject to
337 this chapter shall execute and acknowledge a declaration consistent with the requirements of

338 this section, bylaws, and condominium plat.

339 ~~[(b) As used in Subsection (8) (a), "owners and lessees" does not include, in their~~
 340 ~~respective capacities, any]~~

341 (b) The following are not required to comply with the requirements of Subsection
 342 (13)(a):

343 (i) a mortgagee~~[-any]~~;

344 (ii) a trustee or beneficiary under a deed of trust~~[-any other]~~;

345 (iii) a lien holder~~[-any]~~;

346 (iv) a person ~~[having]~~ who has an equitable interest under ~~[any]~~ contract for the sale or
 347 lease of a condominium unit~~[-];~~ or ~~[any]~~

348 (v) a lessee whose leasehold interest does not extend to any portion of the common
 349 areas and facilities.

350 (14) (a) ~~H→ [A condominium association]~~ **Except for a declaration governing a**
 350a **condominium project containing a time period unit or any other form of timeshare interest as**
 350b **defined in Section 57-19-2, an association of unit owners, by amendment to the**
 350c **declaration, ←H** may create reasonable restrictions on the number
 351 and term of rentals in a condominium project.

352 (b) If ~~H→ [the restrictions prohibit the rental of units;]~~ restrictions are imposed on the
 352a number and term of rentals, ←H the restrictions:

353 (i) ~~H→ [may not restrict less than 10% of the units]~~ **shall allow a minimum of 20% of the**
 353a **units to be rentals ←H ; and**

354 (ii) shall be included in the declaration required by this section.

355 (c) ~~H→ [Restrictions]~~ **If restrictions are imposed ←H** on the number and term of rentals
 355a **H→ , the restrictions ←H** shall include:

356 (i) a hardship exemption that ~~H→ [allows an association]~~ **requires an association of unit**
 356a **owners ←H** to exempt from the rental
 357 restrictions an owner suffering from hardship, including:

358 (A) military service;

359 (B) extended vacation;

360 (C) charitable service;

361 (D) job relocation; or

362 (E) economic hardship;

363 (ii) a grandfather clause allowing all owners who have rentals in the ~~H→ [community]~~
 363a **condominium project ←H** , before

364 the time the rental restriction is recorded with the county recorder of the county in which the
 365 condominium project is located, to continue renting until the owner transfers the unit; and

366 (iii) procedures to:

367 (A) determine and track the number of rentals in a condominium project;

368 (B) identify the units that are grandfathered units; and

- 369 (C) ensure fair administration of the rental restrictions.
 370 (d) For purposes of Subsection (14)(c)(ii), a transfer occurs when one or more of the
 371 following occur:
 372 (i) conveyance, sale, or other transfer of ~~Ĥ~~ ~~→~~ [the] a ~~←~~Ĥ unit by deed;
 373 (ii) the granting of a life estate in the unit; or
 374 (iii) if the unit is owned by a limited liability company, corporation, partnership, or
 375 other business entity, sale or transfer of more than 75% of the business entity's share, stock,
 376 membership interests, or partnership interests in a 12-month period.

377 Section 2. Section **57-8-13** is amended to read:

378 **57-8-13. Condominium plat to be recorded.**

379 (1) (a) Simultaneously with the recording of the declaration there shall be recorded a
 380 standard size, original linen (21" x 31") condominium plat with 6-1/4" x 1-1/2" recording
 381 information block, which map shall be made by a registered Utah land surveyor and shall set
 382 forth:

383 (i) a description of the surface of the land included within the project, including all
 384 angular and linear data along the exterior boundaries of the property;

385 (ii) the linear measurement and location, with reference to the exterior boundaries, of
 386 the building or buildings, if any, located or to be located on the property other than within the
 387 boundaries of any convertible lands;

388 (iii) diagrammatic floor plans of the building or buildings, if any, built or to be built on
 389 the property, other than within the boundaries of any convertible lands, in sufficient detail to
 390 identify each convertible space and physical unit contained within a building, including its
 391 identifying number or symbol, the official datum elevations of the finished or unfinished
 392 interior surfaces of the floors and ceilings and the linear measurements of the finished or
 393 unfinished interior surfaces of the perimeter walls, and the lateral extensions, of every such
 394 convertible space and unit;

