

HOMEOWNER ASSOCIATION PROVISIONS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Condominium Ownership Act and the Community Association Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the enforcement of a reinvestment fee covenant;
- ▶ amends the enforcement of a lien during a period of noncompliance with registration requirements;
- ▶ amends and consolidates provisions regarding providing statements of unpaid assessments and payoff information;
- ▶ creates a statute of repose for certain claims; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-46, as enacted by Laws of Utah 2010, Chapter 16



- 28 **57-8-13.1**, as last amended by Laws of Utah 2013, Chapter 95
- 29 **57-8-54**, as enacted by Laws of Utah 2011, Chapter 355
- 30 **57-8a-105**, as last amended by Laws of Utah 2013, Chapter 95
- 31 **57-8a-217**, as last amended by Laws of Utah 2015, Chapter 325
- 32 **57-8a-311**, as enacted by Laws of Utah 2011, Chapter 355

33 REPEALS:

- 34 **57-8-6.3**, as enacted by Laws of Utah 2011, Chapter 255
- 35 **57-8a-106**, as last amended by Laws of Utah 2012, Chapter 369
- 36 **57-8a-206**, as enacted by Laws of Utah 2004, Chapter 153



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

39 Section 1. Section **57-1-46** is amended to read:

40 **57-1-46. Transfer fee and reinvestment fee covenants.**

41 (1) As used in this section:

42 (a) "Association expenses" means expenses incurred by a common interest association

43 for:

44 (i) the administration of the common interest association;

45 (ii) the purchase, ownership, leasing, construction, operation, use, administration,
46 maintenance, improvement, repair, or replacement of association facilities, including expenses
47 for taxes, insurance, operating reserves, capital reserves, and emergency funds;

48 (iii) providing, establishing, creating, or managing a facility, activity, service, or
49 program for the benefit of property owners, tenants, common areas, the burdened property, or
50 property governed by the common interest association; or

51 (iv) other facilities, activities, services, or programs that are required or permitted
52 under the common interest association's organizational documents.

53 (b) "Association facilities" means any real property, improvements on real property, or
54 personal property owned, leased, constructed, developed, managed, or used by a common
55 interest association, including common areas.

56 (c) "Burdened property" means the real property that is subject to a reinvestment fee
57 covenant or transfer fee covenant.

58 (d) "Common areas" means areas described within:

- 59 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 60 (ii) the definition of "common areas" under Section 57-8a-102.
- 61 (e) "Common interest association":
- 62 (i) means:
- 63 (A) an association, as defined in Section 57-8a-102;
- 64 (B) an association of unit owners, as defined in Section 57-8-3; or
- 65 (C) a nonprofit association; and
- 66 (ii) includes a person authorized by an association, association of unit owners, or
- 67 nonprofit association, as the case may be.
- 68 (f) "Large master planned development" means an approved development:
- 69 (i) of at least 500 acres or 500 units; and
- 70 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 71 (A) common infrastructure;
- 72 (B) association facilities;
- 73 (C) community programming;
- 74 (D) resort facilities;
- 75 (E) open space; or
- 76 (F) recreation amenities.
- 77 (g) "Nonprofit association" means a nonprofit corporation organized under Title 16,
- 78 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern,
- 79 manage, or maintain burdened property.
- 80 (h) "Organizational documents":
- 81 (i) for an association, as defined in Section 57-8a-102, means governing documents as
- 82 defined in Section 57-8a-102;
- 83 (ii) for an association of unit owners, as defined in Section 57-8-3, means a declaration
- 84 as defined in Section 57-8-3; and
- 85 (iii) for a nonprofit association:
- 86 (A) means a written instrument by which the nonprofit association exercises powers or
- 87 manages, maintains, or otherwise affects the property under the jurisdiction of the nonprofit
- 88 association; and
- 89 (B) includes articles of incorporation, bylaws, plats, charters, the nonprofit

90 association's rules, and declarations of covenants, conditions, and restrictions.

91 (i) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

92 (i) affects real property; and

93 (ii) obligates a future buyer or seller of the real property to pay to a common interest

94 association, upon and as a result of a transfer of the real property, a fee that is dedicated to

95 benefitting the burdened property, including payment for:

96 (A) common planning, facilities, and infrastructure;

97 (B) obligations arising from an environmental covenant;

98 (C) community programming;

99 (D) resort facilities;

100 (E) open space;

101 (F) recreation amenities;

102 (G) charitable purposes; or

103 (H) association expenses.

