

1 **CONDOMINIUM AND COMMUNITY ASSOCIATION AMENDMENTS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Wayne A. Harper**
5 House Sponsor: Carol S. Moss

6
7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to homeowners' associations.

10 **Highlighted Provisions:**

11 This bill:

12 ▸ modifies the rights of a board member of a nonprofit corporation to inspect and copy
13 records;

14 ▸ adds an internal accessory dwelling unit to the definition of a rental;

15 ▸ restricts a homeowners' association from regulating lease agreements in certain
16 circumstances;

17 ▸ requires that a homeowners' association adopt water wise landscaping rules;

18 ▸ provides a remedy for an owner if the association does not implement water wise
19 landscaping rules;

20 ▸ clarifies the process by which a county assessor may assess a common area for property
21 tax purposes;

22 ▸ provides a process by which a homeowners' association may sell the common areas
23 located within the homeowners' association;

24 ▸ defines terms; and

25 ▸ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

28 **16-6a-1602**, as last amended by Laws of Utah 2023, Chapter 503
 29 **57-8-3**, as last amended by Laws of Utah 2023, Chapter 503
 30 **57-8-7.2**, as enacted by Laws of Utah 2004, Chapter 290
 31 **57-8-8.1**, as last amended by Laws of Utah 2023, Chapter 503
 32 **57-8-10.1**, as last amended by Laws of Utah 2023, Chapter 503
 33 **57-8-32**, as last amended by Laws of Utah 2017, Chapter 405
 34 **57-8a-102**, as last amended by Laws of Utah 2023, Chapter 503
 35 **57-8a-209**, as last amended by Laws of Utah 2023, Chapter 503
 36 **57-8a-218**, as last amended by Laws of Utah 2023, Chapter 503
 37 **57-8a-231**, as last amended by Laws of Utah 2023, Chapters 139, 199
 38 **59-2-301.1**, as last amended by Laws of Utah 2017, Chapter 49

39 ENACTS:

40 **57-8a-232**, Utah Code Annotated 1953

41

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

43 Section 1. Section **16-6a-1602** is amended to read:

44 **16-6a-1602 . Inspection of records by directors and members.**

45 (1) A director or member is entitled to inspect and copy any of the records of the nonprofit
 46 corporation described in Subsection 16-6a-1601(5):

47 (a) during regular business hours;

48 (b) at the nonprofit corporation's principal office; and

49 (c) if the director or member gives the nonprofit corporation written demand, at least
 50 five business days before the date on which the member wishes to inspect and copy
 51 the records.

52 (2) In addition to the rights set forth in Subsection (1), a director or member is entitled to
 53 inspect and copy any of the other records of the nonprofit corporation described in [
 54 ~~Subsections 16-6a-1601(2) through (5)] Subsections 16-6a-1601(1) through (3):~~

55 (a) during regular business hours;

56 (b) at a reasonable location specified by the nonprofit corporation; and

57 (c) at least five business days before the date on which the member wishes to inspect and
 58 copy the records, if the director or member:

59 (i) meets the requirements of Subsection (3); and

60 (ii) gives the nonprofit corporation written demand.

61 (3) A director or member may inspect and copy the records described in [~~Subsection (2)~~]

- 62 Subsections (1) and (2) only if:
- 63 (a) the demand is made:
- 64 (i) in good faith; and
- 65 (ii) for a proper purpose;
- 66 (b) the director or member describes with reasonable particularity the purpose and the
- 67 records the director or member desires to inspect; and
- 68 (c) the records are directly connected with the described purpose.
- 69 (4) Notwithstanding Section 16-6a-102, for purposes of this section:
- 70 (a) "member" includes:
- 71 (i) a beneficial owner whose membership interest is held in a voting trust; and
- 72 (ii) any other beneficial owner of a membership interest who establishes beneficial
- 73 ownership; and
- 74 (b) "proper purpose" means a purpose reasonably related to the demanding member's or
- 75 director's interest as a member or director.
- 76 (5) The right of inspection granted by this section may not be abolished or limited by the
- 77 articles of incorporation or bylaws.
- 78 (6) This section does not affect:
- 79 (a) the right of a director or member to inspect records under Section 16-6a-710;
- 80 (b) the right of a member to inspect records to the same extent as any other litigant if the
- 81 member is in litigation with the nonprofit corporation; or
- 82 (c) the power of a court, independent of this chapter, to compel the production of
- 83 corporate records for examination.
- 84 (7) A director or member may not use any information obtained through the inspection or
- 85 copying of records permitted by Subsection (2) for any purposes other than those set
- 86 forth in a demand made under Subsection (3).
- 87 Section 2. Section **57-8-3** is amended to read:
- 88 **57-8-3 . Definitions.**
- 89 As used in this chapter:
- 90 (1) "Assessment" means any charge imposed by the association, including:
- 91 (a) common expenses on or against a unit owner pursuant to the provisions of the
- 92 declaration, bylaws, or this chapter; and
- 93 (b) an amount that an association of unit owners assesses to a unit owner under
- 94 Subsection 57-8-43(9)(g).
- 95 (2) "Association of unit owners" or "association" means all of the unit owners:

