

646 (b) in the governing documents, if the governing documents provide for a different  
 647 interest rate.

648 (4) A lien under this section has priority over each other lien and encumbrance on a  
 649 unit except:

650 (a) a lien or encumbrance recorded before the declaration is recorded;

651 (b) a first ~~§~~ or second ~~←§~~ security interest on the unit ~~§~~ secured by a mortgage or  
 651a deed of trust that is ~~←§~~ recorded before a recorded notice of lien by or on  
 652 behalf of the association of unit owners; or

653 (c) a lien for real estate taxes or other governmental assessments or charges against the  
 654 unit.

655 (5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah  
 656 Exemptions Act.

657 (6) Unless the declaration provides otherwise, if two or more associations of unit  
 658 owners have liens for assessments on the same unit, the liens have equal priority, regardless of  
 659 when the liens are created.

660 Section 6. Section ~~57-8-45~~ is enacted to read:

661 **57-8-45. Enforcement of a lien.**

662 (1) (a) To enforce a lien established under Section 57-8-44, an association of unit  
 663 owners may:

664 (i) cause a unit to be sold through nonjudicial foreclosure as though the lien were a  
 665 deed of trust, in the manner provided by:

666 (A) Sections 57-1-24, 57-1-25, 57-1-26, and 57-1-27; and

667 (B) this chapter; or

668 (ii) foreclose the lien through a judicial foreclosure in the manner provided by:

669 (A) law for the foreclosure of a mortgage; and

670 (B) this chapter.

671 (b) For purposes of a nonjudicial or judicial foreclosure as provided in Subsection

672 (1)(a):

673 (i) the association of unit owners is considered to be the beneficiary under a trust deed;

674 and

675 (ii) the unit owner is considered to be the trustor under a trust deed.

676 (2) A unit owner's acceptance of the owner's interest in a unit constitutes a

1204 impede a declarant's ~~H~~→ **ability to satisfy existing development financing for community**

1204a **improvements and** ~~H~~← right to develop:

1205 (a) the project; or

1206 (b) other properties in the vicinity of the project.

1207 (10) A rule or association or board action may not interfere with:

1208 (a) the use or operation of an amenity that the association does not own or control; or

1209 (b) the exercise of a right associated with an easement.

1210 (11) A rule may not divest a lot owner of the right to proceed in accordance with a

1211 completed application for design review, or to proceed in accordance with another approval

1212 process, under the terms of the governing documents in existence at the time the completed

1213 application was submitted by the owner for review.

1214 (12) Unless otherwise provided in the declaration, an association may by rule:

1215 (a) regulate the use, maintenance, repair, replacement, and modification of common

1216 areas;

1217 (b) impose and receive any payment, fee, or charge for:

1218 (i) the use, rental, or operation of the common areas, except limited common areas; and

1219 (ii) a service provided to a lot owner;

1220 (c) impose a charge for a late payment of an assessment; or

1221 (d) provide for the indemnification of its officers and board consistent with Title 16,

1222 Chapter 6a, Utah Revised Nonprofit Corporation Act.

1223 (13) A rule shall be reasonable.

1224 (14) A declaration, or an amendment to a declaration, may vary any of the

1225 requirements of Subsections (1) through (12), except Subsection (1)(b)(ii).

1226 (15) A rule may not be inconsistent with a provision of a declaration.

1227 Section 24. Section **57-8a-219** is enacted to read:

1228 **57-8a-219. Display of the flag.**

1229 (1) An association may not prohibit a lot owner from displaying a United States flag

1230 inside a dwelling or limited common area or on a lot, if the display complies with United States

1231 Code, Title 4, Chapter 1, The Flag ~~H~~→ [~~, or with a rule or custom pertaining to the proper display of~~

1232 ~~the flag]~~ ~~H~~← .

1233 ~~H~~→ [(2)(a) Notwithstanding Subsection (1), an association may establish reasonable

1234 restrictions on the size of a flag and on the place, duration, and manner of placement or display

1235 of a flag if the restrictions are necessary to protect a substantial interest of the association:  
 1236 —— (b) In an action that an association brings for a violation of a restriction under  
 1237 Subsection (2)(a), the association bears the burden of proof that the restriction is necessary to  
 1238 protect a substantial interest of the association.]

