

S.B. 167

CONDOMINIUM AND COMMUNITY ASSOCIATION REVISIONS

Senator **Wayne L. Niederhauser** proposes the following amendments:

1. Page 3, Line 62:

62 ~~{ 57-8a-222, Utah Code Annotated 1953 }~~

2. Page 18, Line 540:

540 (c) The total amount of coverage provided by blanket property insurance may not be less than

3. Page 20, Line 614:

614 subject to the procedures stated in Section 31A-21-303.

(o) A management committee that acquires from an insurer the property insurance required in this section is not liable to unit owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

4. Page 22, Line 675 through Page 23, Line 679:

675 provided in this section ~~{:~~

676 ~~(a)~~ } . and for the purpose of securing payment of all amounts due under the declaration and

677 this chapter ~~{:and}~~ and

678 ~~{(b) whether or not a conveyance in trust is included in the declaration or another~~

679 recorded document.}

5. Page 24, Line 725:

725 (iv) be ~~{mailed}~~ sent to the unit owner by certified mail, return receipt requested ; and

6. Page 32, Line 979:

979 (1) ~~{A}~~ An initial declaration recorded on or after May 10, 2011 shall contain:

7. Page 32, Lines 985 through 987:

(e) if the declarant desires to reserve the option to expand the project, a statement reserving the option to expand the project, through a supplemental declaration and plat, to include real estate not initially included in the project;

985 ~~{e}~~ (f) the name of each county in which any part of the project is located;

986 ~~{(f)}~~ (g) a legally sufficient description of the real estate included in the project;
987 ~~{(g)}~~ (h) a description of any limited common areas and any real estate that is or is required

8. Page 33, Lines 989 through 1001:

989 ~~{(h)(i) a description of any right to convert lots to common areas or convert common~~
990 ~~areas to lots, withdraw real estate from the project, or add real estate to the project; and~~
991 ~~——(ii) for each right under Subsection (1)(h)(i), a legally sufficient description of the real~~
992 ~~estate to which the right applies;~~
993 ~~——(i) if a development right may be exercised with respect to different parcels of real~~
994 ~~estate at different times;~~
995 ~~——(i) a statement of that right;~~
996 ~~——(ii)(A) a statement fixing the boundaries of those parcels and regulating the order in~~
997 ~~which the parcels may be subjected to the exercise of the right; or~~
998 ~~——(B) a statement that a fixing of boundaries and regulating of the order described in~~
999 ~~Subsection (1)(h)(ii)(A) are not assured; }~~
1000 ~~{(j)}~~ (i) any restriction on the alienation of a lot, including a restriction on leasing; and
1001 ~~{(k)}~~ (j) (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or

9. Page 33, Line 1009:

1009 occupy a lot, or other qualifications of a person who may occupy a lot.
(3) The location of a limited common area or real estate described in Subsection (1)(g) may be shown on a subdivision plat.

10. Page 33, Line 1011 through Page 34, Line 1033:

1011 ~~{ 57-8a-213. Exercise of development rights.~~
1012 ~~——(1)(a) To exercise a development right reserved in a declaration under Subsection~~
1013 ~~57-8a-212(1)(h), the declarant shall prepare, execute, and submit for recording in the county~~
1014 ~~recorder's office:~~
1015 ~~——(i) an amendment to the declaration if the purpose of the exercise of a development~~
1016 ~~right is:~~
1017 ~~——(A) to convert lots to common areas or to convert common areas to lots; or~~
1018 ~~——(B) to withdraw real estate from the project; or~~
1019 ~~——(ii) a supplement to the declaration if the purpose of the exercise of a development~~
1020 ~~right is to add real estate to the project.~~
1021 ~~——(b) An amendment or supplement to the declaration or plat shall describe any common~~
1022 ~~areas and limited common areas created by the amendment or supplement to the declaration or~~
1023 ~~plat and designate the lot to which each limited common area is allocated.~~
1024 ~~——(2) This section does not extend the time limit stated in the declaration under~~
1025 ~~Subsection 57-8a-212(1)(h) for the exercise of a development right.~~

1026 ~~_____ (3) A development right may be reserved to the declarant on real estate added to the~~
1027 ~~project if:~~
1028 ~~_____ (a) the supplement to the declaration adding the real estate includes the information~~
1029 ~~required in Subsection 57-8a-212(1)(h); and~~
1030 ~~_____ (b) the plat complies with applicable requirements under, as applicable, Title 10;~~
1031 ~~Chapter 9a, Part 6, Subdivisions, or Title 17, Chapter 27a, Part 6, Subdivisions;~~
1032 ~~_____ Section 19. Section 57-8a-214 is enacted to read: }~~
1033 ~~57-8a- {214} 213 . Board action to enforce governing documents -- Parameters.~~

11. Page 35, Lines 1052 through 1053:

1052 enforcement, the association is not prevented from later taking enforcement action {~~under~~
1053 ~~different circumstances~~} .