- 96 (a) acting as a group in accordance with the declaration and bylaws; or
97 (b) organized as a legal entity in accordance with the declaration.
- 98 (3) "Building" means a building, containing units, and comprising a part of the property.
- 99 (4) "Commercial condominium project" means a condominium project that has no
100 residential units within the project.
- 101 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful
102 amendments to the declaration means:
- 103 (a) the land included within the condominium project, whether leasehold or in fee
104 simple;
- 105 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
106 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 107 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 108 (d) the premises for lodging of janitors or persons in charge of the property;
- 109 (e) installations of central services such as power, light, gas, hot and cold water, heating,
110 refrigeration, air conditioning, and incinerating;
- 111 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
112 apparatus and installations existing for common use;
- 113 (g) such community and commercial facilities as may be provided for in the declaration;
114 and
- 115 (h) all other parts of the property necessary or convenient to its existence, maintenance,
116 and safety, or normally in common use.
- 117 (6) "Common expenses" means:
- 118 (a) all sums lawfully assessed against the unit owners;
- 119 (b) expenses of administration, maintenance, repair, or replacement of the common areas
120 and facilities;
- 121 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 122 (d) expenses declared common expenses by this chapter, or by the declaration or the
123 bylaws.
- 124 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
125 to the declaration, means the balance of all income, rents, profits, and revenues from the
126 common areas and facilities remaining after the deduction of the common expenses.
- 127 (8) "Condominium" means the ownership of a single unit in a multiunit project together
128 with an undivided interest in common in the common areas and facilities of the property.
- 129 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in

- 130 accordance with Section 57-8-13.
- 131 (10) "Condominium project" means a real estate condominium project; a plan or project
132 whereby two or more units, whether contained in existing or proposed apartments,
133 commercial or industrial buildings or structures, or otherwise, are separately offered or
134 proposed to be offered for sale. Condominium project also means the property when the
135 context so requires.
- 136 (11) "Condominium unit" means a unit together with the undivided interest in the common
137 areas and facilities appertaining to that unit. Any reference in this chapter to a
138 condominium unit includes both a physical unit together with its appurtenant undivided
139 interest in the common areas and facilities and a time period unit together with its
140 appurtenant undivided interest, unless the reference is specifically limited to a time
141 period unit.
- 142 (12) "Contractible condominium" means a condominium project from which one or more
143 portions of the land within the project may be withdrawn in accordance with provisions
144 of the declaration and of this chapter. If the withdrawal can occur only by the expiration
145 or termination of one or more leases, then the condominium project is not a contractible
146 condominium within the meaning of this chapter.
- 147 (13) "Convertible land" means a building site which is a portion of the common areas and
148 facilities, described by metes and bounds, within which additional units or limited
149 common areas and facilities may be created in accordance with this chapter.
- 150 (14) "Convertible space" means a portion of the structure within the condominium project,
151 which portion may be converted into one or more units or common areas and facilities,
152 including limited common areas and facilities in accordance with this chapter.
- 153 (15) "Declarant" means all persons who execute the declaration or on whose behalf the
154 declaration is executed. From the time of the recordation of any amendment to the
155 declaration expanding an expandable condominium, all persons who execute that
156 amendment or on whose behalf that amendment is executed shall also come within this
157 definition. Any successors of the persons referred to in this subsection who come to
158 stand in the same relation to the condominium project as their predecessors also come
159 within this definition.
- 160 (16) "Declaration" means the instrument by which the property is submitted to the
161 provisions of this act, as it from time to time may be lawfully amended.
- 162 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 163 (18) "Expandable condominium" means a condominium project to which additional land or

- 164 an interest in it may be added in accordance with the declaration and this chapter.
- 165 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 166 (20) "Governing documents":
- 167 (a) means a written instrument by which an association of unit owners may:
- 168 (i) exercise powers; or
- 169 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
- 170 association of unit owners; and
- 171 (b) includes:
- 172 (i) articles of incorporation;
- 173 (ii) bylaws;
- 174 (iii) a plat;
- 175 (iv) a declaration of covenants, conditions, and restrictions; and
- 176 (v) rules of the association of unit owners.
- 177 (21) "Independent third party" means a person that:
- 178 (a) is not related to the unit owner;
- 179 (b) shares no pecuniary interests with the unit owner; and
- 180 (c) purchases the unit in good faith and without the intent to defraud a current or future
- 181 lienholder.
- 182 (22) "Judicial foreclosure" means a foreclosure of a unit:
- 183 (a) for the nonpayment of an assessment;
- 184 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 185 (c) as provided in this chapter.
- 186 (23) "Leasehold condominium" means a condominium project in all or any portion of
- 187 which each unit owner owns an estate for years in his unit, or in the land upon which
- 188 that unit is situated, or both, with all those leasehold interests to expire naturally at the
- 189 same time. A condominium project including leased land, or an interest in the land,
- 190 upon which no units are situated or to be situated is not a leasehold condominium within
- 191 the meaning of this chapter.
- 192 (24) "Limited common areas and facilities" means those common areas and facilities
- 193 designated in the declaration as reserved for use of a certain unit or units to the exclusion
- 194 of the other units.
- 195 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
- 196 declaration or lawful amendments to the declaration, means the owners of more than
- 197 50% in the aggregate in interest of the undivided ownership of the common areas and

- 198 facilities.
- 199 (26) "Management committee" means the committee as provided in the declaration charged
200 with and having the responsibility and authority to make and to enforce all of the
201 reasonable rules covering the operation and maintenance of the property.
- 202 (27) "Management committee meeting" means a gathering of a management committee,
203 whether in person or by means of electronic communication, at which the management
204 committee can take binding action.
- 205 (28) (a) "Means of electronic communication" means an electronic system that allows
206 individuals to communicate orally in real time.
- 207 (b) "Means of electronic communication" includes:
- 208 (i) web conferencing;
- 209 (ii) video conferencing; and
- 210 (iii) telephone conferencing.
- 211 (29) "Mixed-use condominium project" means a condominium project that has both
212 residential and commercial units in the condominium project.
- 213 (30) "Nonjudicial foreclosure" means the sale of a unit:
- 214 (a) for the nonpayment of an assessment;
- 215 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
216 57-1-34; and
- 217 (c) as provided in this chapter.
- 218 (31) "Par value" means a number of dollars or points assigned to each unit by the
219 declaration. Substantially identical units shall be assigned the same par value, but units
220 located at substantially different heights above the ground, or having substantially
221 different views, or having substantially different amenities or other characteristics that
222 might result in differences in market value, may be considered substantially identical
223 within the meaning of this subsection. If par value is stated in terms of dollars, that
224 statement may not be considered to reflect or control the sales price or fair market value
225 of any unit, and no opinion, appraisal, or fair market transaction at a different figure may
226 affect the par value of any unit, or any undivided interest in the common areas and
227 facilities, voting rights in the unit owners' association, liability for common expenses, or
228 right to common profits, assigned on the basis thereof.
- 229 (32) "Period of administrative control" means the period of control described in Subsection
230 57-8-16.5(1).
- 231 (33) "Person" means an individual, corporation, partnership, association, trustee, or other

