

1 **CONDOMINIUM ACT AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Gage Froerer**

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

---

---

7 **LONG TITLE**

8 **General Description:**

9 This bill amends a provision related to condominiums.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **57-8-3**, as last amended by Laws of Utah 2016, Chapters 210 and 255

---

---

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

22 Section 1. Section **57-8-3** is amended to read:

23 **57-8-3. Definitions.**

24 As used in this chapter:

25 (1) "Assessment" means any charge imposed by the association, including:

26 (a) common expenses on or against a unit owner pursuant to the provisions of the  
27 declaration, bylaws, or this chapter; and



28 (b) an amount that an association of unit owners assesses to a unit owner under  
29 Subsection 57-8-43(9)(g).

30 (2) "Association of unit owners" or "association" means all of the unit owners:

31 (a) acting as a group in accordance with the declaration and bylaws; or

32 (b) organized as a legal entity in accordance with the declaration.

33 (3) "Building" means a building, containing units, and comprising a part of the  
34 property.

35 (4) "Commercial condominium project" means a condominium project that has no  
36 residential units within the project.

37 (5) "Common areas and facilities" unless otherwise provided in the declaration or  
38 lawful amendments to the declaration means:

39 (a) the land included within the condominium project, whether leasehold or in fee  
40 simple;

41 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,  
42 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

43 (c) the basements, yards, gardens, parking areas, and storage spaces;

44 (d) the premises for lodging of janitors or persons in charge of the property;

45 (e) installations of central services such as power, light, gas, hot and cold water,  
46 heating, refrigeration, air conditioning, and incinerating;

47 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all  
48 apparatus and installations existing for common use;

49 (g) such community and commercial facilities as may be provided for in the  
50 declaration; and

51 (h) all other parts of the property necessary or convenient to its existence, maintenance,  
52 and safety, or normally in common use.

53 (6) "Common expenses" means:

54 (a) all sums lawfully assessed against the unit owners;

55 (b) expenses of administration, maintenance, repair, or replacement of the common  
56 areas and facilities;

57 (c) expenses agreed upon as common expenses by the association of unit owners; and

58 (d) expenses declared common expenses by this chapter, or by the declaration or the

59 bylaws.

60 (7) "Common profits," unless otherwise provided in the declaration or lawful  
61 amendments to the declaration, means the balance of all income, rents, profits, and revenues  
62 from the common areas and facilities remaining after the deduction of the common expenses.

63 (8) "Condominium" means the ownership of a single unit in a multiunit project  
64 together with an undivided interest in common in the common areas and facilities of the  
65 property.

66 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in  
67 accordance with Section [57-8-13](#).

68 (10) "Condominium project" means a real estate condominium project; a plan or  
69 project whereby two or more units, whether contained in existing or proposed apartments,  
70 commercial or industrial buildings or structures, or otherwise, are separately offered or  
71 proposed to be offered for sale. Condominium project also means the property when the  
72 context so requires.

73 (11) "Condominium unit" means a unit together with the undivided interest in the  
74 common areas and facilities appertaining to that unit. Any reference in this chapter to a  
75 condominium unit includes both a physical unit together with its appurtenant undivided interest  
76 in the common areas and facilities and a time period unit together with its appurtenant  
77 undivided interest, unless the reference is specifically limited to a time period unit.

78 (12) "Contractible condominium" means a condominium project from which one or  
79 more portions of the land within the project may be withdrawn in accordance with provisions  
80 of the declaration and of this chapter. If the withdrawal can occur only by the expiration or  
81 termination of one or more leases, then the condominium project is not a contractible  
82 condominium within the meaning of this chapter.

83 (13) "Convertible land" means a building site which is a portion of the common areas  
84 and facilities, described by metes and bounds, within which additional units or limited common  
85 areas and facilities may be created in accordance with this chapter.

86 (14) "Convertible space" means a portion of the structure within the condominium  
87 project, which portion may be converted into one or more units or common areas and facilities,  
88 including limited common areas and facilities in accordance with this chapter.

89 (15) "Declarant" means all persons who execute the declaration or on whose behalf the

90 declaration is executed. From the time of the recordation of any amendment to the declaration  
91 expanding an expandable condominium, all persons who execute that amendment or on whose  
92 behalf that amendment is executed shall also come within this definition. Any successors of  
93 the persons referred to in this subsection who come to stand in the same relation to the  
94 condominium project as their predecessors also come within this definition.

95 (16) "Declaration" means the instrument by which the property is submitted to the  
96 provisions of this act, as it from time to time may be lawfully amended.

97 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

98 (18) "Expandable condominium" means a condominium project to which additional  
99 land or an interest in it may be added in accordance with the declaration and this chapter.

100 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

101 (20) "Governing documents":

102 (a) means a written instrument by which an association of unit owners may:

103 (i) exercise powers; or

104 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the  
105 association of unit owners; and

106 (b) includes:

107 (i) articles of incorporation;

108 (ii) bylaws;

109 (iii) a plat;

110 (iv) a declaration of covenants, conditions, and restrictions; and

111 (v) rules of the association of unit owners.