1239 —— [3] (2) ←H An association may restrict the display of a flag on the common areas.

1240 Section 25. Section **57-8a-220** is enacted to read:

1241 **57-8a-220. Creditor approval may be required for lot owner or association action**  
 1242 **under declaration -- Creditor approval presumed in certain circumstances -- Notice to**  
 1243 **creditor or creditor's successor.**

1244 (1) (a) Subject to Subsection (1)(b), a declaration may:

1245 (i) condition the effectiveness of lot owners' actions specified in the declaration on the  
 1246 approval of a specified number or percentage of lenders holding a security interest in the lots;  
 1247 or

1248 (ii) condition the effectiveness of association actions specified in the declaration on the  
 1249 approval of a specified number or percentage of lenders that have extended credit to the  
 1250 association.

1251 (b) A condition under Subsection (1)(a) may not:

1252 (i) deny or delegate the lot owners' or board's control over the association's general  
 1253 administrative affairs;

1254 (ii) prevent the association or board from commencing, intervening in, or settling any  
 1255 litigation or proceeding; or

1256 (iii) prevent an insurance trustee or the association from receiving or distributing  
 1257 insurance proceeds under Subsection 57-8a-405(12).

1258 (c) A condition under Subsection (1)(a) does not violate a prohibition under Subsection  
 1259 (1)(b) by:

1260 (i) requiring the association to deposit the association's assessments before default with  
 1261 the lender assigned the income; or

1262 (ii) requiring the association to increase an assessment at the lender's direction by an  
 1263 amount reasonably necessary to pay the loan in accordance with the loan terms.

1264 (d) This Subsection (1) applies to:

1265 (i) an association formed before, on, or after May 10, 2011; and

- 1328 (a) in Subsection 15-1-1(2); or
- 1329 (b) in the declaration, if the declaration provides for a different interest rate.
- 1330 (4) A lien under this section has priority over each other lien and encumbrance on a lot
- 1331 except:
- 1332 (a) a lien or encumbrance recorded before the declaration is recorded;
- 1333 (b) a first ~~§~~ or second ~~§~~ security interest on the lot ~~§~~ secured by a mortgage or
- 1333a trust deed that is ~~§~~ recorded before a recorded notice of lien by or on
- 1334 behalf of the association; or
- 1335 (c) a lien for real estate taxes or other governmental assessments or charges against the
- 1336 lot.
- 1337 (5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah
- 1338 Exemptions Act.
- 1339 (6) Unless the declaration provides otherwise, if two or more associations have liens
- 1340 for assessments on the same lot, the liens have equal priority, regardless of when the liens are
- 1341 created.
- 1342 Section 28. Section **57-8a-302** is enacted to read:
- 1343 **57-8a-302. Enforcement of a lien.**
- 1344 (1) (a) To enforce a lien established under Section 57-8a-301, an association may:
- 1345 (i) cause a lot to be sold through nonjudicial foreclosure as though the lien were a deed
- 1346 of trust, in the manner provided by:
- 1347 (A) Sections 57-1-24, 57-1-25, 57-1-26, and 57-1-27; and
- 1348 (B) this part; or
- 1349 (ii) foreclose the lien through a judicial foreclosure in the manner provided by:
- 1350 (A) law for the foreclosure of a mortgage; and
- 1351 (B) this part.
- 1352 (b) For purposes of a nonjudicial or judicial foreclosure as provided in Subsection
- 1353 (1)(a):
- 1354 (i) the association is considered to be the beneficiary under a trust deed; and
- 1355 (ii) the lot owner is considered to be the trustor under a trust deed.
- 1356 (2) A lot owner's acceptance of the owner's interest in a lot constitutes a simultaneous
- 1357 conveyance of the lot in trust, with power of sale, to the trustee designated as provided in this
- 1358 section for the purpose of securing payment of all amounts due under the declaration and this