- 232 legal entity.
- 233 (34) "Political sign" means any sign or document that advocates:
- 234 (a) the election or defeat of a candidate for public office; or
- 235 (b) the approval or defeat of a ballot proposition.
- 236 (35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all
- 237 improvements and structures thereon, all easements, rights, and appurtenances belonging
- 238 thereto, and all articles of personal property intended for use in connection therewith.
- 239 (36) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 240 (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter
- 241 3, Recording of Documents.
- 242 (38) "Rentals" or "rental unit" means:
- 243 (a) a unit that:
- 244 (i) is not owned by an entity or trust; and
- 245 (ii) is occupied by an individual while the unit owner is not occupying the unit as the
- 246 unit owner's primary residence; or
- 247 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.
- 248 (39) "Size" means the number of cubic feet, or the number of square feet of ground or floor
- 249 space, within each unit as computed by reference to the record of survey map and
- 250 rounded off to a whole number. Certain spaces within the units including attic,
- 251 basement, or garage space may be omitted from the calculation or be partially
- 252 discounted by the use of a ratio, if the same basis of calculation is employed for all units
- 253 in the condominium project and if that basis is described in the declaration.
- 254 (40) "Time period unit" means an annually recurring part or parts of a year specified in the
- 255 declaration as a period for which a unit is separately owned and includes a timeshare
- 256 estate as defined in Section 57-19-2.
- 257 (41) "Unconstructed unit" means a unit that:
- 258 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
- 259 a building; and
- 260 (b) is not constructed.
- 261 (42) (a) "Unit" means a separate part of the property intended for any type of
- 262 independent use, which is created by the recording of a declaration and a
- 263 condominium plat that describes the unit boundaries.
- 264 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a
- 265 portion of a floor in a building.

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

267 (43) "Unit number" means the number, letter, or combination of numbers and letters
268 designating the unit in the declaration and in the record of survey map.

269 (44) "Unit owner" means the person or persons owning a unit in fee simple and an
270 undivided interest in the fee simple estate of the common areas and facilities in the
271 percentage specified and established in the declaration or, in the case of a leasehold
272 condominium project, the person or persons whose leasehold interest or interests in the
273 condominium unit extend for the entire balance of the unexpired term or terms.

274 (45) "Water wise landscaping" means:

275 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:

276 (i) remain healthy with minimal irrigation once established; or

277 (ii) be maintained without the use of overhead spray irrigation;

278 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
279 water application; or

280 (c) use of other landscape design features that:

281 (i) minimize the landscape's need for supplemental water from irrigation;

282 (ii) reduce the landscape area dedicated to lawn or turf; or

283 (iii) encourage vegetative coverage.

284 (46) "Water wise plant material" means a plant material suited to water wise landscaping.

285 Section 3. Section **57-8-7.2** is amended to read:

286 **57-8-7.2 . Scope -- Designation of certain areas.**

287 (1) Unless otherwise provided in the declaration, this section applies to a unit if the
288 declaration designates a wall, floor, or ceiling as a boundary of the unit.

289 (2) (a) The following are part of a unit:

290 (i) lath;

291 (ii) furring;

292 (iii) wallboard;

293 (iv) plasterboard;

294 (v) plaster;

295 (vi) paneling;

296 (vii) tiles;

297 (viii) wallpaper;

298 (ix) paint;

299 (x) finished flooring; and

- 300 (xi) any other material constituting part of the finished surface of a wall, floor, or
301 ceiling.
- 302 (b) Any portion of a wall, floor, or ceiling not listed in Subsection (2)(a) is part of the
303 common areas and facilities.
- 304 (3) If a chute, flue, duct, pipe, wire, conduit, bearing wall, bearing column, or any other
305 fixture lies partially within and partially outside the designated boundaries of a unit:
306 (a) any portion of an item described in this Subsection (3) serving only that unit is part
307 of the limited common areas and facilities; and
308 (b) any portion of an item described in this Subsection (3) is part of the common areas
309 and facilities if the item serves:
310 (i) more than one unit; or
311 (ii) any portion of the common areas and facilities.
- 312 (4) Subject to Subsection (3), the following within the boundaries of a unit are part of the
313 unit:
314 (a) spaces;
315 (b) interior partitions; and
316 (c) other fixtures and improvements.
- 317 (5) The following, if designated to serve a single unit but located outside the unit's
318 boundaries, are limited common areas and facilities allocated exclusively to a unit:
319 (a) a shutter;
320 (b) an awning;
321 (c) a window box;
322 (d) a doorstep;
323 (e) a stoop;
324 (f) a porch;
325 (g) a balcony;
326 (h) a patio;
327 (i) an exterior door;
328 (j) an exterior window; and
329 (k) any other fixture.

330 Section 4. Section **57-8-8.1** is amended to read:

331 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**

- 332 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
333 owners similarly.

