

HOMEOWNER ASSOCIATION PROVISIONS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ imposes certain disclosure requirements before the sale of homeowner association property to an independent third party;
- ▶ expands the information that homeowner associations must provide to the Department of Commerce in order to register;
- ▶ requires the Department of Commerce to publish certain educational materials on its website; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-13.1, as last amended by Laws of Utah 2013, Chapter 95

57-8a-105, as last amended by Laws of Utah 2013, Chapter 95



28 ENACTS:

29 57-8-6.1, Utah Code Annotated 1953

30 57-8a-105.1, Utah Code Annotated 1953

31

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

33 Section 1. Section **57-8-6.1** is enacted to read:

34 **57-8-6.1. Information required before sale to independent third party.**

35 (1) Before the sale of any unit under the jurisdiction of an association of unit owners to
36 an independent third party, the grantor shall provide to the independent third party:

37 (a) a copy of the association of unit owners' governing documents; and

38 (b) a link or other access point to the department's educational materials described in

39 Subsection 57-8-13.1(6).

40 (2) The grantor shall provide the information described in Subsection (1):

41 (a) within one week after acceptance of the offer for sale of the unit; or

42 (b) as part of the contract for sale of the unit.

43 (3) The association of unit owners shall, upon request by the grantor, provide to the
44 grantor the information described in Subsection (1).

45 (4) This section applies to each association of unit owners, regardless of when the
46 association of unit owners is formed.

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

48 **57-8-13.1. Registration with Department of Commerce.**

49 (1) As used in this section, "department" means the Department of Commerce created
50 in Section 13-1-2.

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

53 ~~[(b) An association of unit owners existing under a declaration recorded before May~~
54 ~~10, 2011, shall, no later than July 1, 2011, register with the department in the manner~~
55 ~~established by the department.]~~

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

58 ~~(a)~~ (i) the name and address of the association of unit owners;

59 ~~(b)~~ (ii) the name, address, telephone number, and, if applicable, email address of the
60 president of the association of unit owners;

61 ~~(c)~~ (iii) the name and address of each manager or management committee member;

62 ~~(d)~~ (iv) the name, address, telephone number, and, if the contact person wishes to use
63 email or facsimile transmission for communicating payoff information, the email address or
64 facsimile number, as applicable, of a primary contact person who has association payoff
65 information that a closing agent needs in connection with the closing of a unit owner's
66 financing, refinancing, or sale of the owner's unit; ~~and~~

67 (v) a copy of the association of unit owners' current governing documents;

68 (vi) a report describing a history of the association of unit owners' assessment fees and
69 special assessment fees within the previous 10 years at a minimum, including a timetable of
70 any changes in the association of unit owners' assessment or special assessment amounts;

71 (vii) (A) a statement indicating whether the association of unit owners maintains
72 reserve funds as defined in Section 57-8-7.5; and

73 (B) if the association of unit owners maintains reserve funds, a statement indicating
74 whether the association of unit owners is in compliance with Subsections 57-8-7.5(5), (6), and
75 (7); and

76 ~~(e)~~ (viii) a registration fee not to exceed \$37.

77 (b) The association of unit owners shall electronically submit to the department the
78 information described in Subsection (3)(a)(v), on an annual basis, no later than July 1 of each
79 year.

80 (4) An association of unit owners that has registered under Subsection (2) shall submit
81 to the department an updated registration, in the manner established by the department, within
82 90 days after a change in any of the information provided under Subsection (3).

83 (5) (a) During any period of noncompliance with the registration requirement described
84 in Subsection (2) or the requirement for an updated registration described in Subsection (4):

85 (i) a lien may not arise under Section 57-8-44; and

86 (ii) an association of unit owners may not enforce an existing lien that arose under
87 Section 57-8-44.

88 (b) A period of noncompliance with the registration requirement of Subsection (2) or
89 with the updated registration requirement of Subsection (4) does not begin until after the

90 expiration of the 90-day period specified in Subsection (2) or (4), respectively.

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

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

98 (e) Except as described in Subsection (5)(f), beginning on the date an association of
99 unit owners ends a period of noncompliance:

100 (i) a lien may arise under Section 57-8-44 for any event that:

101 (A) occurred during the period of noncompliance; and

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

104 (ii) an association of unit owners may enforce a lien described in Subsection (5)(e) or a
105 lien that existed before the period of noncompliance.

