

Representative Earl D. Tanner proposes the following substitute bill:

ASSOCIATION RENTAL AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Earl D. Tanner

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions of the Condominium Ownership Act and the Community Association Act relating to rental restrictions.

Highlighted Provisions:

This bill:

- ▶ provides that a condominium association or a homeowners association may only restrict or prohibit rentals in accordance with the provisions of this bill, regardless of when the association or the association of unit owners was created; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-10, as last amended by Laws of Utah 2011, Chapter 355

57-8-13.8, as last amended by Laws of Utah 1992, Chapter 12

57-8-13.10, as last amended by Laws of Utah 2003, Chapter 265



26 **57-8a-209**, as enacted by Laws of Utah 2009, Chapter 178



27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **57-8-10** is amended to read:

30 **57-8-10. Contents of declaration.**

31 (1) [~~Prior to~~] Before the conveyance of any unit in a condominium project, a
32 declaration shall be recorded that contains the covenants, conditions, and restrictions relating to
33 the project that shall be enforceable equitable servitudes, where reasonable, and which shall run
34 with the land. Unless otherwise provided, these servitudes may be enforced by [~~any~~] a unit
35 owner [~~and his successors~~] or a unit owner's successor in interest.

36 (2) (a) For every condominium project, the declaration shall:

37 (i) [~~The declaration shall~~] include a description of the land or interests in real property
38 included within the project[-];

39 (ii) [~~The declaration shall~~] contain a description of any buildings[~~, which~~] that states
40 the number of storeys and basements, the number of units, the principal materials of which the
41 building is or is to be constructed, and a description of all other significant improvements
42 contained or to be contained in the project[-];

43 (iii) [~~The declaration shall~~] contain the unit number of each unit, the square footage of
44 each unit, and any other description or information necessary to properly identify each unit[-];

45 (iv) [~~The declaration shall~~] describe the common areas and facilities of the project[-];
46 and

47 (v) [~~The declaration shall~~] describe any limited common areas and facilities and shall
48 state to which units the use of the common areas and facilities is reserved.

49 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or
50 other apparatus intended to serve a single unit, but located outside the boundaries of the unit,
51 shall constitute a limited common area and facility appertaining to that unit exclusively,
52 whether or not the declaration makes such a provision.

53 (c) The condominium plat recorded with the declaration may provide or supplement
54 the information required under Subsections (2)(a) and (b).

55 (d) (i) The declaration shall include the percentage or fraction of undivided interest in
56 the common areas and facilities appurtenant to each unit and [~~its~~] the unit owner for all

57 purposes, including voting, derived and allocated in accordance with Subsection 57-8-7(2).

58 (ii) If any use restrictions are to apply, the declaration shall state the purposes for which
59 the units are intended and ~~[restricted as to]~~ the use restrictions that apply.

60 (iii) (A) The declaration shall include the name and address of a person to receive
61 service of process on behalf of the project, in the cases provided by this chapter~~[, together with~~
62 ~~the residence or place of business of that person].~~

63 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall
64 maintain a place of business within, this state.

65 (iv) The declaration shall describe the method by which ~~[it]~~ the declaration may be
66 amended consistent with this chapter.

67 (v) Any further matters in connection with the property may be included in the
68 declaration, which the person or persons executing the declaration may consider desirable,
69 consistent with this chapter.

70 (vi) The declaration shall contain a statement of intention that this chapter applies to
71 the property.

72 (e) The initial recorded declaration shall include:

73 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
74 and

75 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
76 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the unit and all
77 improvements to the unit for the purpose of securing payment of assessments under the terms
78 of the declaration."