- 334 (b) Notwithstanding Subsection (1)(a), a rule may:
- 335 (i) vary according to the level and type of service that the association of unit owners
- 336 provides to unit owners;
- 337 (ii) differ between residential and nonresidential uses; or
- 338 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
- 339 reasonable limit on the number of individuals that may use the common areas and
- 340 facilities as the rental unit tenant's guest or as the unit owner's guest.
- 341 (2) (a) If a unit owner owns a rental unit and is in compliance with the association of
- 342 unit owners' governing documents and any rule that the association of unit owners
- 343 adopts under [~~Subsection (4)~~] Subsection (5), a rule may not treat the unit owner
- 344 differently because the unit owner owns a rental unit.
- 345 (b) Notwithstanding Subsection (2)(a), a rule may:
- 346 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
- 347 purposes other than attending an association meeting or managing the rental unit;
- 348 (ii) if the rental unit owner retains the right to use the association of unit owners'
- 349 common areas and facilities, even occasionally:
- 350 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 351 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
- 352 reasonable limit on the number of individuals that may use the common areas
- 353 and facilities as the rental unit tenant's guest or as the unit owner's guest; or
- 354 (iii) include a provision in the association of unit owners' governing documents that:
- 355 (A) requires each tenant of a rental unit to abide by the terms of the governing
- 356 documents; and
- 357 (B) holds the tenant and the rental unit owner jointly and severally liable for a
- 358 violation of a provision of the governing documents.
- 359 (3) (a) A rule may not interfere with the freedom of a unit owner to determine the
- 360 composition of the unit owner's household.
- 361 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 362 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
- 363 or
- 364 (ii) limit the total number of occupants permitted in each residential dwelling on the
- 365 basis of the residential dwelling's:
- 366 (A) size and facilities; and
- 367 (B) fair use of the common areas and facilities.

- 368 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 369 (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:
- 370 (a) regulate the use, maintenance, repair, replacement, and modification of common
- 371 areas and facilities;
- 372 (b) impose and receive any payment, fee, or charge for:
- 373 (i) the use, rental, or operation of the common areas, except limited common areas
- 374 and facilities; and
- 375 (ii) a service provided to a unit owner;
- 376 (c) impose a charge for a late payment of an assessment; or
- 377 (d) provide for the indemnification of the association of unit owners' officers and
- 378 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
- 379 Corporation Act.
- 380 (6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner
- 381 from installing a personal security camera immediately adjacent to the entryway,
- 382 window, or other outside entry point of the owner's condominium unit.
- 383 (b) A rule may prohibit a unit owner from installing a personal security camera in a
- 384 common area not physically connected to the owner's unit.
- 385 (7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday
- 386 sign, symbol, or decoration inside the owner's condominium unit.
- 387 (b) An association may adopt a reasonable time, place, and manner restriction with
- 388 respect to a display that is visible from the exterior of a unit.
- 389 (8) (a) A rule may not:
- 390 (i) prohibit a unit owner from displaying in a window of the owner's condominium
- 391 unit:
- 392 (A) a for-sale sign; or
- 393 (B) a political sign;
- 394 (ii) regulate the content of a political sign; or
- 395 (iii) establish design criteria for a political sign.
- 396 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time,
- 397 place, and manner of posting a for-sale sign or a political sign.
- 398 (9) [Añ] For any area for which one or more unit owners are responsible for landscape
- 399 maintenance, the association of unit owners:
- 400 (a) shall adopt rules supporting [water-efficient landscaping, including allowance for]
- 401 water wise landscaping, including:

- 402 (i) low water use requirements on lawns during drought conditions;
- 403 (ii) design criterion for water wise landscaping; and
- 404 (iii) limiting permissible plant material to specific water wise plant material;
- 405 (b) may not prohibit low water use on lawns during drought conditions; and
- 406 [~~(b)~~] (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient
- 407 landscaping.

408 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
 409 operated, or owned by the association, subject to the exceptions described in Subsection
 410 77-27-21.7(3).

411 (11) A rule shall be reasonable.

412 (12) A declaration, or an amendment to a declaration, may vary any of the requirements of
 413 Subsections (1) through (5), except Subsection (1)(b)(ii).

414 (13) This section applies to an association of unit owners regardless of when the association
 415 of unit owners is created.

416 Section 5. Section **57-8-10.1** is amended to read:

417 **57-8-10.1 . Rental restrictions.**

- 418 (1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:
 - 419 (i) create restrictions on the number and term of rentals in a condominium project; or
 - 420 (ii) prohibit rentals in the condominium project.

421 (b) An association of unit owners that creates a rental restriction or prohibition in
 422 accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a
 423 declaration or by amending the declaration.

424 (2) If an association of unit owners prohibits or imposes restrictions on the number and
 425 term of rentals, the restrictions shall include:

- 426 (a) a provision that requires a condominium project to exempt from the rental
 427 restrictions the following unit owner and the unit owner's unit:
 - 428 (i) a unit owner in the military for the period of the unit owner's deployment;
 - 429 (ii) a unit occupied by a unit owner's parent, child, or sibling;
 - 430 (iii) a unit owner whose employer has relocated the unit owner for two years or less;
 - 431 (iv) a unit owned by an entity that is occupied by an individual who:
 - 432 (A) has voting rights under the entity's organizing documents; and
 - 433 (B) has a 25% or greater share of ownership, control, and right to profits and
 434 losses of the entity; or
 - 435 (v) a unit owned by a trust or other entity created for estate planning purposes if the

