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**RENTAL AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Utah Municipal Code, the Condominium Ownership Act, and the Community Association Act relating to rentals.

**Highlighted Provisions:**

This bill:

▶ clarifies that a municipality may not, without cause and notice, require a landlord to submit to a building inspection;

▶ prohibits, except under certain circumstances, an association or an association of unit owners from requiring a lot owner or a unit owner to:

• obtain the association's or the association of unit owners' approval of a prospective renter; or

• give the association or the association of unit owners a copy of certain documents relating to a renter; and

▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28 **10-1-203.5**, as enacted by Laws of Utah 2012, Chapter 289
- 29 **57-8-10**, as last amended by Laws of Utah 2011, Chapter 355
- 30 **57-8-13.8**, as last amended by Laws of Utah 1992, Chapter 12
- 31 **57-8-13.10**, as last amended by Laws of Utah 2003, Chapter 265
- 32 **57-8a-209**, as enacted by Laws of Utah 2009, Chapter 178

33 ENACTS:

34 **57-8-10.1**, Utah Code Annotated 1953

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

37 Section 1. Section **10-1-203.5** is amended to read:

38 **10-1-203.5. Disproportionate rental fee -- Good landlord training program -- Fee**  
39 **reduction.**

40 (1) As used in this section:

41 (a) "Business" means the rental of one or more residential units within a municipality.

42 (b) "Disproportionate rental fee" means a fee adopted by a municipality to recover its  
43 disproportionate costs of providing municipal services to residential rental units compared to  
44 similarly-situated owner-occupied housing.

45 (c) "Disproportionate rental fee reduction" means a reduction of a disproportionate  
46 rental fee as a condition of complying with the requirements of a good landlord training  
47 program.

48 (d) "Exempt business" means the rental of a residential unit within a single structure  
49 that contains:

50 (i) no more than four residential units; and

51 (ii) one unit occupied by the owner.

52 (e) "Exempt landlord" means a residential landlord who demonstrates to a  
53 municipality:

54 (i) completion of any live good landlord training program offered by any other Utah  
55 city that offers a good landlord program;

56 (ii) that the residential landlord has a current professional designation of "property  
57 manager"; or

58 (iii) compliance with a requirement described in Subsection (4).

59 (f) "Good landlord training program" means a program offered by a municipality to  
60 encourage business practices that are designed to reduce the disproportionate cost of municipal  
61 services to residential rental units by offering a disproportionate rental fee reduction for any  
62 landlord who:

- 63 (i) (A) completes a landlord training program provided by the municipality; or
- 64 (B) is an exempt landlord;
- 65 (ii) implements measures to reduce crime in rental housing as specified in a municipal  
66 ordinance or policy; and
- 67 (iii) operates and manages rental housing in accordance with an applicable municipal  
68 ordinance.

69 (g) "Municipal services" means:

- 70 (i) public utilities;
- 71 (ii) police;
- 72 (iii) fire;
- 73 (iv) code enforcement;
- 74 (v) storm water runoff;
- 75 (vi) traffic control;
- 76 (vii) parking;
- 77 (viii) transportation;
- 78 (ix) beautification; or
- 79 (x) snow removal.

80 (h) "Municipal services study" means a study of the cost of all municipal services to  
81 rental housing that:

- 82 (i) are reasonably attributable to the rental housing; and
- 83 (ii) exceed the municipality's cost to serve similarly-situated, owner-occupied housing.

84 (2) The legislative body of a municipality may charge and collect a disproportionate  
85 rental fee on a business that causes disproportionate costs to municipal services if the  
86 municipality:

- 87 (a) has performed a municipal services study; and
- 88 (b) adopts a disproportionate rental fee that does not exceed the amount that is justified  
89 by the municipal services study on a per residential rental unit basis.

90 (3) A municipality may not:

91 (a) impose a disproportionate rental fee on an exempt business;

92 (b) require a landlord to deny tenancy to an individual released from probation or  
93 parole whose conviction date occurred more than four years before the date of tenancy; or

94 (c) without cause and notice, require a landlord to submit to a [~~random~~] building  
95 inspection.

96 (4) In addition to a requirement or qualification described in Subsection (1)(e), a  
97 municipality may recognize a landlord training described in its ordinance.