79 (3) (a) If the condominium project contains any convertible land, the declaration shall:

80 (i) ~~[The declaration shall]~~ contain a legal description by metes and bounds of each area
81 of convertible land within the condominium project~~[-];~~

82 (ii) ~~[The declaration shall]~~ state the maximum number of units that may be created
83 within each area of convertible land~~[-];~~

84 (iii) ~~[(A) The declaration shall]~~ state, with respect to each area of convertible land, the
85 maximum percentage of the aggregate land and floor area of all units that may be created and
86 the use of which will not or may not be restricted exclusively to residential purposes~~[-; (B) The~~
87 ~~statements described in Subsection (3)(a)(iii)(A) need not be supplied if], unless~~ none of the

88 units on other portions of the land within the project are restricted exclusively to residential
89 use[-];

90 (iv) [~~The declaration shall~~] state the extent to which any structure erected on any
91 convertible land will be compatible with structures on other portions of the land within the
92 condominium project in terms of quality of construction, the principal materials to be used, and
93 architectural style[-];

94 (v) [~~The declaration shall~~] describe all other improvements that may be made on each
95 area of convertible land within the condominium project[-];

96 (vi) [~~The declaration shall~~] state that any units created within each area of convertible
97 land will be substantially identical to the units on other portions of the land within the project
98 or [~~it shall~~] describe in detail what other type of units may be created[-]; and

99 (vii) [~~The declaration shall~~] describe the declarant's reserved right, if any, to create
100 limited common areas and facilities within any convertible land in terms of the types, sizes, and
101 maximum number of the limited common areas within each convertible land.

102 (b) The condominium plat recorded with the declaration may provide or supplement
103 the information required under Subsection (3)(a).

104 (4) If the condominium project is an expandable condominium project, the declaration
105 shall:

106 (a) (i) [~~(A) The declaration shall~~] contain an explicit reservation of an option to expand
107 the project[-];

108 [~~(B)~~] (ii) [~~The declaration shall~~] include a statement of any limitations on the option to
109 expand, including a statement as to whether the consent of any unit owners [~~shall be~~] is
110 required and, a statement as to the method by which consent shall be ascertained, or a
111 statement that there are no such limitations[-];

112 [~~(i)~~] (iii) [~~The declaration shall~~] include a time limit, not exceeding seven years [~~from~~
113 ~~the date of the recording of~~] after the day on which the declaration is recorded, upon which the
114 option to expand the condominium project [~~shall expire, together with~~] expires and a statement
115 of any circumstances [~~which~~] that will terminate the option [~~prior to~~] before expiration of the
116 specified time limits[-];

117 [~~(iii)~~] (iv) [~~The declaration shall~~] contain a legal description by metes and bounds of all
118 land that may be added to the condominium project, which is known as additional land[-];

119 ~~[(iv)]~~ (v) ~~[The declaration shall]~~ state:

120 (A) if any of the additional land is added to the condominium project, whether all of it
121 or any particular portion of it must be added;

122 (B) any limitations as to what portions may be added; or

123 (C) a statement that there are no such limitations~~[-]~~;

124 ~~[(v)]~~ (vi) ~~[The declaration shall]~~ include a statement as to whether portions of the
125 additional land may be added to the condominium project at different times, ~~[together with]~~
126 including any limitations fixing the boundaries of those portions by legal descriptions setting
127 forth the metes and bounds of these lands and regulating the order in which they may be added
128 to the condominium project~~[-]~~;

129 ~~[(vi)]~~ (vii) ~~[The declaration shall]~~ include a statement of any limitations ~~[as to]~~ on the
130 locations of any improvements that may be made on any portions of the additional land added
131 to the condominium project, or a statement that no assurances are made in that regard~~[-]~~;

132 ~~[(vii)]~~ (viii) (A) ~~[The declaration shall]~~ state the maximum number of units that may be
133 created on the additional land~~[-If]~~;

134 (B) if portions of the additional land may be added to the condominium project and the
135 boundaries of those portions are fixed in accordance with Subsection (4)(a)~~[(v)]~~(vi), the
136 declaration shall also state the maximum number of units that may be created on each portion
137 added to the condominium project~~[-If]~~; and

138 (C) if portions of the additional land may be added to the condominium project and the
139 boundaries of those portions are not fixed in accordance with Subsection (4)(a)~~[(v)]~~(vi), ~~[then~~
140 ~~the declaration shall also]~~ state the maximum number of units per acre that may be created on
141 any portion added to the condominium project~~[-]~~;

