

30 **57-8a-301**, as last amended by Laws of Utah 2013, Chapter 95



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **57-8-37** is amended to read:

34 **57-8-37. Fines.**

35 (1) (a) If authorized in the declaration, bylaws, or association rules, the management
36 committee of a residential condominium project may assess a fine against a unit owner after the
37 requirements of Subsection (2) have been met for a violation of the rules and regulations of the
38 association of unit owners which have been promulgated in accordance with this chapter and
39 the declaration and bylaws.

40 (b) The management committee of a nonresidential condominium project may not
41 assess a fine against a unit owner.

42 (2) Before assessing a fine under Subsection (1), the management committee shall give
43 notice to the unit owner of the violation and inform the owner that a fine will be imposed if the
44 violation is not cured within the time provided in the declaration, bylaws, or association rules,
45 which shall be at least 48 hours.

46 (3) (a) A fine assessed under Subsection (1) shall:

47 (i) be made only for a violation of a rule or regulation which is specifically listed in the
48 declaration, bylaws, or association rules as an offense which is subject to a fine;

49 (ii) be in the amount specifically provided for in the declaration, bylaws, or association
50 rules for that specific type of violation, not to exceed \$500; and

51 (iii) accrue interest and late fees as provided in the declaration, bylaws, or association
52 rules.

53 (b) Cumulative fines for a continuing violation may not exceed \$500 per month.

54 (4) A unit owner who is assessed a fine under Subsection (1) may request an informal
55 hearing to protest or dispute the fine within 30 days from the date the fine is assessed. The
56 hearing shall be conducted in accordance with the standards provided in the declaration,
57 bylaws, or association rules. No interest or late fees may accrue until after the hearing has been

58 conducted and a final decision has been rendered.

59 (5) A unit owner may appeal a fine issued under Subsection (1) by initiating a civil
60 action within 180 days after:

61 (a) a hearing has been held and a final decision has been rendered by the management
62 committee under Subsection (4); or

63 (b) the time to request an informal hearing under Subsection (4) has expired without
64 the unit owner making such a request.

65 ~~[(6) A fine assessed under Subsection (1) which remains unpaid after the time for
66 appeal under Subsection (5) has expired becomes a lien against the unit owner's interest in the
67 property in accordance with the same standards as a lien for the nonpayment of common
68 expenses under Section 57-8-20.]~~

69 Section 2. Section 57-8-44 is amended to read:

70 **57-8-44. Lien in favor of association of unit owners for assessments and costs of
71 collection.**

72 (1) (a) Except as provided in Section 57-8-13.1, an association of unit owners has a
73 lien on a unit for:

74 (i) an assessment;

75 (ii) except as provided in the declaration, fees, charges, and costs associated with
76 collecting an unpaid assessment, including:

77 (A) court costs and reasonable attorney fees;

78 (B) late charges;

79 (C) interest; and

80 (D) any other amount that the association of unit owners is entitled to recover under the
81 declaration, this chapter, or an administrative or judicial decision; and

82 (iii) a fine that the association of unit owners imposes against ~~[the owner of the unit.]~~ a
83 unit owner in accordance with Section 57-8-37, if:

84 (A) the time for appeal described in Subsection 57-8-37(5) has expired and the unit
85 owner did not file an appeal; or

86 (B) the unit owner timely filed an appeal under Subsection 57-8-37(5) and the district
87 court issued a final order upholding a fine imposed under Subsection 57-8-37(1).

88 (b) The recording of a declaration constitutes record notice and perfection of a lien
89 described in Subsection (1)(a).

90 (2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i)
91 is for the full amount of the assessment from the time the first installment is due, unless the
92 association of unit owners otherwise provides in a notice of assessment.

