

Representative Cheryl K. Acton proposes the following substitute bill:

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 closing of a sale of homeowner association property to an independent third party;
- ▶ amends certain registration requirements to include an electronic version of an association's or an association of unit owners' governing documents;
- ▶ requires the Department of Commerce to publish certain educational materials on its website;
- ▶ requires the Department of Commerce to provide links to governing documents on its website; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **57-8-13.1**, as last amended by Laws of Utah 2013, Chapter 95

29 **57-8a-105**, as last amended by Laws of Utah 2013, Chapter 95

30 ENACTS:

31 **57-8-6.1**, Utah Code Annotated 1953

32 **57-8a-105.1**, Utah Code Annotated 1953

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

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

36 **57-8-6.1. Information required before sale to independent third party.**

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

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

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

41 Subsection **57-8-13.1**(6).

42 (2) The grantor shall provide the information described in Subsection (1) before
43 closing.

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

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

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

49 **57-8-13.1. Registration with Department of Commerce.**

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

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

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

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

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

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

62 (c) the name and address of each manager or management committee member;

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

68 (e) an electronic copy of the association of unit owners' governing documents; and

69 [~~(e)~~] (f) a registration fee not to exceed \$37.

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

73 (b) An association of unit owners existing under a declaration recorded before May 12,
74 2020, shall, before August 10, 2020, submit to the department, in a manner the department
75 establishes, the information required under Subsection (3)(e).

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

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

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

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

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

87 (d) An association of unit owners that is not in compliance with the updated

88 registration requirement described in Subsection (4) may end the period of noncompliance by
89 submitting to the department an updated registration in the manner established by the
90 department under Subsection (4).

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

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

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

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

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

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

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

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

108 (6) The department shall:

109 (a) publish educational materials on the department's website providing, in simple and
110 easy to understand language, a brief overview of state law governing associations of unit
111 owners, including:

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

114 (ii) instructions regarding how an association of unit owners may be organized and
115 dismantled in accordance with this chapter; and

116 (b) for each association of unit owners registered in accordance with this section,
117 provide a link on the department's website to the association of unit owners' governing
118 documents.

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

120 **57-8a-105. Registration with Department of Commerce.**

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

123 (2) ~~[(a)]~~ No later than 90 days after the recording of a declaration of covenants,
124 conditions, and restrictions establishing an association, the association shall register with the
125 department in the manner established by the department.

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

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

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

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

134 (c) contact information for the manager;

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

140 (e) an electronic copy of the association's governing documents; and

141 ~~[(e)]~~ (f) a registration fee not to exceed \$37.

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

145 (b) An association existing under a declaration of covenants, conditions, and
146 restrictions recorded before May 12, 2020, shall, before August 10, 2020, submit to the
147 department, in a manner the department establishes, the information required under Subsection
148 (3)(e).

149 (5) (a) During any period of noncompliance with the registration requirement described

150 in Subsection (2) or the requirement for an updated registration described in Subsection (4):

151 (i) a lien may not arise under Section 57-8a-301; and

152 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

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

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

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

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

165 (i) a lien may arise under Section 57-8a-301 for any event that:

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

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

169 (ii) an association may enforce a lien described in Subsection (5)(e) or a lien that
170 existed before the period of noncompliance.

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

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

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

180 (6) The department shall:

181 (a) publish educational materials on the department's website providing, in simple and
182 easy to understand language, a brief overview of state law governing associations, including:

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

185 (ii) instructions regarding how an association may be organized and dismantled in
186 accordance with this chapter; and

187 (b) for each association registered in accordance with this section, provide a link on the
188 department's website to the association's governing documents.

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

190 **57-8a-105.1. Information required before sale to independent third party.**

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

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

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

195 Subsection [57-8a-105\(6\)](#).

196 (2) The grantor shall provide the information described in Subsection (1) before
197 closing.

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

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