142 ~~[(viii)]~~ (ix) ~~[With]~~ with respect to the additional land and to any portion of ~~[it]~~ the
143 additional land that may be added to the condominium project, ~~[the declaration shall]~~ state the
144 maximum percentage of the aggregate land and floor area of all units that may be created on it,
145 the use of which will not or may not be restricted exclusively to residential purposes~~[-~~

146 ~~However, these statements need not be supplied if]~~, unless none of the units on the land
147 originally within the project are restricted exclusively to residential use~~[-]~~;

148 ~~[(ix)]~~ (x) ~~[The declaration shall]~~ state the extent to which any structures erected on any
149 portion of the additional land added to the condominium project will be compatible with

150 structures on the land originally within the project in terms of quality of construction, the
151 principal materials to be used, and architectural style~~[- The declaration may also state]~~, or that
152 no assurances are made in those regards[-];

153 ~~[(x)]~~ (xi) ~~[The declaration shall]~~ describe all other improvements that will be made on
154 any portion of the additional land added to the condominium project, ~~[or it shall contain a~~
155 ~~statement of]~~ including any limitations ~~[as to]~~ on what other improvements may be made on ~~[it-~~
156 ~~The declaration may also]~~ the additional land, or state that no assurances are made in that
157 regard[-];

158 ~~[(xi)]~~ (xii) ~~[The declaration shall]~~ contain a statement that any units created on any
159 portion of the additional land added to the condominium project will be substantially identical
160 to the units on the land originally within the project, ~~[or]~~ a statement of any limitations ~~[as to]~~
161 on what types of units may be created on ~~[it- The declaration may also contain]~~ the additional
162 land, or a statement that no assurances are made in that regard[-]; and

163 ~~[(xii)]~~ (xiii) ~~[The declaration shall]~~ describe the declarant's reserved right, if any, to
164 create limited common areas and facilities within any portion of the additional land added to
165 the condominium project, in terms of the types, sizes, and maximum number of limited
166 common areas within each portion~~[- The declaration may also]~~, or state that no assurances are
167 made in those regards.

168 (b) The condominium plat recorded with the declaration may provide or supplement
169 the information required under Subsections (4)(a)~~[(iii)]~~(iv) through ~~[(a)(vi)]~~ (vii) and
170 ~~(a)~~[(ix)]~~(x)~~ through ~~[(a)(xii)]~~ (xiii).

171 (5) If the condominium project is a contractible condominium, the declaration shall:

172 (a) (i) ~~[The declaration shall]~~ contain an explicit reservation of an option to contract the
173 condominium project[-];

174 (ii) ~~[The declaration shall]~~ contain a statement of any limitations on the option to
175 contract, including a statement ~~[as to]~~ regarding whether the consent of any unit owners ~~[shall~~
176 ~~be]~~ is required, and if so, a statement ~~[as to]~~ regarding the method by which this consent shall
177 be ascertained~~[- The declaration may also contain]~~, or a statement that there are no such
178 limitations[-];

179 (iii) ~~[The declaration shall]~~ state the time limit, not exceeding seven years ~~[from the~~
180 ~~recording of]~~ after the day on which the declaration is recorded, upon which the option to

181 contract the condominium project [~~shall expire~~] expires, together with a statement of any
 182 circumstances [~~which~~] that will terminate [~~this~~] the option [~~prior to~~] before expiration of the
 183 specified time limit[-];

184 ~~(b)(i)~~ (iv) [~~The declaration shall~~] include a legal description by metes and bounds of
 185 all land that may be withdrawn from the condominium project, which is known as
 186 withdrawable land[-];

187 ~~(ii)~~ (v) [~~The declaration shall~~] include a statement as to whether portions of the
 188 withdrawable land may be withdrawn from the condominium project at different times,
 189 together with any limitations fixing the boundaries of those portions by legal descriptions
 190 setting forth the metes and bounds and regulating the order in which they may be withdrawn
 191 from the condominium project[-]; and

192 ~~(iii)~~ (vi) [~~The declaration shall~~] include a legal description by metes and bounds of all
 193 of the land within the condominium project to which the option to contract the project does not
 194 extend.