- 436 trust or other estate planning entity was created for the estate of:
- 437 (A) a current resident of the unit; or
- 438 (B) the parent, child, or sibling of the current resident of the unit;
- 439 (b) a provision that allows a unit owner who has a rental in the condominium project
- 440 before the time the rental restriction described in Subsection (1)(a) is recorded with
- 441 the county recorder of the county in which the condominium project is located to
- 442 continue renting until:
- 443 (i) the unit owner occupies the unit;
- 444 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
- 445 similar position of ownership or control of an entity or trust that holds an
- 446 ownership interest in the unit, occupies the unit; or
- 447 (iii) the unit is transferred; and
- 448 (c) a requirement that the association of unit owners create, by rule or resolution,
- 449 procedures to:
- 450 (i) determine and track the number of rentals and units in the condominium project
- 451 subject to the provisions described in Subsections (2)(a) and (b); and
- 452 (ii) ensure consistent administration and enforcement of the rental restrictions.
- 453 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
- 454 following occur:
- 455 (a) the conveyance, sale, or other transfer of a unit by deed;
- 456 (b) the granting of a life estate in the unit; or
- 457 (c) if the unit is owned by a limited liability company, corporation, partnership, or other
- 458 business entity, the sale or transfer of more than 75% of the business entity's share,
- 459 stock, membership interests, or partnership interests in a 12-month period.
- 460 (4) This section does not limit or affect residency age requirements for an association of
- 461 unit owners that complies with the requirements of the Housing for Older Persons Act,
- 462 42 U.S.C. Sec. 3607.
- 463 (5) A declaration or amendment to a declaration recorded before transfer of the first unit
- 464 from the initial declarant may prohibit or restrict rentals without providing for the
- 465 exceptions, provisions, and procedures required under Subsection (2).
- 466 (6) (a) Subsections (1) through (5) do not apply to:
- 467 (i) a condominium project that contains a time period unit as defined in Section
- 468 57-8-3;
- 469 (ii) any other form of timeshare interest as defined in Section 57-19-2; or

- 470 (iii) subject to Subsection (6)(b), a condominium project in which the initial
471 declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the
472 association of unit owners:
- 473 (A) adopts a rental restriction or prohibition; or
474 (B) amends an existing rental restriction or prohibition.
- 475 (b) An association that adopts a rental restriction or amends an existing rental restriction
476 or prohibition before May 9, 2017, is not required to include the exemption described
477 in Subsection (2)(a)(iv).
- 478 (7) Notwithstanding this section, an association of unit owners may restrict or prohibit
479 rentals without an exception described in Subsection (2) if:
- 480 (a) the restriction or prohibition receives unanimous approval by all unit owners; and
481 (b) when the restriction or prohibition requires an amendment to the association of unit
482 owners' declaration, the association of unit owners fulfills all other requirements for
483 amending the declaration described in the association of unit owners' governing
484 documents.
- 485 (8) Except as provided in Subsection (9), an association of unit owners may not require a
486 unit owner who owns a rental unit to:
- 487 (a) obtain the association of unit owners' approval of a prospective renter;
488 (b) give the association of unit owners:
489 (i) a copy of a rental application;
490 (ii) a copy of a renter's or prospective renter's credit information or credit report;
491 (iii) a copy of a renter's or prospective renter's background check; or
492 (iv) documentation to verify the renter's age;[-or]
- 493 (c) pay an additional assessment, fine, or fee because the unit is a rental unit[-];
494 (d) use a lease agreement provided by the association; or
495 (e) obtain the association's approval of a lease agreement.
- 496 (9) (a) A unit owner who owns a rental unit shall give an association of unit owners the
497 documents described in Subsection (8)(b) if the unit owner is required to provide the
498 documents by court order or as part of discovery under the Utah Rules of Civil
499 Procedure.
- 500 (b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy
501 of the units by a certain class of individuals, the association of unit owners may
502 require a unit owner who owns a rental unit to give the association of unit owners the
503 information described in Subsection (8)(b), if:

- 504 (i) the information helps the association of unit owners determine whether the renter's
505 occupancy of the unit complies with the association of unit owners' declaration;
506 and
- 507 (ii) the association of unit owners uses the information to determine whether the
508 renter's occupancy of the unit complies with the association of unit owners'
509 declaration.
- 510 (c) An association that permits at least 35% of the units in the association to be rental
511 units may charge a unit owner who owns a rental unit an annual fee of up to \$200 to
512 defray the association's additional administrative expenses directly related to a unit
513 that is a rental unit, as detailed in an accounting provided to the unit owner.
- 514 (d) An association may require a unit owner who owns a rental unit and the renter of the
515 unit owner's rental unit to sign an addendum to a lease agreement provided by the
516 association.

517 (10) The provisions of Subsections (8) and (9) apply to an association of unit owners
518 regardless of when the association of unit owners is created.

519 Section 6. Section **57-8-32** is amended to read:

520 **57-8-32 . Sale of property and common areas and facilities.**

521 (1) [~~Unless~~] Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise
522 provided in the declaration or bylaws, and notwithstanding the provisions of Sections
523 57-8-30 and 57-8-31, the unit owners may[~~, at a meeting of unit owners called for the~~
524 purpose of voting,] by an affirmative vote of at least 67% of unit owners, elect to sell,
525 convey, transfer, or otherwise dispose of the property or all or part of the common areas
526 and facilities.

527 (2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and
528 each unit owner shall execute and deliver the appropriate instruments and perform all
529 acts as necessary to effect the sale, conveyance, transfer, or other disposition of the
530 property or common areas and facilities.

531 (3) The general easement of ingress, egress, and use of the common areas and facilities
532 granted to an association and unit owners through recorded governing documents is
533 extinguished in any portion of the common areas and facilities the unit owners sell,
534 convey, transfer, or otherwise dispose of, if:

535 (a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the
536 portion of the common areas and facilities, comply with:

537 (i) the provisions of this section; and

- 538 (ii) Section 10-9a-606 or 17-27a-606; and
539 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
540 areas and facilities results in a person other than the association or a unit owner
541 owning the portion of the common areas and facilities.
542 (4) This section applies to an association of unit owners regardless of when the association
543 of unit owners is created.