104 (j) "Transfer fee covenant":

105 (i) means an obligation, however denominated, expressed in a covenant, restriction,

106 agreement, or other instrument or document:

107 (A) that affects real property;

108 (B) that is imposed on a future buyer or seller of real property, other than a person who

109 is a party to the covenant, restriction, agreement, or other instrument or document; and

110 (C) to pay a fee upon and as a result of a transfer of the real property; and

111 (ii) does not include:

112 (A) an obligation imposed by a court judgment, order, or decree;

113 (B) an obligation imposed by the federal government or a state or local government

114 entity; or

115 (C) a reinvestment fee covenant.

116 (2) A transfer fee covenant recorded on or after March 16, 2010 is void and

117 unenforceable.

118 (3) (a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not

119 be sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a common

120 interest association that was formed to benefit the burdened property.

121 (b) A common interest association may assign or pledge to a lender the right to receive
122 payment under a reinvestment fee covenant if:

123 (i) the assignment or pledge is as collateral for a credit facility; and

124 (ii) the lender releases the collateral interest upon payment in full of all amounts that
125 the common interest association owes to the lender under the credit facility.

126 ~~[(4) A reinvestment fee covenant recorded on or after March 16, 2010 is not~~
127 ~~enforceable if the reinvestment fee covenant is intended to affect property that is the subject of~~
128 ~~a previously recorded transfer fee covenant or reinvestment fee covenant.]~~

129 ~~[(5)] (4) (a) Each common interest association may impose a single reinvestment fee~~
130 ~~covenant on a property.~~

131 (b) A reinvestment fee covenant described in Subsection (4)(a) recorded on or after
132 March 16, 2010 may not obligate the payment of a fee that exceeds .5% of the value of the
133 burdened property, unless the burdened property is part of a large master planned development.

134 ~~[(6)] (5) (a) A reinvestment fee covenant recorded on or after March 16, 2010 is void~~
135 ~~and unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment~~
136 ~~fee covenant, is recorded in the office of the recorder of each county in which any of the~~
137 ~~burdened property is located.~~

138 (b) A notice under Subsection ~~[(6)] (5)(a)~~ shall:

139 (i) state the name and address of the common interest association to which the fee
140 under the reinvestment fee covenant is required to be paid;

141 (ii) include the notarized signature of the common interest association's authorized
142 representative;

143 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
144 land and to bind successors in interest and assigns;

145 (iv) state that the existence of the reinvestment fee covenant precludes the ~~[imposition~~
146 ~~of] common interest association from imposing an additional reinvestment fee covenant on the~~
147 ~~burdened property;~~

148 (v) state the duration of the reinvestment fee covenant;

149 (vi) state the purpose of the fee required to be paid under the reinvestment fee
150 covenant; and

151 (vii) state that the fee required to be paid under the reinvestment fee covenant is

152 required to benefit the burdened property.

153 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
154 requirements of Subsection [~~(6)~~] (5)(b) is valid and effective.

155 [~~(7)~~] (6) (a) A reinvestment fee covenant or transfer fee covenant recorded before
156 March 16, 2010 is not enforceable after May 31, 2010, unless:

157 (i) a notice that is consistent with the notice described in Subsection [~~(6)~~] (5) is
158 recorded in the office of the recorder of each county in which any of the burdened property is
159 located; or

160 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
161 Subsection [~~(7)~~] (6)(b), is recorded in the office of the recorder of each county in which any of
162 the burdened property is located.

163 (b) A notice under Subsection [~~(7)~~] (6)(a)(ii) shall:

164 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
165 or transfer fee covenant, or the beneficiary's authorized representative;

166 (ii) state the name and current address of the beneficiary under the reinvestment fee
167 covenant or transfer fee covenant;

168 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
169 intended to run with the land and to bind successors in interest and assigns; and

170 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.

171 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
172 substantially complies with the requirements of Subsection [~~(7)~~] (6)(b) is valid and effective.