12. Page 35, Lines 1058 through 1059:

1058 Section 20. Section {~~57-8a-215~~} 57-8a-214 is enacted to read:
1059 ~~57-8a- {215} 214 . Fair and reasonable notice.~~

13. Page 35, Lines 1071 through 1072:

1071 Section 21. Section {~~57-8a-216~~} 57-8a-215 is enacted to read:
1072 ~~57-8a- {216} 215 . Budget.~~

14. Page 36, Lines 1085 through 1087:

~~(5) During the period of administrative control, association members may not disapprove a budget.~~

1085 Section 22. Section {~~57-8a-217~~} 57-8a-216 is enacted to read:
1086 ~~57-8a- {217} 216 . Association bylaws -- Recording required -- Bylaw requirements.~~
1087 ~~(1) (a) No later than the date of the first lot sale, an association shall file its bylaws for~~

15. Page 36, Line 1089:

1089 ~~included within the association is located.~~

~~(b) If an association fails to file bylaws for recording within the time specified in Subsection (1)(a), the board may file the bylaws for recording as provided in Subsection (1)(a).~~

16. Page 37, Lines 1115 through 1116:

1115 Section 23. Section {~~57-8a-218~~} 57-8a-217 is enacted to read:
1116 ~~57-8a- {218} 217 . Association rules, including design criteria -- Requirements and~~

17. Page 37, Line 1124:

1124 (iii) the limitation on rules in Sections 57-8a- ~~{219}~~ 218 and 57-8a- ~~{220}~~ 219 ;

18. Page 37, Line 1134:

1134 criterion, deliver notice to lot owners, as provided in Section 57-8a- ~~{215}~~ 214 , that the board is

19. Page 37, Line 1139:

1139 the lot owners as provided in Section 57-8a- ~~{215}~~ 214 within 15 days after the date of the board

20. Page 38, Lines 1163 through 1164:

(6) During the period of administrative control, a declarant may exempt the declarant from association rules and the rulemaking procedure under this section if the declaration reserves to the declarant the right to exempt the declarant.

1163 Section 24. Section ~~{57-8a-219}~~ 57-8a-218 is enacted to read:

1164 57-8a- ~~{219}~~ 218 . Equal treatment by rules required -- Limits on association rules and

21. Page 38, Lines 1168 through 1169:

1168 (b) ~~{(f)}~~ Notwithstanding Subsection (1)(a), a rule may:

1169 ~~{(A)}~~ (i) vary according to the level and type of service that the association provides to lot

22. Page 38, Lines 1171 through 1174:

1171 ~~{(B)}~~ (ii) differ between residential and nonresidential uses.

1172 ~~{(ii) During the period of administrative control, a declarant may exempt the declarant~~

1173 ~~from association rules and the rulemaking procedure under Section 57-8a-218 if the declaration~~

1174 ~~reserves the right to exempt to the declarant.~~ }

23. Page 41, Lines 1246 through 1248:

1246 (c) impose a charge for a late payment of an assessment; or

1247 ~~{(d) establish a reasonable administrative fee associated with the sale of a lot; or }~~

1248 ~~{(e)}~~ (d) provide for the indemnification of its officers and board consistent with Title 16,

24. Page 41, Lines 1254 through 1255:

1254 Section 25. Section ~~{57-8a-220}~~ 57-8a-219 is enacted to read:

1255 57-8a- ~~{220}~~ 219 . Display of the flag.

25. Page 41, Line 1267 through Page 42, Line 1268:

1267 Section 26. Section ~~{57-8a-221}~~ 57-8a-220 is enacted to read:

1268 57-8a- ~~{221}~~ 220 . Creditor approval may be required for lot owner or association action

26. Page 43, Lines 1325 through 1326:

1325 Section 27. Section {~~57-8a-222~~} 57-8a-221 is enacted to read:
1326 57-8a- {222} 221 . Reincorporation of terminated or dissolved association.

27. Page 43, Line 1328:

1328 under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, may be reincorporated by the

28. Page 44, Line 1332:

1332 (2) Upon the association's reincorporation under Subsection (1) {~~1~~} :
(a) the board of directors

29. Page 44, Line 1334:

1334 at the time of termination or dissolution {~~1~~} : and
(b) all lot owners within the project are members of the reincorporated association.

30. Page 45, Lines 1384 through 1388:

1384 section {~~1~~}
1385 —(a) : for the purpose of securing payment of all amounts due under the declaration and
1386 this chapter {~~1~~; and} :
1387 {(b) ~~whether or not a conveyance in trust is included in the declaration or another~~
1388 recorded document.}

31. Page 47, Line 1433:

1433 (iv) be {~~mailed~~} sent to the lot owner by certified mail, return receipt requested ; and

32. Page 54, Line 1660:

1660 (3) The total amount of coverage provided by blanket property insurance may not be less than

33. Page 56, Line 1731:

1731 subject to the procedures stated in Section 31A-21-303.

(15) A board that acquires from an insurer the property insurance required in this section is not liable to lot owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.