395 (iv) a description or delineation of the boundaries of any unit or convertible space not
 396 contained or to be contained in a building or whose boundaries are not to be coextensive with
 397 walls, ceilings, or floors within a building, other than units located within the boundaries of any
 398 convertible lands, including the horizontal (upper and lower) boundaries, if any, as well as the
 399 vertical (lateral or perimetric) boundaries;

400 (v) a distinguishing number or other symbol for every physical unit identified on the
401 condominium plat;

402 (vi) to the extent feasible, the location and dimensions of all easements appurtenant to
403 the land included within the project;

404 (vii) the label "convertible space" for each such space, if any;

405 (viii) the location and dimensions of any convertible lands within the condominium
406 project, with each such convertible land labeled as such, and if there be more than one such
407 land, with each labeled with a different letter or number;

408 (ix) the location and dimensions of any withdrawable lands, with each such
409 withdrawable land labeled as such, and if there be more than one such land, with each labeled
410 with a different letter or number;

411 (x) if with respect to any portion or portions, but less than all, of the land included
412 within the project the unit owners are to own only an estate for years, the location and
413 dimensions of any such portion, with each labeled as a leased land, and if there be more than
414 one such land, with each labeled with a different letter or number; and

415 (xi) any encroachments by or on any portion of the condominium project.

416 (b) Each such condominium plat shall be certified as to its accuracy and compliance
417 with the provisions of this Subsection (1) by the land surveyor who prepared or who supervised
418 the preparation of the same and shall be executed and acknowledged as provided in Subsection
419 57-8-10[~~(8)~~] (13).

420 (2) When converting all or any portion of any convertible land or when adding
421 additional land to an expandable condominium, the declarant shall record a new or
422 supplemental condominium plat which shall contain the information necessary to comply with
423 the requirements of Subsection (1) [~~of this section~~]. In any case where less than all of a
424 convertible land is being converted, the condominium plat shall show the location and
425 dimensions of the remaining portion or portions of the land in addition to otherwise meeting
426 such requirements.

427 (3) When converting all or any portion of any convertible space into one or more units
428 or limited common areas and facilities, the declarant shall record, with regard to the structure
429 or portion of it constituting that convertible space, a supplemental condominium plat showing
430 the location and dimensions of the vertical and horizontal boundaries of each unit formed out

431 of this space. The supplemental map shall be certified as to its accuracy and compliance with
 432 this Subsection (3) by the land surveyor who prepared or who supervised the preparation of it.

433 (4) In interpreting the condominium plat or any deed or other instrument affecting a
 434 building or unit, the boundaries of the building or unit constructed or reconstructed in
 435 substantial accordance with the condominium plat shall be conclusively presumed to be the
 436 actual boundaries rather than the description expressed in the condominium plat, regardless of
 437 the settling or lateral movement of the building and regardless of minor variance between
 438 boundaries shown on the condominium plat and those of the building or unit.

439 Section 3. Section **57-8-13.8** is amended to read:

440 **57-8-13.8. Contraction of project.**

441 A condominium project may be contracted under the provisions of the declaration and
 442 the provisions of this chapter. Any such contraction shall be considered to have occurred at the
 443 time of the recordation of an amendment to the declaration, executed by the declarant,
 444 containing a legal description by metes and bounds of the land withdrawn from the
 445 condominium project. If portions of the withdrawable land were described pursuant to
 446 Subsection [~~57-8-10(5)(b)(i)~~] 57-8-10(9)(d), then no described portion may be so withdrawn
 447 after the conveyance of any unit on the portion. If no withdrawable portions were described,
 448 then none of the withdrawable land may be withdrawn after the first conveyance of any unit on
 449 the portion.

450 Section 4. Section **57-8-13.10** is amended to read:

451 **57-8-13.10. Condominiums containing convertible land -- Expandable**
 452 **condominiums -- Allocation of interests in common areas and facilities.**

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

456 (a) prohibits the creation of any units not substantially identical to the units depicted on
 457 the condominium plat recorded pursuant to Subsection 57-8-13(1); or

458 (b) prohibits the creation of any units not described under Subsection 57-8-10[~~(3)~~]
 459 (7)(a)(vii) in the case of convertible land, Subsection 57-8-10[~~(4)(a)(xi)~~](8)(a)(x) in the case of
 460 additional land, and contains from the outset a statement of the par value that shall be assigned
 461 to every unit that may be created.