544 Section 7. Section **57-8a-102** is amended to read:

545 **57-8a-102 . Definitions.**

546 As used in this chapter:

- 547 (1) (a) "Assessment" means a charge imposed or levied:
548 (i) by the association;
549 (ii) on or against a lot or a lot owner; and
550 (iii) pursuant to a governing document recorded with the county recorder.
551 (b) "Assessment" includes:
552 (i) a common expense; and
553 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
554 (2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or
555 other legal entity, any member of which:
556 (i) is an owner of a residential lot located within the jurisdiction of the association, as
557 described in the governing documents; and
558 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
559 (A) real property taxes;
560 (B) insurance premiums;
561 (C) maintenance costs; or
562 (D) for improvement of real property not owned by the member.
563 (b) "Association" or "homeowner association" does not include an association created
564 under Chapter 8, Condominium Ownership Act.
565 (3) "Board meeting" means a gathering of a board, whether in person or by means of
566 electronic communication, at which the board can take binding action.
567 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
568 authority to manage the affairs of the association.
569 (5) "Common areas" means property that the association:
570 (a) owns;
571 (b) maintains;

- 572 (c) repairs; or
573 (d) administers.
- 574 (6) "Common expense" means costs incurred by the association to exercise any of the
575 powers provided for in the association's governing documents.
- 576 (7) "Declarant":
577 (a) means the person who executes a declaration and submits it for recording in the
578 office of the recorder of the county in which the property described in the declaration
579 is located; and
580 (b) includes the person's successor and assign.
- 581 (8) "Director" means a member of the board of directors.
- 582 (9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 583 (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 584 (11) (a) "Governing documents" means a written instrument by which the association
585 may:
586 (i) exercise powers; or
587 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
588 association.
589 (b) "Governing documents" includes:
590 (i) articles of incorporation;
591 (ii) bylaws;
592 (iii) a plat;
593 (iv) a declaration of covenants, conditions, and restrictions; and
594 (v) rules of the association.
- 595 (12) "Independent third party" means a person that:
596 (a) is not related to the owner of the residential lot;
597 (b) shares no pecuniary interests with the owner of the residential lot; and
598 (c) purchases the residential lot in good faith and without the intent to defraud a current
599 or future lienholder.
- 600 (13) "Judicial foreclosure" means a foreclosure of a lot:
601 (a) for the nonpayment of an assessment;
602 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
603 (c) as provided in Part 3, Collection of Assessments.
- 604 (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
605 (a) by a person or persons other than the owner; and

- 606 (b) for which the owner receives a consideration or benefit, including a fee, service,
607 gratuity, or emolument.
- 608 (15) "Limited common areas" means common areas described in the declaration and
609 allocated for the exclusive use of one or more lot owners.
- 610 (16) "Lot" means:
- 611 (a) a lot, parcel, plot, or other division of land:
- 612 (i) designated for separate ownership or occupancy; and
613 (ii) (A) shown on a recorded subdivision plat; or
614 (B) the boundaries of which are described in a recorded governing document; or
- 615 (b) (i) a unit in a condominium association if the condominium association is a part
616 of a development; or
617 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
618 development.
- 619 (17) (a) "Means of electronic communication" means an electronic system that allows
620 individuals to communicate orally in real time.
- 621 (b) "Means of electronic communication" includes:
- 622 (i) web conferencing;
623 (ii) video conferencing; and
624 (iii) telephone conferencing.
- 625 (18) "Mixed-use project" means a project under this chapter that has both residential and
626 commercial lots in the project.
- 627 (19) "Nonjudicial foreclosure" means the sale of a lot:
- 628 (a) for the nonpayment of an assessment;
629 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
630 57-1-34; and
631 (c) as provided in Part 3, Collection of Assessments.
- 632 (20) "Period of administrative control" means the period during which the person who filed
633 the association's governing documents or the person's successor in interest retains
634 authority to:
- 635 (a) appoint or remove members of the association's board of directors; or
636 (b) exercise power or authority assigned to the association under the association's
637 governing documents.
- 638 (21) "Political sign" means any sign or document that advocates:
- 639 (a) the election or defeat of a candidate for public office; or

- 640 (b) the approval or defeat of a ballot proposition.
- 641 (22) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 642 (23) "Rentals" or "rental lot" means:
- 643 (a) a lot that:
- 644 (i) is not owned by an entity or trust; and
- 645 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
- 646 owner's primary residence;~~[-or]~~
- 647 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot~~[-]~~ ; or
- 648 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.
- 649 (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or
- 650 otherwise to primarily residential or recreational purposes.
- 651 (25) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an
- 652 association that:
- 653 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
- 654 declaration; and
- 655 (ii) governs:
- 656 (A) the conduct of persons; or
- 657 (B) the use, quality, type, design, or appearance of real property or personal
- 658 property.
- 659 (b) "Rule" does not include the internal business operating procedures of a board.
- 660 (26) "Sex offender" means the same as that term is defined in Section 77-27-21.7.
- 661 (27) "Solar energy system" means:
- 662 (a) a system that is used to produce electric energy from sunlight; and
- 663 (b) the components of the system described in Subsection (27)(a).
- 664 Section 8. Section **57-8a-209** is amended to read:
- 665 **57-8a-209 . Rental restrictions.**
- 666 (1) (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:
- 667 (i) create restrictions on the number and term of rentals in an association; or
- 668 (ii) prohibit rentals in the association.
- 669 (b) An association that creates a rental restriction or prohibition in accordance with
- 670 Subsection (1)(a) shall create the rental restriction or prohibition in a recorded
- 671 declaration of covenants, conditions, and restrictions, or by amending the recorded
- 672 declaration of covenants, conditions, and restrictions.
- 673 (2) If an association prohibits or imposes restrictions on the number and term of rentals, the