93 (3) An unpaid assessment or fine accrues interest at the rate provided:

94 (a) in Subsection 15-1-1(2); or

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

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

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

100 (b) a first or second security interest on the unit secured by a mortgage or deed of trust
101 that is recorded before a recorded notice of lien by or on behalf of the association of unit
102 owners; or

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

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

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

110 Section 3. Section 57-8a-208 is amended to read:

111 **57-8a-208. Fines.**

112 (1) Unless otherwise provided in the association's governing documents, the board of
113 [a homeowner] an association may assess a fine against a lot owner for a violation of the

114 association's governing documents after the requirements ~~[of]~~ described in Subsection (2) are
115 met.

116 (2) Before assessing a fine under Subsection (1), the board shall:

117 (a) notify the lot owner of the violation; and

118 (b) inform the owner that a fine will be imposed if the violation is not remedied within
119 the time provided in the association's governing documents, which shall be at least 48 hours.

120 (3) (a) A fine assessed under Subsection (1) shall:

121 (i) be made only for a violation of a rule, covenant, condition, or restriction that is
122 specifically listed in the association's governing documents;

123 (ii) be in the amount specifically provided for in the association's governing documents
124 for that specific type of violation or in an amount commensurate with the nature of the
125 violation; and

126 (iii) accrue interest and late fees as provided in the association's governing documents.

127 (b) Unpaid fines may be collected as an unpaid assessment as set forth in the
128 association's governing documents or in this chapter.

129 (4) (a) A lot owner who is assessed a fine under Subsection (1) may request an
130 informal hearing to protest or dispute the fine within ~~[14]~~ 30 days ~~[from the date]~~ after the day
131 on which the fine is assessed.

132 (b) A hearing requested under Subsection (4)(a) shall be conducted in accordance with
133 standards provided in the association's governing documents.

134 (c) No interest or late fees may accrue until after the hearing has been conducted and a
135 final decision has been rendered.

136 (5) A lot owner may appeal a fine issued under Subsection (1) by initiating a civil
137 action:

138 (a) if the lot owner timely requests an informal hearing under Subsection (4), within
139 180 days after the day on which a final decision from the informal hearing is issued; or

140 (b) if the lot owner does not timely request an informal hearing under Subsection (4),
141 within 180 days after the day on which the time to request an informal hearing expires.

142 Section 4. Section 57-8a-301 is amended to read:

143 **57-8a-301. Lien in favor of association for assessments and costs of collection.**

144 (1) (a) Except as provided in Section 57-8a-105, an association has a lien on a lot for:

145 (i) an assessment;

146 (ii) except as provided in the declaration, fees, charges, and costs associated with
147 collecting an unpaid assessment, including:

148 (A) court costs and reasonable attorney fees;

149 (B) late charges;

150 (C) interest; and

151 (D) any other amount that the association is entitled to recover under the declaration,
152 this chapter, or an administrative or judicial decision; and

153 (iii) a fine that the association imposes against ~~[the owner of the lot.]~~ a lot owner in
154 accordance with Section 57-8a-208, if:

155 (A) the time for appeal described in Subsection 57-8a-208(5) has expired and the lot
156 owner did not file an appeal; or

157 (B) the lot owner timely filed an appeal under Subsection 57-8a-208(5) and the district
158 court issued a final order upholding a fine imposed under Subsection 57-8a-208(1).

159 (b) The recording of a declaration constitutes record notice and perfection of a lien
160 described in Subsection (1)(a).

161 (2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i)
162 is for the full amount of the assessment from the time the first installment is due, unless the
163 association otherwise provides in a notice of assessment.

164 (3) An unpaid assessment or fine accrues interest at the rate provided:

165 (a) in Subsection 15-1-1(2); or

166 (b) in the declaration, if the declaration provides for a different interest rate.

167 (4) A lien under this section has priority over each other lien and encumbrance on a lot
168 except:

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

170 (b) a first or second security interest on the lot secured by a mortgage or trust deed that
171 is recorded before a recorded notice of lien by or on behalf of the association; or

172 (c) a lien for real estate taxes or other governmental assessments or charges against the
173 lot.

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

176 (6) Unless the declaration provides otherwise, if two or more associations have liens
177 for assessments on the same lot, the liens have equal priority, regardless of when the liens are
178 created.