

**Representative Gage Froerer** proposes the following substitute bill:

**RENTAL RESTRICTIONS ON CONDOMINIUMS**

**AND COMMON INTEREST COMMUNITIES**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Stephen H. Urquhart

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**LONG TITLE**

**General Description:**

This bill modifies the powers of an association of unit owners or association to create rental restrictions.

**Highlighted Provisions:**

This bill:

- ▶ modifies the powers an association of unit owners or association to:
  - create reasonable restrictions on the number and terms of rental units or lots;
  - include rental restrictions in the association of unit owners' declaration or association's governing documents;
  - include a hardship exemption in the rental restrictions;
  - include a grandfather clause for existing rental units or lots; and
  - create procedures to track the number of rental units or lots; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 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40 (b) "Withdrawable land" means land that may be withdrawn from the condominium  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 ~~[(+)]~~ (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 ~~[(c)]~~ (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) (i) Subject to Subsections (14)(b), (e), and (f), an association of unit owners  
351 may:

352 (A) create restrictions on the number and term of rentals in a condominium project; or

353 (B) prohibit rentals in the condominium project.

354 (ii) An association of unit owners shall create a rental restriction or prohibition in a  
355 declaration or by amending the declaration.

356 (b) If an association of unit owners imposes restrictions on the number and term of  
357 rentals, the restrictions shall include:

358 (i) a provision that requires a condominium project to exempt from the rental  
359 restrictions the following unit owners and the unit owner's unit:

360 (A) a unit owner in the military for the period of the unit owner's deployment;

361 (B) a unit occupied by a unit owner's parent, child, or sibling;

362 (C) a unit owner whose employer has relocated the unit owner; or

363 (D) a unit owned by a trust or other entity created for estate planning purposes if the  
364 trust or other estate planning entity was created for the estate of a current resident of the unit;

365 (ii) a provision allowing a unit owner who has a rental in the condominium project  
366 before the time the rental restriction described in Subsection (14)(a)(i) is recorded with the

367 county recorder of the county in which the condominium project is located to continue renting  
368 until the unit owner transfers or occupies the unit; and

369 (iii) a requirement that the association of unit owners create, by rule or resolution,  
370 procedures to:

371 (A) determine and track the number of rentals and units in the condominium project  
372 subject to the provisions described in Subsections (14)(b)(i) and (ii); and

373 (B) ensure consistent administration and enforcement of the rental restrictions.

374 (c) For purposes of Subsection (14)(b)(ii), a transfer occurs when one or more of the  
375 following occur:

376 (i) conveyance, sale, or other transfer of a unit by deed;

377 (ii) the granting of a life estate in the unit; or

378 (iii) if the unit is owned by a limited liability company, corporation, partnership, or  
379 other business entity, sale or transfer of more than 75% of the business entity's share, stock,  
380 membership interests, or partnership interests in a 12-month period.

381 (d) This section does not limit or affect residency age requirements for an association  
382 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.  
383 3607.

384 (e) A declaration recorded prior to the first unit transferred from the initial declarant,  
385 including a developer, may:

386 (i) (A) restrict rental units; and

387 (B) prohibit exceptions to Subsection (e)(i)(A); and

388 (ii) (A) prohibit rental units; and

389 (B) prohibit exceptions to Subsection (e)(ii)(A).

390 (f) This section does not apply to:

391 (i) a condominium project containing a time period unit as defined in Section 57-8-1;

392 or

393 (ii) any other form of timeshare interest as defined in Section 57-19-2.

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

395 **57-8-13. Condominium plat to be recorded.**

396 (1) (a) Simultaneously with the recording of the declaration there shall be recorded a  
397 standard size, original linen (21" x 31") condominium plat with 6-1/4" x 1-1/2" recording

398 information block, which map shall be made by a registered Utah land surveyor and shall set  
399 forth:

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

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

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

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

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

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

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

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

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

428 (x) if with respect to any portion or portions, but less than all, of the land included

429 within the project the unit owners are to own only an estate for years, the location and  
430 dimensions of any such portion, with each labeled as a leased land, and if there be more than  
431 one such land, with each labeled with a different letter or number; and

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

433 (b) Each such condominium plat shall be certified as to its accuracy and compliance  
434 with the provisions of this Subsection (1) by the land surveyor who prepared or who supervised  
435 the preparation of the same and shall be executed and acknowledged as provided in Subsection  
436 57-8-10~~(8)~~ (13).