173 [~~(8)~~] (7) A reinvestment fee covenant recorded on or after March 16, 2010 may not be
174 enforced upon:

175 (a) an involuntary transfer;

176 (b) a transfer that results from a court order;

177 (c) a bona fide transfer to a family member of the seller within three degrees of
178 consanguinity who, before the transfer, provides adequate proof of consanguinity;

179 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
180 decree of distribution; or

181 (e) the transfer of burdened property by a financial institution, except to the extent that
182 the reinvestment fee covenant requires the payment of a common interest association's costs

183 directly related to the transfer of the burdened property, not to exceed \$250.

184 Section 2. Section **57-8-13.1** is amended to read:

185 **57-8-13.1. Registration with Department of Commerce.**

186 (1) As used in this section, "department" means the Department of Commerce created
187 in Section [13-1-2](#).

188 (2) (a) No later than 90 days after the recording of a declaration, an association of unit
189 owners shall register with the department in the manner established by the department.

190 (b) An association of unit owners existing under a declaration recorded before May 10,
191 2011, shall [~~no later than July 1, 2011,~~] register with the department in the manner established
192 by the department.

193 (3) The department shall require an association of unit owners registering as required
194 in this section to provide with each registration:

195 (a) the name and address of the association of unit owners;

196 (b) the name, address, telephone number, and, if applicable, email address of the
197 president of the association of unit owners;

198 (c) the name and address of each management committee member;

199 (d) the name, address, telephone number, and, if the contact person wishes to use email
200 or facsimile transmission for communicating payoff information, the email address or facsimile
201 number, as applicable, of a primary contact person who has association payoff information that
202 a closing agent needs in connection with the closing of a unit owner's financing, refinancing, or
203 sale of the owner's unit; and

204 (e) a registration fee not to exceed \$37.

205 (4) An association of unit owners that has registered under Subsection (2) shall submit
206 to the department an updated registration, in the manner established by the department, within
207 90 days after a change in any of the information provided under Subsection (3).

208 (5) (a) During any period of noncompliance with the registration requirement described
209 in Subsection (2) or the requirement for an updated registration described in Subsection (4)~~[:]~~,
210 an association of unit owners may not enforce a lien that arose under Section [57-8-44](#).

211 [~~(i) a lien may not arise under Section [57-8-44](#); and]~~

212 [~~(ii) an association of unit owners may not enforce an existing lien that arose under~~
213 ~~Section [57-8-44](#).]~~

214 (b) A period of noncompliance with the registration requirement of Subsection (2) or
 215 with the updated registration requirement of Subsection (4) does not begin until after the
 216 expiration of the 90-day period specified in Subsection (2) or (4), respectively.

217 (c) An association of unit owners that is not in compliance with the registration
 218 requirement described in Subsection (2) may end the period of noncompliance by registering
 219 with the department in the manner established by the department under Subsection (2).

220 (d) An association of unit owners that is not in compliance with the updated
 221 registration requirement described in Subsection (4) may end the period of noncompliance by
 222 submitting to the department an updated registration in the manner established by the
 223 department under Subsection (4).

224 (e) Except as described in Subsection (5)(f), beginning on the date an association of
 225 unit owners ends a period of noncompliance[;], the association of unit owners may enforce a
 226 lien that arose under Section 57-8-44.

227 [~~(i) a lien may arise under Section 57-8-44 for any event that:~~]

228 [~~(A) occurred during the period of noncompliance; and~~]

229 [~~(B) would have given rise to a lien under Section 57-8-44 had the association of unit~~
 230 ~~owners been in compliance with the registration requirements described in this section; and]~~

231 [~~(ii) an association of unit owners may enforce a lien described in Subsection (5)(e) or~~
 232 ~~a lien that existed before the period of noncompliance.]~~

233 (f) If an owner's unit is conveyed to an independent third party during a period of
 234 noncompliance described in this Subsection (5):

235 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
 236 final is extinguished when the conveyance of the unit becomes final; and

237 (ii) an event that occurred before the conveyance of the unit became final, and that
 238 would have given rise to a lien under Section 57-8-44 had the association of unit owners been
 239 in compliance with the registration requirements of this section, may not give rise to a lien
 240 under Section 57-8-44 if the conveyance of the unit becomes final before the association of unit
 241 owners ends the period of noncompliance.