98 (5) (a) If a municipality adopts a good landlord program, the municipality shall provide  
99 an appeal procedure affording due process of law to a landlord who is denied a  
100 disproportionate rental fee reduction.

101 (b) A municipality may not adopt a new disproportionate rental fee unless the  
102 municipality provides a disproportionate rental fee reduction.

103 Section 2. Section **57-8-10** is amended to read:

104 **57-8-10. Contents of declaration.**

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

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

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

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

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

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

120 and

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

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

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

129 (d) (i) The declaration shall include the percentage or fraction of undivided interest in  
130 the common areas and facilities appurtenant to each unit and ~~[its]~~ the unit owner for all  
131 purposes, including voting, derived and allocated in accordance with Subsection 57-8-7(2).

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

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

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

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

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

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

146 (e) The initial recorded declaration shall include:

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

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

152 of the declaration."

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

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

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

158 (iii) [~~(A) The declaration shall~~] state, with respect to each area of convertible land, the  
159 maximum percentage of the aggregate land and floor area of all units that may be created and  
160 the use of which will not or may not be restricted exclusively to residential purposes[-. ~~(B) The~~  
161 ~~statements described in Subsection (3)(a)(iii)(A) need not be supplied if~~], unless none of the  
162 units on other portions of the land within the project are restricted exclusively to residential  
163 use[-];

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

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

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

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

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

178 (4) If the condominium project is an expandable condominium project, the declaration  
179 shall:

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

182 [~~(B)~~] (ii) [~~The declaration shall~~] include a statement of any limitations on the option to

183 expand, including a statement as to whether the consent of any unit owners [~~shall be~~] is  
 184 required and, a statement as to the method by which consent shall be ascertained, or a  
 185 statement that there are no such limitations[-];

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

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

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

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

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

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

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

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

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

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

212 (C) if portions of the additional land may be added to the condominium project and the  
 213 boundaries of those portions are not fixed in accordance with Subsection (4)(a)[~~(v)~~](vi), [~~then~~

214 ~~the declaration shall also~~] state the maximum number of units per acre that may be created on  
 215 any portion added to the condominium project[-:];

216 ~~[(viii) With]~~ (ix) with respect to the additional land and to any portion of [it] the  
 217 additional land that may be added to the condominium project, ~~[the declaration shall]~~ state the  
 218 maximum percentage of the aggregate land and floor area of all units that may be created on it,  
 219 the use of which will not or may not be restricted exclusively to residential purposes[-:  
 220 ~~However, these statements need not be supplied if]~~, unless none of the units on the land  
 221 originally within the project are restricted exclusively to residential use[-:];

222 ~~[(ix)]~~ (x) ~~[The declaration shall]~~ state the extent to which any structures erected on any  
 223 portion of the additional land added to the condominium project will be compatible with  
 224 structures on the land originally within the project in terms of quality of construction, the  
 225 principal materials to be used, and architectural style~~[-The declaration may also state]~~, or that  
 226 no assurances are made in those regards[-:];

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

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

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

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



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

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

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

253 (iii) [~~The declaration shall~~] state the time limit, not exceeding seven years [~~from the~~  
254 ~~recording of~~] after the day on which the declaration is recorded, upon which the option to  
255 contract the condominium project [~~shall expire~~] expires, together with a statement of any  
256 circumstances [~~which~~] that will terminate [~~this option prior to~~] the option before expiration of  
257 the specified time limit[-];

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

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

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

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

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

275 (i) [~~The declaration shall~~] include recording information enabling the location of each

276 lease in the official records of the county recorder[-];

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

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

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

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

284 (B) a statement of any rights the unit owners have to remove these improvements  
285 within a reasonable time after the expiration or termination of the lease or leases involved, or a  
286 statement that they shall have no such rights[-]; and

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

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

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

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

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

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

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

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

307 chapter.