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

444 (3) When converting all or any portion of any convertible space into one or more units  
445 or limited common areas and facilities, the declarant shall record, with regard to the structure  
446 or portion of it constituting that convertible space, a supplemental condominium plat showing  
447 the location and dimensions of the vertical and horizontal boundaries of each unit formed out  
448 of this space. The supplemental map shall be certified as to its accuracy and compliance with  
449 this Subsection (3) by the land surveyor who prepared or who supervised the preparation of it.

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

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

457 **57-8-13.8. Contraction of project.**

458 A condominium project may be contracted under the provisions of the declaration and  
459 the provisions of this chapter. Any such contraction shall be considered to have occurred at the

460 time of the recordation of an amendment to the declaration, executed by the declarant,  
461 containing a legal description by metes and bounds of the land withdrawn from the  
462 condominium project. If portions of the withdrawable land were described pursuant to  
463 Subsection [~~57-8-10(5)(b)(i)~~] 57-8-10(9)(d), then no described portion may be so withdrawn  
464 after the conveyance of any unit on the portion. If no withdrawable portions were described,  
465 then none of the withdrawable land may be withdrawn after the first conveyance of any unit on  
466 the portion.

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

468 **57-8-13.10. Condominiums containing convertible land -- Expandable**  
469 **condominiums -- Allocation of interests in common areas and facilities.**

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

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

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

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

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

488 (3) If all of a convertible space is converted into common areas and facilities, including  
489 limited common areas and facilities, then the undivided interest in the common areas and  
490 facilities appertaining to the convertible space shall afterward appertain to the remaining units



491 and shall be allocated among them in proportion to their undivided interests in the common  
492 areas and facilities. The principal officer of the unit owners' association or of the management  
493 committee, or any other officer specified in the declaration, shall immediately prepare, execute,  
494 and record an amendment to the declaration reflecting the reallocation of undivided interest  
495 produced by the conversion.

496 (4) (a) If the expiration or termination of any lease of a leasehold condominium causes  
497 a contraction of the condominium project which reduces the number of units, or if the  
498 withdrawal of withdrawable land of a contractible condominium causes a contraction of the  
499 condominium project which reduces the number of units, the undivided interest in the common  
500 areas and facilities appertaining to any units so withdrawn shall afterward appertain to the  
501 remaining units, being allocated among them in proportion to their undivided interests in the  
502 common areas and facilities.

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

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

508 **57-8a-209. Rental Restrictions.**

509 (1) (a) Subject to Subsections (1)(b), (5), and (6), an association may:

510 (i) create restrictions on the number and term of rentals in an association; or

511 (ii) prohibit rentals in the association.

512 (b) An association shall create a rental restriction or prohibition in the governing  
513 documents or by amending the governing documents.

514 (2) If an association imposes restrictions on the number and term of rentals, the  
515 restrictions shall include:

516 (a) a provision that requires the association to exempt from the rental restrictions the  
517 following lot owners and the lot owner's lot:

518 (i) a lot owner in the military for the period of the lot owner's deployment;

519 (ii) a lot occupied by a lot owner's parent, child, or sibling;

520 (iii) a lot owner whose employer has relocated the lot owner; or

521 (iv) a lot owned by a trust or other entity created for estate planning purposes if the

522 trust or other estate planning entity was created for the estate of a current resident of the lot;

523 (b) a provision allowing a lot owner who has a rental in the association before the time

524 the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the

525 county in which the association is located to continue renting until the lot owner transfers or

526 occupies the lot; and

527 (c) a requirement that the association create, by rule or resolution, procedures to:

528 (i) determine and track the number of rentals and lots in the association subject to the

529 provisions described in Subsections (2)(a) and (b); and

530 (ii) ensure consistent administration and enforcement of the rental restrictions.

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

532 following occur:

533 (a) conveyance, sale, or other transfer of a lot by deed;

534 (b) the granting of a life estate in the lot; or

535 (c) if the lot is owned by a limited liability company, corporation, partnership, or other

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

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

538 (4) This section does not limit or affect residency age requirements for an association

539 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.

540 3607.

541 (5) The governing documents recorded prior to the first lot transferred from the initial

542 declarant, including a developer, may:

543 (a) (i) restrict rental lots; and

544 (ii) prohibit exceptions to Subsection (5)(a)(i); and

545 (b) (i) prohibit rental lots; and

546 (ii) prohibit exceptions to Subsection (5)(b)(i).

547 (6) This section does not apply to:

548 (a) an association containing a time period unit as defined in Section 57-8-1; or

549 (b) any other form of timeshare interest as defined in Section 57-19-2.

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**Fiscal Note**

**H.B. 243 1st Sub. (Buff) - Rental Restrictions on Condominiums and  
Common Interest Communities**

2009 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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