242 Section 3. Section 57-8-54 is amended to read:

243 **57-8-54. Statement from manager or management committee of unpaid**
 244 **assessment -- Payoff information from manager or management committee --**

245 **Applicability.**

246 (1) (a) A manager or management committee shall issue a written statement indicating
247 any unpaid assessment with respect to a unit owner's unit upon:

248 [~~(a)~~] (i) a written request by the unit owner or the unit owner's agent; and

249 [~~(b)~~] (ii) payment of a reasonable fee not to exceed \$25.

250 (b) A manager or management committee shall provide payoff information with
251 respect to a unit owner's unit upon:

252 (i) a written request that:

253 (A) is conveyed to the primary contact person designated under Subsection
254 57-8-13.1(3)(d);

255 (B) contains the name, telephone number and address of the person making the request
256 and the facsimile number or email address for delivery of the payoff information; and

257 (C) is accompanied by a written consent for the release of the payoff information
258 identifying the person requesting the information as a person to whom the payoff information
259 may be released and signed and dated by an owner of the unit for which the payoff information
260 is requested; and

261 (ii) subject to Subsection (3), payment of a reasonable fee not to exceed \$50.

262 (2) If a unit owner makes a written request as described in Subsection (1) and the
263 association of unit owners has referred the unit owner's delinquent account to a third party for
264 collection, the association of unit owners may:

265 (a) in the association's response to the request, include the amount of fees and costs
266 from the unit owner's delinquent account that the association referred to the third party; or

267 (b) require that the unit owner obtain the amount of fees and costs that the association
268 referred to the third party directly from the third party.

269 (3) If a closing agent makes a written request for payoff information in accordance with
270 Subsection (1)(b) in connection with the closing of a unit owner's financing, refinancing, or
271 sale of the unit owner's unit:

272 (a) the association of unit owners may not require the fee described in Subsection
273 (1)(b)(ii) to be paid before providing the payoff information; and

274 (b) if the association of unit owners fails to provide the payoff information within 10
275 business days after the closing agent requests the information, the association may not enforce

276 a lien against that unit for money due to the association at that closing until the association
277 provides the information.

278 [(2)] (4) A written statement under Subsection (1) is conclusive in favor of a person
279 who reasonably relies on the written statement in good faith.

280 (5) This section applies to each association of unit owners, regardless of when the
281 association of unit owners is formed.

282 Section 4. Section **57-8a-105** is amended to read:

283 **57-8a-105. Registration with Department of Commerce.**

284 (1) As used in this section, "department" means the Department of Commerce created
285 in Section [13-1-2](#).

286 (2) (a) No later than 90 days after the recording of a declaration of covenants,
287 conditions, and restrictions establishing an association, the association shall register with the
288 department in the manner established by the department.

289 (b) An association existing under a declaration of covenants, conditions, and
290 restrictions recorded before May 10, 2011, shall [~~no later than July 1, 2011,~~] register with the
291 department in the manner established by the department.

292 (3) The department shall require an association registering as required in this section to
293 provide with each registration:

294 (a) the name and address of the association;

295 (b) the name, address, telephone number, and, if applicable, email address of the chair
296 of the association board;

297 (c) contact information for the manager;

298 (d) the name, address, telephone number, and, if the contact person wishes to use email
299 or facsimile transmission for communicating payoff information, the email address or facsimile
300 number, as applicable, of a primary contact person who has association payoff information that
301 a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or
302 sale of the owner's lot; and

303 (e) a registration fee not to exceed \$37.

304 (4) An association that has registered under Subsection (2) shall submit to the
305 department an updated registration, in the manner established by the department, within 90
306 days after a change in any of the information provided under Subsection (3).

307 (5) (a) During any period of noncompliance with the registration requirement described
308 in Subsection (2) or the requirement for an updated registration described in Subsection (4)[:],
309 an association may not enforce a lien that arose under Section 57-8a-301.

310 [~~(i) a lien may not arise under Section 57-8a-301; and]~~

311 [~~(ii) an association may not enforce an existing lien that arose under Section~~
312 ~~57-8a-301.~~]

313 (b) A period of noncompliance with the registration requirement of Subsection (2) or
314 with the updated registration requirement of Subsection (4) does not begin until after the
315 expiration of the 90-day period specified in Subsection (2) or (4), respectively.