- 674 restrictions shall include:
- 675 (a) a provision that requires the association to exempt from the rental restrictions the
676 following lot owner and the lot owner's lot:
- 677 (i) a lot owner in the military for the period of the lot owner's deployment;
- 678 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 679 (iii) a lot owner whose employer has relocated the lot owner for two years or less;
- 680 (iv) a lot owned by an entity that is occupied by an individual who:
- 681 (A) has voting rights under the entity's organizing documents; and
- 682 (B) has a 25% or greater share of ownership, control, and right to profits and
683 losses of the entity; or
- 684 (v) a lot owned by a trust or other entity created for estate planning purposes if the
685 trust or other estate planning entity was created for:
- 686 (A) the estate of a current resident of the lot; or
- 687 (B) the parent, child, or sibling of the current resident of the lot;
- 688 (b) a provision that allows a lot owner who has a rental in the association before the time
689 the rental restriction described in Subsection (1)(a) is recorded with the county
690 recorder of the county in which the association is located to continue renting until:
- 691 (i) the lot owner occupies the lot;
- 692 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
693 similar position of ownership or control of an entity or trust that holds an
694 ownership interest in the lot, occupies the lot; or
- 695 (iii) the lot is transferred; and
- 696 (c) a requirement that the association create, by rule or resolution, procedures to:
- 697 (i) determine and track the number of rentals and lots in the association subject to the
698 provisions described in Subsections (2)(a) and (b); and
- 699 (ii) ensure consistent administration and enforcement of the rental restrictions.
- 700 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
701 following occur:
- 702 (a) the conveyance, sale, or other transfer of a lot by deed;
- 703 (b) the granting of a life estate in the lot; or
- 704 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
705 business entity, the sale or transfer of more than 75% of the business entity's share,
706 stock, membership interests, or partnership interests in a 12-month period.
- 707 (4) This section does not limit or affect residency age requirements for an association that

- 708 complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
 709 3607.
- 710 (5) A declaration of covenants, conditions, and restrictions or amendments to the
 711 declaration of covenants, conditions, and restrictions recorded before the transfer of the
 712 first lot from the initial declarant may prohibit or restrict rentals without providing for
 713 the exceptions, provisions, and procedures required under Subsection (2).
- 714 (6) (a) Subsections (1) through (5) do not apply to:
- 715 (i) an association that contains a time period unit as defined in Section 57-8-3;
 716 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
 717 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
 718 unless, on or after May 12, 2015, the association:
- 719 (A) adopts a rental restriction or prohibition; or
 720 (B) amends an existing rental restriction or prohibition.
- 721 (b) An association that adopts a rental restriction or amends an existing rental restriction
 722 or prohibition before May 9, 2017, is not required to include the exemption described
 723 in Subsection (2)(a)(iv).
- 724 (7) Notwithstanding this section, an association may restrict or prohibit rentals without an
 725 exception described in Subsection (2) if:
- 726 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
 727 (b) when the restriction or prohibition requires an amendment to the association's
 728 recorded declaration of covenants, conditions, and restrictions, the association fulfills
 729 all other requirements for amending the recorded declaration of covenants,
 730 conditions, and restrictions described in the association's governing documents.
- 731 (8) Except as provided in Subsection (9), an association may not require a lot owner who
 732 owns a rental lot to:
- 733 (a) obtain the association's approval of a prospective renter;
 734 (b) give the association:
- 735 (i) a copy of a rental application;
 736 (ii) a copy of a renter's or prospective renter's credit information or credit report;
 737 (iii) a copy of a renter's or prospective renter's background check; or
 738 (iv) documentation to verify the renter's age;~~[-or]~~
- 739 (c) pay an additional assessment, fine, or fee because the lot is a rental lot[-];
 740 (d) use a lease agreement provided by the association; or
 741 (e) obtain the association's approval of a lease agreement.

- 742 (9) (a) A lot owner who owns a rental lot shall give an association the documents
743 described in Subsection (8)(b) if the lot owner is required to provide the documents
744 by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 745 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
746 prohibits or restricts occupancy of the lots by a certain class of individuals, the
747 association may require a lot owner who owns a rental lot to give the association the
748 information described in Subsection (8)(b), if:
- 749 (i) the information helps the association determine whether the renter's occupancy of
750 the lot complies with the association's declaration of covenants, conditions, and
751 restrictions; and
- 752 (ii) the association uses the information to determine whether the renter's occupancy
753 of the lot complies with the association's declaration of covenants, conditions, and
754 restrictions.
- 755 (c) An association that permits at least 35% of the lots in the association to be rental lots
756 may charge a lot owner who owns a rental lot an annual fee of up to \$200 to defray
757 the association's additional administrative expenses directly related to a lot that is a
758 rental lot, as detailed in an accounting provided to the lot owner.
- 759 (d) An association may require a lot owner who owns a rental lot and the renter of the lot
760 owner's rental lot to sign an addendum to a lease agreement provided by the
761 association.
- 762 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the
763 rental of an internal accessory dwelling unit, as defined in Section 10-9a-530 or
764 17-27a-526, constructed within a lot owner's residential lot, if the internal accessory
765 dwelling unit complies with all applicable:
- 766 (a) land use ordinances;
767 (b) building codes;
768 (c) health codes; and
769 (d) fire codes.
- 770 (11) The provisions of Subsections (8) through (10) apply to an association regardless of
771 when the association is created.
- 772 Section 9. Section **57-8a-218** is amended to read:
- 773 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
774 **design criteria.**
- 775 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot