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

313 [~~(9) (a) As used in this section, "rentals" or "rental unit" means:~~]

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

316 [~~(ii) a unit owned by an entity or trust, regardless of who occupies the unit.]~~

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

318 [~~(A) create restrictions on the number and term of rentals in a condominium project;~~

319 ~~or]~~

320 [~~(B) prohibit rentals in the condominium project.]~~

321 [~~(ii) An association of unit owners that creates a rental restriction or prohibition in  
322 accordance with Subsection (9)(b)(i) shall create the rental restriction or prohibition in a  
323 declaration or by amending the declaration.]~~

324 [~~(c) If an association of unit owners prohibits or imposes restrictions on the number  
325 and term of rentals, the restrictions shall include:]~~

326 [~~(i) a provision that requires a condominium project to exempt from the rental  
327 restrictions the following unit owner and the unit owner's unit:]~~

328 [~~(A) a unit owner in the military for the period of the unit owner's deployment;]~~

329 [~~(B) a unit occupied by a unit owner's parent, child, or sibling;]~~

330 [~~(C) a unit owner whose employer has relocated the unit owner for no less than two  
331 years; or]~~

332 [~~(D) a unit owned by a trust or other entity created for estate planning purposes if the  
333 trust or other estate planning entity was created for the estate of:]~~

334 [~~(I) a current resident of the unit; or]~~

335 [~~(H) the parent, child, or sibling of the current resident of the unit;]~~

336 [~~(ii) a provision allowing a unit owner who has a rental in the condominium project  
337 before the time the rental restriction described in Subsection (9)(b)(i) is recorded with the~~

338 county recorder of the county in which the condominium project is located to continue renting  
339 until:]

340 [~~(A) the unit owner occupies the unit; or]~~

341 [~~(B) an officer, owner, member, trustee, beneficiary, director, or person holding a  
342 similar position of ownership or control of an entity or trust that holds an ownership interest in  
343 the unit, occupies the unit; and]~~

344 [~~(iii) a requirement that the association of unit owners create, by rule or resolution,  
345 procedures to:]~~

346 [~~(A) determine and track the number of rentals and units in the condominium project  
347 subject to the provisions described in Subsections (9)(c)(i) and (ii); and]~~

348 [~~(B) ensure consistent administration and enforcement of the rental restrictions.]~~

349 [~~(d) For purposes of Subsection (9)(c)(ii), a transfer occurs when one or more of the  
350 following occur:]~~

351 [~~(i) the conveyance, sale, or other transfer of a unit by deed;]~~

352 [~~(ii) the granting of a life estate in the unit; or]~~

353 [~~(iii) if the unit is owned by a limited liability company, corporation, partnership, or  
354 other business entity, the sale or transfer of more than 75% of the business entity's share, stock,  
355 membership interests, or partnership interests in a 12-month period:]~~

356 [~~(e) This section does not limit or affect residency age requirements for an association  
357 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42  
358 U.S.C. Sec. 3607.]~~

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

362 [~~(g) This section does not apply to:]~~

363 [~~(i) a condominium project containing a time period unit as defined in Section 57-8-3;]~~

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

365 [~~(iii) a condominium project in which the initial declaration is recorded before May 12,  
366 2009.]~~

367 [~~(h) Notwithstanding this section, an association of unit owners may, upon unanimous  
368 approval by all unit owners, restrict or prohibit rentals without an exception described in~~

369 Subsection (9)(c):]

370 Section 3. Section **57-8-10.1** is enacted to read:

371 **57-8-10.1. Rental restrictions.**

372 (1) As used in this section, "rentals" or "rental unit" means:

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

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

376 (2) (a) Subject to Subsections (2)(b), (6), and (7), an association of unit owners may:

377 (i) create restrictions on the number and term of rentals in a condominium project; or

378 (ii) prohibit rentals in the condominium project.

379 (b) An association of unit owners that creates a rental restriction or prohibition in

380 accordance with Subsection (2)(a)(i) shall create the rental restriction or prohibition in a

381 declaration or by amending the declaration.