462 (2) (a) Interests in the common areas and facilities may not be allocated to any units to
 463 be created within any convertible land or within any additional land until a condominium plat
 464 depicting the same is recorded pursuant to Subsection 57-8-13(2).

465 (b) Simultaneously with the recording of the supplemental condominium plat required
 466 under Subsection (2)(a), the declarant shall execute and record an amendment to the
 467 declaration which reallocates undivided interests in the common areas and facilities so that the
 468 units depicted on the supplemental condominium plat shall be allocated undivided interests in
 469 the common areas and facilities on the same basis as the units depicted on the condominium
 470 plat that was recorded simultaneously with the declaration pursuant to Subsection 57-8-13(1).

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

479 (4) (a) If the expiration or termination of any lease of a leasehold condominium causes
 480 a contraction of the condominium project which reduces the number of units, or if the
 481 withdrawal of withdrawable land of a contractible condominium causes a contraction of the
 482 condominium project which reduces the number of units, the undivided interest in the common
 483 areas and facilities appertaining to any units so withdrawn shall afterward appertain to the
 484 remaining units, being allocated among them in proportion to their undivided interests in the
 485 common areas and facilities.

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

490 Section 5. Section **57-8a-209** is enacted to read:

491 **57-8a-209. Rental Restrictions.**

492 (1) (a) ~~Ĥ~~→ **[A common interest community] Except for governing documents governing**
 492a **an association project containing a time period unit as defined in Section 57-8-1 or any other**
 492b **form of timeshare interest as defined in Section 57-19-2, an association, by amendment to the**
 492c **governing documents, ←Ĥ** may create reasonable restrictions on the

493 number and term of rentals in the ~~H→~~ **[community] association** ~~←H~~ .

494 (b) If ~~H→~~ **[the restrictions prohibit the rental of units]** restrictions are imposed on the

494a number and term of rentals ~~←H~~ , the restrictions:

495 (i) ~~H→~~ **[may not restrict less than 10% of the units]** shall allow a minimum of 20% of the

495a lots to be rentals ~~←H~~ ; and

496 (ii) shall be included in ~~H→~~ **[a declaration]** the governing documents ~~←H~~ .

497 (2) ~~H→~~ **[Restrictions]** If restrictions are imposed ~~←H~~ on the number and term of rentals

497a ~~H→~~ , the restrictions ~~←H~~ shall include:

498 (a) a hardship exemption that ~~H→~~ **[allows]** requires ~~←H~~ an association to exempt from the

498a rental

499 restrictions an owner suffering from hardship, including:

500 (i) military service;

501 (ii) extended vacation;

502 (iii) charitable service;

503 (iv) job relocation; or

504 (v) economic hardship;

505 (b) a grandfather clause allowing all owners who have rentals in the ~~H→~~ **[community]**

505a association ~~←H~~ , before

506 the time the rental restriction is recorded with the county recorder of the county in which the

507 ~~H→~~ [condominium project] association ~~←H~~ is located, to continue renting until the owner transfers

507a the ~~H→~~ **[unit] lot** ~~←H~~ ; and

508 (c) procedures to:

509 (i) determine and track the number of rentals in ~~H→~~ **[a common interest community]** an

509a association ~~←H~~ ;

510 (ii) identify the ~~H→~~ **[units] lots** ~~←H~~ that are grandfathered ~~H→~~ **[units] lots** ~~←H~~ ; and

511 (iii) ensure fair administration of the rental restrictions.

512 (3) For purposes of Subsection (2)(b), a transfer occurs when one or more of the

513 following occur:

514 (a) conveyance, sale, or other transfer of ~~H→~~ **[the unit] a lot** ~~←H~~ by deed;

515 (b) the granting of a life estate in the ~~H→~~ **[unit] lot** ~~←H~~ ; or

516 (c) if the ~~H→~~ **[unit] lot** ~~←H~~ is owned by a limited liability company, corporation,

516a partnership, or

517 other business entity, sale or transfer of more than 75% of the business entity's share, stock,

518 membership interests, or partnership interests in a 12-month period.

Legislative Review Note

as of 1-7-09 3:11 PM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 243 - Rental Restrictions on Condominiums and Common Interest
Communities**

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and businesses may be impacted by requirements and restrictions included in the bill.