316 (c) An association that is not in compliance with the registration requirement described
317 in Subsection (2) may end the period of noncompliance by registering with the department in
318 the manner established by the department under Subsection (2).

319 (d) An association that is not in compliance with the updated registration requirement
320 described in Subsection (4) may end the period of noncompliance by submitting to the
321 department an updated registration in the manner established by the department under
322 Subsection (4).

323 (e) Except as described in Subsection (5)(f), beginning on the date an association ends
324 a period of noncompliance[:], the association may enforce a lien that arose under Section
325 57-8a-301.

326 [~~(i) a lien may arise under Section 57-8a-301 for any event that:]~~

327 [~~(A) occurred during the period of noncompliance; and]~~

328 [~~(B) would have given rise to a lien under Section 57-8a-301 had the association been~~
329 ~~in compliance with the registration requirements described in this section; and]~~

330 [~~(ii) an association may enforce a lien described in Subsection (5)(e) or a lien that~~
331 ~~existed before the period of noncompliance.]~~

332 (f) If an owner's residential lot is conveyed to an independent third party during a
333 period of noncompliance described in this Subsection (5):

334 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
335 lot became final is extinguished when the conveyance of the residential lot becomes final; and

336 (ii) an event that occurred before the conveyance of the residential lot became final,
337 and that would have given rise to a lien under Section 57-8a-301 had the association been in

338 compliance with the registration requirements of this section, may not give rise to a lien under
 339 Section [57-8a-301](#) if the conveyance of the residential lot becomes final before the association
 340 ends the period of noncompliance.

341 Section 5. Section [57-8a-217](#) is amended to read:

342 **[57-8a-217. Association rules -- Requirements and limitations relating to board's](#)**
 343 **[action on rules -- Vote of disapproval -- Statute of repose.](#)**

344 (1) As used in this section:

345 (a) "Rule" means an association's policy, guideline, restriction, procedure, or regulation

346 that:

347 (i) is not in the association's articles of incorporation or other similar entity-formation
 348 document, declaration, bylaw, or plat; and

349 (ii) governs the conduct of persons or the use, quality, type, design, or appearance of
 350 real or personal property.

351 (b) "Rule" does not include the board's internal business operating procedures.

352 ~~[(+)]~~ (2) (a) Subject to Subsection ~~[(+)]~~ (2)(b), a board may adopt, amend, modify,
 353 cancel, limit, create exceptions to, or expand~~[-or enforce]~~ the rules ~~[and design criteria]~~ of the
 354 association.

355 (b) A board's action under Subsection ~~[(+)]~~ (2)(a) is subject to:

356 (i) this section;

357 (ii) any limitation that the declaration imposes on the authority stated in Subsection

358 ~~[(+)]~~ (2)(a);

359 (iii) the limitation on rules in Sections [57-8a-218](#) and [57-8a-219](#);

360 (iv) the board's duty to exercise business judgment on behalf of:

361 (A) the association; and

362 (B) the lot owners in the association; and

363 (v) the right of the lot owners or declarant to disapprove the action under Subsection

364 ~~[(+)]~~ (5).

365 ~~[(2)]~~ (3) Except as provided in Subsection ~~[(3)]~~ (4), before adopting, amending,
 366 modifying, canceling, limiting, creating exceptions to, or expanding the rules ~~[and design~~
 367 ~~criteria]~~ of the association, the board shall:

368 (a) at least 15 days before the day on which the board ~~[will meet]~~ meets to consider a

369 change to a rule [~~or design criterion~~], deliver notice to lot owners, as provided in Section
370 57-8a-214, that the board is considering a change to a rule [~~or design criterion~~];

371 (b) provide an open forum at the board meeting giving lot owners an opportunity to be
372 heard at the board meeting before the board takes action under Subsection [(1)] (2)(a); and

373 (c) deliver a copy of the change in the rules [~~or design criteria~~] approved by the board
374 to the lot owners as provided in Section 57-8a-214 within 15 days after the [~~date of the board~~
375 ~~meeting~~] day on which the board meets.

376 [(3)] (4) (a) Subject to Subsection [(3)] (4)(b), a board may adopt a rule without first
377 giving notice to the lot owners under Subsection [(2)] (3) if there is an imminent risk of harm
378 to a common area, a limited common area, a lot owner, an occupant of a lot, a lot, or a
379 dwelling.

