

Senator J. Stuart Adams proposes the following substitute bill:

HOMEOWNER ASSOCIATION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies provisions relating to condominium owner and homeowner associations.

Highlighted Provisions:

This bill:

- ▶ prohibits an association from charging a fee for providing information needed for a closing on a sale of a unit or lot unless provided for in the declaration, limits the amount of the fee, and provides a consequence if an association fails to provide the information within a specified time;

- ▶ requires associations to register with the Department of Commerce and to submit an updated registration under specified circumstances, and establishes consequences for a failure to register or update a previous registration; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 **57-8-6.3**, Utah Code Annotated 1953

28 **57-8-13.1**, Utah Code Annotated 1953

29 **57-8a-105**, Utah Code Annotated 1953

30 **57-8a-106**, Utah Code Annotated 1953

31

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

33 Section 1. Section **57-8-6.3** is enacted to read:

34 **57-8-6.3. Fee for providing information needed at closing.**

35 (1) Unless specifically authorized in the declaration, an association of unit owners may
36 not charge a fee for providing association payoff information needed in connection with the
37 closing of a unit owner's financing, refinancing, or sale of the owner's unit.

38 (2) An association of unit owners may not:

39 (a) require a fee described in Subsection (1) that is authorized in the declaration to be
40 paid before closing; or

41 (b) charge the fee if it exceeds \$25.

42 (3) An association of unit owners that fails to provide information described in
43 Subsection (1) within five business days after the closing agent requests the information may
44 not enforce a lien against that unit for money due to the association at closing.

45 Section 2. Section **57-8-13.1** is enacted to read:

46 **57-8-13.1. Registration with Department of Commerce.**

47 (1) As used in this section, "department" means the Department of Commerce created
48 in Section 13-1-2.

49 (2) (a) No later than 90 days after the recording of a declaration, an association of unit
50 owners shall register with the department in the manner established by the department.

51 (b) An association of unit owners existing under a declaration recorded before May 10,
52 2011, shall, no later than July 1, 2011, register with the department in the manner established
53 by the department.

54 (3) The department shall require an association of unit owners registering as required
55 in this section to provide with each registration:

56 (a) the name and address of the association of unit owners;

57 (b) the name, address, telephone number, and, if applicable, email address of the
58 president of the association of unit owners;

59 (c) contact information for the management committee;

60 (d) the name, address, telephone number, and email address of a primary contact
61 person who has association payoff information that a closing agent needs in connection with
62 the closing of a unit owner's financing, refinancing, or sale of the owner's unit; and

63 (e) a registration fee not to exceed \$37.

64 (4) An association of unit owners that has registered under Subsection (2) shall submit
65 to the department an updated registration, in the manner established by the department, within
66 90 days after a change in any of the information provided under Subsection (3).

67 (5) During any period of noncompliance with the registration requirements of
68 Subsection (2) or the requirement for an updated registration under Subsection (4):

69 (a) a lien for the nonpayment of common expenses may not arise under Section
70 57-8-20 against any condominium unit; and

71 (b) an association of unit owners may not enforce a previous lien under Section
72 57-8-20 against any condominium unit.

73 Section 3. Section **57-8a-105** is enacted to read:

74 **57-8a-105. Registration with Department of Commerce.**

75 (1) As used in this section, "department" means the Department of Commerce created
76 in Section 13-1-2.

77 (2) (a) No later than 90 days after the recording of a declaration of covenants,
78 conditions, and restrictions establishing an association, the association shall register with the
79 department in the manner established by the department.

80 (b) An association existing under a declaration of covenants, conditions, and
81 restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
82 department in the manner established by the department.

83 (3) The department shall require an association registering as required in this section to
84 provide with each registration:

85 (a) the name and address of the association;

86 (b) the name, address, telephone number, and, if applicable, email address of the chair
87 of the association board;

88 (c) contact information for the manager;
89 (d) the name, address, telephone number, and email address of a primary contact
90 person who has association payoff information that a closing agent needs in connection with
91 the closing of a lot owner's financing, refinancing, or sale of the owner's lot; and

92 (e) a registration fee not to exceed \$37.

93 (4) An association that has registered under Subsection (2) shall submit to the
94 department an updated registration, in the manner established by the department, within 90
95 days after a change in any of the information provided under Subsection (3).

96 (5) During any period of noncompliance with the registration requirements of
97 Subsection (2) or the requirement for an updated registration under Subsection (4):

98 (a) a lien for the nonpayment of an assessment may not arise under Section 57-8a-203
99 against any lot; and

100 (b) an association may not enforce a previous lien under Section 57-8a-203 against any
101 lot.

102 Section 4. Section **57-8a-106** is enacted to read:

103 **57-8a-106. Fee for providing information needed at closing.**

104 (1) Unless specifically authorized in the declaration of covenants, conditions, and
105 restrictions, an association may not charge a fee for providing association payoff information
106 needed in connection with the financing, refinancing, or closing of a lot owner's sale of the
107 owner's lot.

108 (2) An association may not:

109 (a) require a fee described in Subsection (1) that is authorized in the declaration of
110 covenants, conditions, and restrictions to be paid before closing; or

111 (b) charge the fee if it exceeds \$25.

112 (3) An association that fails to provide information described in Subsection (1) within
113 five business days after the closing agent requests the information may not enforce a lien
114 against that unit for money due to the association at closing.

FISCAL NOTE

H.B. 104 1st Sub. (Buff)

SHORT TITLE: Homeowner Association Amendments

SPONSOR: Adams, J. S.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this legislation will increase annual revenue and expenditures for the Department of Commerce by \$70,100 (plus \$9,600 in one-time revenues and expenditures in FY 2012).

STATE BUDGET DETAIL TABLE	FY 2011	FY 2012	FY 2013
Revenue:			
Commerce Service Fund	\$0	\$70,100	\$70,100
Commerce Service, One-time	\$0	\$9,600	\$0
Total Revenue	\$0	\$79,700	\$70,100
Expenditure:			
Commerce Service Fund	\$0	\$70,100	\$70,100
Commerce Service, One-time	\$0	\$9,600	\$0
Total Expenditure	\$0	\$79,700	\$70,100
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	\$0	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Homeowners associations will incur the cost of the filing fee.