382 (3) If an association of unit owners prohibits or imposes restrictions on the number and

383 term of rentals, the restrictions shall include:

384 (a) a provision that requires a condominium project to exempt from the rental

385 restrictions the following unit owner and the unit owner's unit:

386 (i) a unit owner in the military for the period of the unit owner's deployment;

387 (ii) a unit occupied by a unit owner's parent, child, or sibling;

388 (iii) a unit owner whose employer has relocated the unit owner for no less than two

389 years; or

390 (iv) a unit owned by a trust or other entity created for estate planning purposes if the

391 trust or other estate planning entity was created for the estate of:

392 (A) a current resident of the unit; or

393 (B) the parent, child, or sibling of the current resident of the unit;

394 (b) a provision that allows a unit owner who has a rental in the condominium project

395 before the time the rental restriction described in Subsection (2)(a) is recorded with the county

396 recorder of the county in which the condominium project is located to continue renting until:

397 (i) the unit owner occupies the unit; or

398 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a

399 similar position of ownership or control of an entity or trust that holds an ownership interest in

400 the unit, occupies the unit; and

401 (c) a requirement that the association of unit owners create, by rule or resolution,  
402 procedures to:

403 (i) determine and track the number of rentals and units in the condominium project  
404 subject to the provisions described in Subsections (3)(a) and (b); and

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

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

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

409 (b) the granting of a life estate in the unit; or

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

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

416 (6) A declaration or amendment to a declaration recorded before transfer of the first  
417 unit from the initial declarant may prohibit or restrict rentals without providing for the  
418 exceptions, provisions, and procedures required under Subsection (3)(a).

419 (7) Subsections (2) through (6) do not apply to:

420 (a) a condominium project that contains a time period unit as defined in Section  
421 [57-8-3](#);

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

423 (c) a condominium project in which the initial declaration is recorded before May 12,  
424 2009.

425 (8) Notwithstanding this section, an association of unit owners may, upon unanimous  
426 approval by all unit owners, restrict or prohibit rentals without an exception described in  
427 Subsection (3).

428 (9) Except as provided in Subsection (10), an association of unit owners may not  
429 require a unit owner who owns a rental unit to:

430 (a) obtain the association of unit owners' approval of a prospective renter; or

- 431 (b) give the association of unit owners:  
 432 (i) a copy of a rental application;  
 433 (ii) a copy of a renter's or prospective renter's credit information or credit report;  
 434 (iii) a copy of a renter's or prospective renter's background check; or  
 435 (iv) documentation to verify the renter's age.

436 (10) (a) A unit owner who owns a rental unit shall give an association of unit owners  
 437 the documents described in Subsection (9)(b) if the unit owner is required to provide the  
 438 documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

439 (b) If an association of unit owners' declaration lawfully prohibits or restricts  
 440 occupancy of the units by a certain class of individuals, the association of unit owners may  
 441 require a unit owner who owns a rental unit to give the association of unit owners the  
 442 information described in Subsection (9)(b), if:

- 443 (i) the information helps the association of unit owners determine whether the renter's  
 444 occupancy of the unit complies with the association of unit owners' declaration; and  
 445 (ii) the association of unit owners uses the information to determine whether the  
 446 renter's occupancy of the unit complies with the association of unit owners' declaration.

447 Section 4. Section **57-8-13.8** is amended to read:

448 **57-8-13.8. Contraction of project.**

449 A condominium project may be contracted under the provisions of the declaration and  
 450 the provisions of this chapter. Any such contraction shall be considered to have occurred at the  
 451 time of the recordation of an amendment to the declaration, executed by the declarant,  
 452 containing a legal description by metes and bounds of the land withdrawn from the  
 453 condominium project. If portions of the withdrawable land were described pursuant to  
 454 Subsection ~~57-8-10[(5)(b)(i)](5)(a)(iv)~~, then no described portion may be so withdrawn after  
 455 the conveyance of any unit on the portion. If no withdrawable portions were described, then  
 456 none of the withdrawable land may be withdrawn after the first conveyance of any unit on the  
 457 portion.

458 Section 5. Section **57-8-13.10** is amended to read:

459 **57-8-13.10. Condominiums containing convertible land -- Expandable**  
 460 **condominiums -- Allocation of interests in common areas and facilities.**

461 (1) If a condominium project contains any convertible land or is an expandable

462 condominium, then the declaration may not allocate undivided interests in the common areas  
463 and facilities on the basis of par value unless the declaration:

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

466 (b) prohibits the creation of any units not described under Subsection  
467 57-8-10(3)(a)(vii) in the case of convertible land, Subsection 57-8-10(4)(a)[~~(xi)~~](xii) in the  
468 case of additional land, and contains from the outset a statement of the par value that shall be  
469 assigned to every unit that may be created.