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

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

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

115 (6) The department shall publish educational materials on the department's website
116 providing, in simple and easy to understand language, a brief overview of state law governing
117 associations of unit owners, including:

118 (a) a description of the rights and responsibilities provided in this chapter to any party
119 under the jurisdiction of an association of unit owners; and

120 (b) instructions regarding how an association of unit owners may be organized and

121 dismantled in accordance with this chapter.

122 Section 3. Section **57-8a-105** is amended to read:

123 **57-8a-105. Registration with Department of Commerce.**

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

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

129 (b) An association existing under a declaration of covenants, conditions, and
130 restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
131 department in the manner established by the department.

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

134 ~~(a)~~ (i) the name and address of the association;

135 ~~(b)~~ (ii) the name, address, telephone number, and, if applicable, email address of the
136 chair of the association board;

137 ~~(c)~~ (iii) contact information for the manager;

138 ~~(d)~~ (iv) the name, address, telephone number, and, if the contact person wishes to use
139 email or facsimile transmission for communicating payoff information, the email address or
140 facsimile number, as applicable, of a primary contact person who has association payoff
141 information that a closing agent needs in connection with the closing of a lot owner's financing,
142 refinancing, or sale of the owner's lot; ~~and~~

143 (v) a copy of the association's current governing documents;

144 (vi) a report describing a history of the association's assessment fees and special
145 assessment fees within the previous 10 years at a minimum, including a timetable of any
146 changes in the association's assessment or special assessment amounts;

147 (vii) (A) a statement indicating whether the association maintains reserve funds as
148 defined in Section [57-8a-211](#); and

149 (B) if the association maintains reserve funds, a statement indicating whether the
150 association is in compliance with Subsections [57-8a-211](#)(5), (6), and (7); and

151 ~~(e)~~ (viii) a registration fee not to exceed \$37.

152 **(b) The association shall electronically submit to the department the information**
153 **described in Subsection (3)(a)(v), on an annual basis, no later than July 1 of each year.**

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

157 (5) (a) During any period of noncompliance with the registration requirement described
158 in Subsection (2) or the requirement for an updated registration described in Subsection (4):

- 159 (i) a lien may not arise under Section 57-8a-301; and
- 160 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

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

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

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

171 (e) Except as described in Subsection (5)(f), beginning on the date an association ends
172 a period of noncompliance:

- 173 (i) a lien may arise under Section 57-8a-301 for any event that:
 - 174 (A) occurred during the period of noncompliance; and
 - 175 (B) would have given rise to a lien under Section 57-8a-301 had the association been in
176 compliance with the registration requirements described in this section; and
- 177 (ii) an association may enforce a lien described in Subsection (5)(e) or a lien that
178 existed before the period of noncompliance.

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

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

183 (ii) an event that occurred before the conveyance of the residential lot became final,
184 and that would have given rise to a lien under Section 57-8a-301 had the association been in
185 compliance with the registration requirements of this section, may not give rise to a lien under
186 Section 57-8a-301 if the conveyance of the residential lot becomes final before the association
187 ends the period of noncompliance.

188 (6) The department shall publish educational materials on the department's website
189 providing, in simple and easy to understand language, a brief overview of state law governing
190 associations, including:

191 (a) a description of the rights and responsibilities provided in this chapter to any party
192 under the jurisdiction of an association; and

193 (b) instructions regarding how an association may be organized and dismantled in
194 accordance with this chapter.

195 Section 4. Section 57-8a-105.1 is enacted to read:

196 **57-8a-105.1. Information required before sale to independent third party.**

197 (1) Before the sale of any lot under the jurisdiction of an association to an independent
198 third party, the grantor shall provide to the independent third party:

199 (a) a copy of the association's governing documents; and

200 (b) a link or other access point to the department's educational materials described in

201 Subsection 57-8a-105(6).

202 (2) The grantor shall provide the information described in Subsection (1):

203 (a) within one week after acceptance of the offer for sale of the lot; or

204 (b) as part of the contract for sale of the lot.

205 (3) The association shall, upon request by the grantor, provide to the grantor the
206 information described in Subsection (1).

207 (4) This section applies to each association, regardless of when the association is
208 formed.