195 ~~(c)~~ (b) The condominium plat recorded with the declaration may provide or
 196 supplement the information required under [~~Subsection (5)(b)~~] Subsections (5)(a)(iv) through
 197 (vi).

198 (6) (a) If the condominium project is a leasehold condominium, [~~then~~] the declaration
 199 shall, with respect to any ground lease or other leases the expiration or termination of which
 200 will or may terminate or contract the condominium project:

201 (i) [~~The declaration shall~~] include recording information enabling the location of each
 202 lease in the official records of the county recorder[-];

203 (ii) [~~The declaration shall~~] include the date upon which each lease is due to expire[-];

204 (iii) [~~The declaration shall~~] state whether any land or improvements will be owned by
 205 the unit owners in fee simple[-~~ff~~];

206 (iv) if there is to be fee simple ownership of any land or improvement, as described in
 207 Subsection (6)(a)(iii), [~~the declaration shall~~] include:

208 (A) a description of the land or improvements, including [~~without limitation~~], a legal
 209 description by metes and bounds of the land; or

210 (B) a statement of any rights the unit owners have to remove these improvements
 211 within a reasonable time after the expiration or termination of the lease or leases involved, or a

212 statement that they shall have no such rights~~[;]~~; and

213 ~~[(iv)]~~ (v) ~~[The declaration shall]~~ include a statement of the rights the unit owners have
214 to extend or renew any of the leases or to redeem or purchase any of the reversions, or a
215 statement that they have no such rights.

216 (b) After the recording of the declaration, ~~[no]~~ a lessor who executed the declaration,
217 ~~[and no]~~ or the lessor's successor in interest ~~[to this lessor]~~, ~~[has any right or power to]~~ may not
218 terminate any part of the leasehold interest of any unit owner who:

219 (i) makes timely payment of ~~[his]~~ the unit owner's share of the rent to the persons
220 designated in the declaration for the receipt of the rent; and

221 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
222 the lease if ~~[they]~~ the covenants were violated.

223 (7) (a) If the condominium project contains time period units, the declaration shall also
224 contain the location of each condominium unit in the calendar year. This information shall be
225 set out in a fourth column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the
226 exhibit or schedule accompanies the declaration.

227 (b) The declaration shall also put timeshare owners on notice that tax notices will be
228 sent to the management committee, not each timeshare owner.

229 (c) The time period units created with respect to any given physical unit shall be such
230 that the aggregate of the durations involved constitute a full calendar year.

231 (8) (a) The declaration, bylaws, and condominium plat shall be duly executed and
232 acknowledged by all of the owners and any lessees of the land which is made subject to this
233 chapter.

234 (b) As used in Subsection (8)(a), "owners and lessees" does not include, in their
235 respective capacities, any mortgagee, any trustee or beneficiary under a deed of trust, any other
236 lien holder, any person having an equitable interest under any contract for the sale or lease of a
237 condominium unit, or any lessee whose leasehold interest does not extend to any portion of the
238 common areas and facilities.

239 (9) (a) As used in this section, "rentals" or "rental unit" means:

240 (i) a unit owned by an individual not described in Subsection (9)(a)(ii) that is occupied
241 by someone while no unit owner occupies the unit as the unit owner's primary residence; and

242 (ii) a unit owned by an entity or trust, regardless of who occupies the unit.

243 (b) (i) Subject to Subsections (9)(c), (f), and ~~[(g)]~~ (h), an association of unit owners
244 may:

245 (A) ~~[create restrictions on]~~ restrict the number and term of rentals in a condominium
246 project; or

247 (B) prohibit rentals in the condominium project.

248 (ii) An association of unit owners that ~~[creates a rental restriction or prohibition in~~
249 ~~accordance with Subsection (9)(b)(i)]~~ restricts or prohibits rentals shall create the rental
250 restriction or prohibition in a declaration or by amending the declaration.