380 (b) The board shall provide notice under Subsection [(2)] (3) to the lot owners of a rule
381 adopted under Subsection [(3)] (4)(a).

382 [(4)] (5) A board action in accordance with Subsections [(1)] (2), [(2)] (3), and [(3)] (4)
383 is disapproved if within 60 days after the [~~date~~] day of the board meeting where the action was
384 taken:

385 (a) (i) there is a vote of disapproval by at least 51% of all the allocated voting interests
386 of the lot owners in the association; and

387 (ii) the vote is taken at a special meeting called for that purpose by the lot owners
388 under the declaration, articles, or bylaws; or

389 (b) (i) the declarant delivers to the board a writing of disapproval; and

390 (ii) (A) the declarant is within the period of administrative control; or

391 (B) for an expandable project, the declarant has the right to add real estate to the
392 project.

393 [(5)] (6) (a) The board has no obligation to call a meeting of the lot owners to consider
394 disapproval, unless lot owners submit a petition, in the same manner as the declaration,
395 articles, or bylaws provide for a special meeting, for the meeting to be held.

396 (b) Upon the board receiving a petition under Subsection [(5)] (6)(a), the effect of the
397 board's action is:

398 (i) stayed until after the meeting is held; and

399 (ii) subject to the outcome of the meeting.

400 ~~[(6)]~~ (7) During the period of administrative control, a declarant may exempt the
401 declarant from association rules and the rulemaking procedure under this section if the
402 declaration reserves to the declarant the right to exempt the declarant.

403 (8) A person may not commence an action against an association or a member of the
404 association's board for failing to comply with Subsection (3) more than 18 months after the day
405 on which the meeting in which the board action described in Subsection (3) occurs.

406 Section 6. Section **57-8a-311** is amended to read:

407 **57-8a-311. Statement from association's manager or board of unpaid assessment**
408 **-- Payoff information from association's manager or board -- Applicability.**

409 (1) (a) An association's manager or board shall issue a written statement indicating any
410 unpaid assessment with respect to a lot owner's lot upon:

411 ~~[(a)]~~ (i) a written request by the lot owner or the lot owner's agent; and

412 ~~[(b)]~~ (ii) payment of a reasonable fee not to exceed \$25.

413 (b) An association's manager or board shall provide payoff information with respect to
414 a lot owner's lot upon:

415 (i) a written request that:

416 (A) is conveyed to the primary contact person designated under Subsection
417 57-8a-105(3)(d);

418 (B) contains the name, telephone number, and address of the person making the request
419 and the facsimile number or email address for delivery of the payoff information; and

420 (C) is accompanied by a written consent for the release of the payoff information
421 identifying the person requesting the information as a person to whom the payoff information
422 may be released and signed and dated by an owner of the lot for which the payoff information
423 is requested; and

424 (ii) subject to Subsection (3), payment of a reasonable fee not to exceed \$50.

425 (2) If a lot owner makes a written request as described in Subsection (1) and the
426 association has referred the lot owner's delinquent account to a third party for collection, the
427 association may:

428 (a) in the association's response to the request, include the amount of fees and costs
429 from the lot owner's delinquent account that the association referred to the third party; or

430 (b) require that the lot owner obtain the amount of fees and costs that the association

431 referred to the third party directly from the third party.

432 (3) If a closing agent makes a written request for payoff information in accordance with
433 Subsection (1)(b) in connection with the closing of a lot owner's financing, refinancing, or sale
434 of the lot owner's lot:

435 (a) the association may not require the fee described in Subsection (1)(b)(ii) to be paid
436 before providing the payoff information; and

437 (b) if the association fails to provide the payoff information within 10 business days
438 after the closing agent requests the information, the association may not enforce a lien against
439 that lot for money due to the association at that closing until the association provides the
440 information.

441 ~~[(2)]~~ (4) A written statement under Subsection (1) is conclusive in favor of a person
442 who reasonably relies on the written statement in good faith.

443 (5) This section applies to each association, regardless of when the association is
444 formed.

445 Section 7. **Repealer.**

446 This bill repeals:

447 Section **57-8-6.3, Fee for providing payoff information needed at closing.**

448 Section **57-8a-106, Fee for providing payoff information needed at closing.**

449 Section **57-8a-206, Written statement of unpaid assessment.**