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

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

479 (3) If all of a convertible space is converted into common areas and facilities, including  
480 limited common areas and facilities, then the undivided interest in the common areas and  
481 facilities appertaining to the convertible space shall afterward appertain to the remaining units  
482 and shall be allocated among them in proportion to their undivided interests in the common  
483 areas and facilities. The principal officer of the unit owners' association or of the management  
484 committee, or any other officer specified in the declaration, shall immediately prepare, execute,  
485 and record an amendment to the declaration reflecting the reallocation of undivided interest  
486 produced by the conversion.

487 (4) (a) If the expiration or termination of any lease of a leasehold condominium causes  
488 a contraction of the condominium project which reduces the number of units, or if the  
489 withdrawal of withdrawable land of a contractible condominium causes a contraction of the  
490 condominium project which reduces the number of units, the undivided interest in the common  
491 areas and facilities appertaining to any units so withdrawn shall afterward appertain to the  
492 remaining units, being allocated among them in proportion to their undivided interests in the



493 common areas and facilities.

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

498 Section 6. Section **57-8a-209** is amended to read:

499 **57-8a-209. Rental restrictions.**

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

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

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

504 (2) (a) Subject to Subsections (2)(b), (6), and (7), an association may:

505 (i) create restrictions on the number and term of rentals in an association; or

506 (ii) prohibit rentals in the association.

507 (b) An association that creates a rental restriction or prohibition in accordance with  
508 Subsection (1)(a)(i) shall create the rental restriction or prohibition in a recorded declaration of  
509 covenants, conditions, and restrictions, or by amending the recorded declaration of covenants,  
510 conditions, and restrictions.

511 (3) If an association prohibits or imposes restrictions on the number and term of  
512 rentals, the restrictions shall include:

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

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

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

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

518 or

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

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

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

523 (b) a provision [~~allowing~~] that allows a lot owner who has a rental in the association

524 before the time the rental restriction described in Subsection (2)(a) is recorded with the county  
525 recorder of the county in which the association is located to continue renting until:

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

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

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

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

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

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

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

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

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

541 (5) This section does not limit or affect residency age requirements for an association  
542 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.  
543 3607.

544 (6) The declaration of covenants, conditions, and restrictions or amendments to the  
545 declaration of covenants, conditions, and restrictions recorded [~~prior to~~] before the transfer of  
546 the first lot from the initial declarant may prohibit or restrict rentals without providing for the  
547 exceptions, provisions, and procedures required under Subsection (3)(a).

548 (7) [~~This section does~~] Subsections (2) through (6) do not apply to:

549 (a) an association [~~containing~~] that contains a time period unit as defined in Section  
550 [57-8-3](#);

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

552 (c) an association in which the initial declaration of covenants, conditions, and  
553 restrictions is recorded before May 12, 2009.

554 (8) Notwithstanding this section, an association may, upon unanimous approval by all

555 lot owners, restrict or prohibit rentals without an exception described in Subsection (3).

556 (9) Except as provided in Subsection (10), an association may not require a lot owner  
557 who owns a rental lot to:

558 (a) obtain the association's approval of a prospective renter; or

559 (b) give the association:

560 (i) a copy of a rental application;

561 (ii) a copy of a renter's or prospective renter's credit information or credit report;

562 (iii) a copy of a renter's or prospective renter's background check; or

563 (iv) documentation to verify the renter's age.

564 (10) (a) A lot owner who owns a rental lot shall give an association the documents  
565 described in Subsection (9)(b) if the lot owner is required to provide the documents by court  
566 order or as part of discovery under the Utah Rules of Civil Procedure.

567 (b) If an association's declaration of covenants, conditions, and restrictions lawfully  
568 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may  
569 require a lot owner who owns a rental lot to give the association the information described in  
570 Subsection (9)(b), if:

571 (i) the information helps the association determine whether the renter's occupancy of  
572 the lot complies with the association's declaration of covenants, conditions, and restrictions;  
573 and

574 (ii) the association uses the information to determine whether the renter's occupancy of  
575 the lot complies with the association's declaration of covenants, conditions, and restrictions.

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**Legislative Review Note**  
**as of 2-21-14 3:56 PM**

**Office of Legislative Research and General Counsel**