251 (c) If an association of unit owners prohibits or imposes restrictions on the number and
252 term of rentals, the restrictions shall include:

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

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

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

257 (C) a unit owner whose employer has relocated the unit owner for no less than two
258 years; or

259 (D) a unit owned by a trust or other entity created for estate planning purposes if the
260 trust or other estate planning entity was created for the estate of:

261 (I) a current resident of the unit; or

262 (II) the parent, child, or sibling of the current resident of the unit;

263 (ii) a provision ~~[allowing]~~ that allows a unit owner who has a rental in the
264 condominium project before the time the rental restriction described in Subsection (9)(b)(i) is
265 recorded with the county recorder of the county in which the condominium project is located to
266 continue renting until:

267 (A) the unit owner occupies the unit; or

268 (B) an officer, owner, member, trustee, beneficiary, director, or person holding a
269 similar position of ownership or control of an entity or trust that holds an ownership interest in
270 the unit, occupies the unit; and

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

273 (A) determine and track the number of rentals and units in the condominium project

274 subject to the provisions described in Subsections (9)(c)(i) and (ii); and

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

276 (d) For purposes of Subsection (9)(c)(ii), a transfer occurs when one or more of the
277 following occur:

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

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

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

283 (e) This section does not limit or affect residency age requirements for an association
284 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42
285 U.S.C. Sec. 3607.

286 (f) A declaration or amendment to a declaration recorded [~~prior to~~] before transfer of
287 the first unit from the initial declarant may prohibit or restrict rentals without providing for the
288 exceptions, provisions, and procedures required under Subsection (9)(c).

289 (g) Except as provided in Subsection (9)(h), the provisions of this Subsection (9) apply
290 regardless of when a condominium project's initial declaration is recorded.

291 [~~(g)~~] (h) [This section does] The provisions of this Subsection (9) do not apply to:

292 (i) a condominium project [~~containing~~] that contains a time period unit as defined in
293 Section 57-8-3; or

294 (ii) any other form of timeshare interest as defined in Section 57-19-2[~~;~~ or].

295 [~~(iii) a condominium project in which the initial declaration is recorded before May 12,~~
296 ~~2009.~~]

297 [~~(h)~~] (i) Notwithstanding the provisions of this [section] Subsection (9), an association
298 of unit owners may, upon unanimous approval by all unit owners, restrict or prohibit rentals
299 without an exception described in Subsection (9)(c).

300 (j) An association of unit owners may only restrict or prohibit rentals if the restriction
301 or prohibition is permitted under this Subsection (9).

302 Section 2. Section **57-8-13.8** is amended to read:

303 **57-8-13.8. Contraction of project.**

304 A condominium project may be contracted under the provisions of the declaration and

305 the provisions of this chapter. Any such contraction shall be considered to have occurred at the
306 time of the recordation of an amendment to the declaration, executed by the declarant,
307 containing a legal description by metes and bounds of the land withdrawn from the
308 condominium project. If portions of the withdrawable land were described pursuant to
309 Subsection 57-8-10(5)(~~(b)~~(i))(a)(iv), then no described portion may be so withdrawn after the
310 conveyance of any unit on the portion. If no withdrawable portions were described, then none
311 of the withdrawable land may be withdrawn after the first conveyance of any unit on the
312 portion.

313 Section 3. Section 57-8-13.10 is amended to read:

314 **57-8-13.10. Condominiums containing convertible land -- Expandable**
315 **condominiums -- Allocation of interests in common areas and facilities.**

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

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

321 (b) prohibits the creation of any units not described under Subsection
322 57-8-10(3)(a)(vii) in the case of convertible land, Subsection 57-8-10(4)(a)(~~(xi)~~(xii) in the
323 case of additional land, and contains from the outset a statement of the par value that shall be
324 assigned to every unit that may be created.

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

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

334 (3) If all of a convertible space is converted into common areas and facilities, including
335 limited common areas and facilities, then the undivided interest in the common areas and

336 facilities appertaining to the convertible space shall afterward appertain to the remaining units
337 and shall be allocated among them in proportion to their undivided interests in the common
338 areas and facilities. The principal officer of the unit owners' association or of the management
339 committee, or any other officer specified in the declaration, shall immediately prepare, execute,
340 and record an amendment to the declaration reflecting the reallocation of undivided interest
341 produced by the conversion.