112 (21) "Independent third party" means a person that:

113 (a) is not related to the unit owner;

114 (b) shares no pecuniary interests with the unit owner; and

115 (c) purchases the unit in good faith and without the intent to defraud a current or future  
116 lienholder.

117 (22) "Leasehold condominium" means a condominium project in all or any portion of  
118 which each unit owner owns an estate for years in his unit, or in the land upon which that unit  
119 is situated, or both, with all those leasehold interests to expire naturally at the same time. A  
120 condominium project including leased land, or an interest in the land, upon which no units are

121 situated or to be situated is not a leasehold condominium within the meaning of this chapter.

122 (23) "Limited common areas and facilities" means those common areas and facilities  
123 designated in the declaration as reserved for use of a certain unit or units to the exclusion of the  
124 other units.

125 (24) "Majority" or "majority of the unit owners," unless otherwise provided in the  
126 declaration or lawful amendments to the declaration, means the owners of more than 50% in  
127 the aggregate in interest of the undivided ownership of the common areas and facilities.

128 (25) "Management committee" means the committee as provided in the declaration  
129 charged with and having the responsibility and authority to make and to enforce all of the  
130 reasonable rules covering the operation and maintenance of the property.

131 (26) (a) "Means of electronic communication" means an electronic system that allows  
132 individuals to communicate orally in real time.

133 (b) "Means of electronic communication" includes:

134 (i) web conferencing;

135 (ii) video conferencing; and

136 (iii) telephone conferencing.

137 (27) "Meeting" means a gathering of a management committee, whether in person or  
138 by means of electronic communication, at which the management committee can take binding  
139 action.

140 (28) "Mixed-use condominium project" means a condominium project that has both  
141 residential and commercial units in the condominium project.

142 (29) "Par value" means a number of dollars or points assigned to each unit by the  
143 declaration. Substantially identical units shall be assigned the same par value, but units located  
144 at substantially different heights above the ground, or having substantially different views, or  
145 having substantially different amenities or other characteristics that might result in differences  
146 in market value, may be considered substantially identical within the meaning of this  
147 subsection. If par value is stated in terms of dollars, that statement may not be considered to  
148 reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or  
149 fair market transaction at a different figure may affect the par value of any unit, or any  
150 undivided interest in the common areas and facilities, voting rights in the unit owners'  
151 association, liability for common expenses, or right to common profits, assigned on the basis

152 thereof.

153 (30) "Period of administrative control" means the period of control described in  
154 Subsection 57-8-16.5(1).

155 (31) "Person" means an individual, corporation, partnership, association, trustee, or  
156 other legal entity.

157 (32) "Property" means the land, whether leasehold or in fee simple, the building, if any,  
158 all improvements and structures thereon, all easements, rights, and appurtenances belonging  
159 thereto, and all articles of personal property intended for use in connection therewith.

160 (33) "Record," "recording," "recorded," and "recorder" have the meaning stated in  
161 Chapter 3, Recording of Documents.

162 (34) "Rentals" or "rental unit" means:

163 (a) a unit that:

164 (i) is not owned by an entity or trust; and

165 (ii) is occupied by an individual while the unit owner is not occupying the unit as the  
166 unit owner's primary residence; or

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

168 [~~34~~] (35) "Size" means the number of cubic feet, or the number of square feet of  
169 ground or floor space, within each unit as computed by reference to the record of survey map  
170 and rounded off to a whole number. Certain spaces within the units including attic, basement,  
171 or garage space may be omitted from the calculation or be partially discounted by the use of a  
172 ratio, if the same basis of calculation is employed for all units in the condominium project and  
173 if that basis is described in the declaration.

174 [~~35~~] (36) "Time period unit" means an annually recurring part or parts of a year  
175 specified in the declaration as a period for which a unit is separately owned and includes a  
176 timeshare estate as defined in Section 57-19-2.

177 [~~36~~] (37) "Unconstructed unit" means a unit that:

178 (a) is intended, as depicted in the condominium plat, to be fully or partially contained  
179 in a building; and

180 (b) is not constructed.

181 [~~37~~] (38) (a) "Unit" means a separate part of the property intended for any type of  
182 independent use, which is created by the recording of a declaration and a condominium plat

183 that describes the unit boundaries.

184 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a  
185 portion of a floor in a building.

186 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

187 [~~38~~] (39) "Unit number" means the number, letter, or combination of numbers and  
188 letters designating the unit in the declaration and in the record of survey map.

189 [~~39~~] (40) "Unit owner" means the person or persons owning a unit in fee simple and  
190 an undivided interest in the fee simple estate of the common areas and facilities in the  
191 percentage specified and established in the declaration or, in the case of a leasehold  
192 condominium project, the person or persons whose leasehold interest or interests in the  
193 condominium unit extend for the entire balance of the unexpired term or terms.

---

---

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**