342 (4) (a) If the expiration or termination of any lease of a leasehold condominium causes
343 a contraction of the condominium project which reduces the number of units, or if the
344 withdrawal of withdrawable land of a contractible condominium causes a contraction of the
345 condominium project which reduces the number of units, the undivided interest in the common
346 areas and facilities appertaining to any units so withdrawn shall afterward appertain to the
347 remaining units, being allocated among them in proportion to their undivided interests in the
348 common areas and facilities.

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

353 Section 4. Section **57-8a-209** is amended to read:

354 **57-8a-209. Rental restrictions.**

355 (1) As used in this section, "rentals" or "rental lot" means:

356 (a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by
357 someone while no lot owner occupies the lot as the lot owner's primary residence; and

358 (b) a lot owned by an entity or trust, regardless of who occupies the lot.

359 (2) (a) Subject to Subsections (2)(b), (6), and ~~[(7)]~~ (8), an association may:

360 (i) ~~[create restrictions on]~~ restrict the number and term of rentals in an association; or

361 (ii) prohibit rentals in the association.

362 (b) An association that ~~[creates a rental restriction or prohibition in accordance with~~
363 ~~Subsection (1)(a)(i)]~~ restricts or prohibits rentals shall create the rental restriction or prohibition
364 in a recorded declaration of covenants, conditions, and restrictions, or by amending the
365 recorded declaration of covenants, conditions, and restrictions.

366 (3) If an association prohibits or imposes restrictions on the number and term of

367 rentals, the restrictions shall include:

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

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

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

372 (iii) a lot owner whose employer has relocated the lot owner for no less than two years;

373 or

374 (iv) a lot owned by a trust or other entity created for estate planning purposes if the
375 trust or other estate planning entity was created for:

376 (A) the estate of a current resident of the lot; or

377 (B) the parent, child, or sibling of the current resident of the lot;

378 (b) a provision [~~allowing~~] that allows a lot owner who has a rental in the association
379 before the time the rental restriction described in Subsection (2)(a) is recorded with the county
380 recorder of the county in which the association is located to continue renting until:

381 (i) the lot owner occupies the lot; or

382 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
383 similar position of ownership or control of an entity or trust that holds an ownership interest in
384 the lot, occupies the lot; and

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

386 (i) determine and track the number of rentals and lots in the association subject to the
387 provisions described in Subsections (3)(a) and (b); and

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

389 (4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the
390 following occur:

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

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

393 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
394 business entity, the sale or transfer of more than 75% of the business entity's share, stock,
395 membership interests, or partnership interests in a 12-month period.

396 (5) This section does not limit or affect residency age requirements for an association
397 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.

398 3607.

399 (6) The declaration of covenants, conditions, and restrictions or amendments to the
400 declaration of covenants, conditions, and restrictions recorded prior to the transfer of the first
401 lot from the initial declarant may prohibit or restrict rentals without providing for the
402 exceptions, provisions, and procedures required under Subsection (3)(a).

403 (7) Except as provided in Subsection (8), the provisions of this section apply regardless
404 of when an association's initial declaration of covenants, conditions, and restrictions is
405 recorded.

406 [~~(7)~~] (8) [This] The provisions of this section [does] do not apply to:

407 (a) an association containing a time period unit as defined in Section 57-8-3; or

408 (b) any other form of timeshare interest as defined in Section 57-19-2[; ~~or~~].

409 [~~(c) an association in which the initial declaration of covenants, conditions, and~~
410 ~~restrictions is recorded before May 12, 2009.]~~

411 [~~(8)~~] (9) Notwithstanding the provisions of this section, an association may, upon
412 unanimous approval by all lot owners, restrict or prohibit rentals without an exception
413 described in Subsection (3).

414 (10) An association of unit owners may only restrict or prohibit rentals if the restriction
415 or prohibition is permitted under this section.