- 776 owners similarly.
- 777 (b) Notwithstanding Subsection (1)(a), a rule may:
- 778 (i) vary according to the level and type of service that the association provides to lot
779 owners;
- 780 (ii) differ between residential and nonresidential uses; and
- 781 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
782 limit on the number of individuals who may use the common areas and facilities
783 as guests of the lot tenant or lot owner.
- 784 (2) (a) If a lot owner owns a rental lot and is in compliance with the association's
785 governing documents and any rule that the association adopts under Subsection (4), a
786 rule may not treat the lot owner differently because the lot owner owns a rental lot.
- 787 (b) Notwithstanding Subsection (2)(a), a rule may:
- 788 (i) limit or prohibit a rental lot owner from using the common areas for purposes
789 other than attending an association meeting or managing the rental lot;
- 790 (ii) if the rental lot owner retains the right to use the association's common areas,
791 even occasionally:
- 792 (A) charge a rental lot owner a fee to use the common areas; or
- 793 (B) for a lot that an owner leases for a term of less than 30 days, impose a
794 reasonable limit on the number of individuals who may use the common areas
795 and facilities as guests of the lot tenant or lot owner; or
- 796 (iii) include a provision in the association's governing documents that:
- 797 (A) requires each tenant of a rental lot to abide by the terms of the governing
798 documents; and
- 799 (B) holds the tenant and the rental lot owner jointly and severally liable for a
800 violation of a provision of the governing documents.
- 801 (3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious or
802 holiday sign, symbol, or decoration:
- 803 (i) inside a dwelling on a lot; or
- 804 (ii) outside a dwelling on:
- 805 (A) a lot;
- 806 (B) the exterior of the dwelling, unless the association has an ownership interest
807 in, or a maintenance, repair, or replacement obligation for, the exterior; or
- 808 (C) the front yard of the dwelling, unless the association has an ownership interest
809 in, or a maintenance, repair, or replacement obligation for, the yard.

- 810 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
811 place, and manner restriction with respect to a display that is:
812 (i) outside a dwelling on:
813 (A) a lot;
814 (B) the exterior of the dwelling; or
815 (C) the front yard of the dwelling; and
816 (ii) visible from outside the lot.
- 817 (4) (a) A rule may not prohibit a lot owner from displaying a political sign:
818 (i) inside a dwelling on a lot; or
819 (ii) outside a dwelling on:
820 (A) a lot;
821 (B) the exterior of the dwelling, regardless of whether the association has an
822 ownership interest in the exterior; or
823 (C) the front yard of the dwelling, regardless of whether the association has an
824 ownership interest in the yard.
- 825 (b) A rule may not regulate the content of a political sign.
- 826 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
827 and manner of posting a political sign.
- 828 (d) An association design provision may not establish design criteria for a political sign.
- 829 (5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:
830 (i) inside a dwelling on a lot; or
831 (ii) outside a dwelling on:
832 (A) a lot;
833 (B) the exterior of the dwelling, regardless of whether the association has an
834 ownership interest in the exterior; or
835 (C) the front yard of the dwelling, regardless of whether the association has an
836 ownership interest in the yard.
- 837 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
838 and manner of posting a for-sale sign.
- 839 (6) (a) A rule may not interfere with the freedom of a lot owner to determine the
840 composition of the lot owner's household.
- 841 (b) Notwithstanding Subsection (6)(a), an association may:
842 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
843 or

- 844 (ii) limit the total number of occupants permitted in each residential dwelling on the
845 basis of the residential dwelling's:
846 (A) size and facilities; and
847 (B) fair use of the common areas.
- 848 (7) (a) A rule may not interfere with a reasonable activity of a lot owner within the
849 confines of a dwelling or lot, including backyard landscaping or amenities, to the
850 extent that the activity is in compliance with local laws and ordinances, including
851 nuisance laws and ordinances.
- 852 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
853 confines of a dwelling or lot, including backyard landscaping or amenities, if the
854 activity:
855 (i) is not normally associated with a project restricted to residential use; or
856 (ii) (A) creates monetary costs for the association or other lot owners;
857 (B) creates a danger to the health or safety of occupants of other lots;
858 (C) generates excessive noise or traffic;
859 (D) creates unsightly conditions visible from outside the dwelling;
860 (E) creates an unreasonable source of annoyance to persons outside the lot; or
861 (F) if there are attached dwellings, creates the potential for smoke to enter another
862 lot owner's dwelling, the common areas, or limited common areas.
- 863 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
864 that affect the use of or behavior inside the dwelling.
- 865 (8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written
866 objection to the board, alter the allocation of financial burdens among the various lots.
- 867 (b) Notwithstanding Subsection (8)(a), an association may:
868 (i) change the common areas available to a lot owner;
869 (ii) adopt generally applicable rules for the use of common areas; or
870 (iii) deny use privileges to a lot owner who:
871 (A) is delinquent in paying assessments;
872 (B) abuses the common areas; or
873 (C) violates the governing documents.
- 874 (c) This Subsection (8) does not permit a rule that:
875 (i) alters the method of levying assessments; or
876 (ii) increases the amount of assessments as provided in the declaration.
- 877 (9) (a) Subject to Subsection (9)(b), a rule may not:

- 878 (i) prohibit the transfer of a lot; or
879 (ii) require the consent of the association or board to transfer a lot.
- 880 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 881 (10) (a) A rule may not require a lot owner to dispose of personal property that was in or
882 on a lot before the adoption of the rule or design criteria if the personal property was
883 in compliance with all rules and other governing documents previously in force.
- 884 (b) The exemption in Subsection (10)(a):
- 885 (i) applies during the period of the lot owner's ownership of the lot; and
886 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
887 of the rule described in Subsection (10)(a).
- 888 (11) A rule or action by the association or action by the board may not unreasonably
889 impede a declarant's ability to satisfy existing development financing for community
890 improvements and right to develop:
- 891 (a) the project; or
892 (b) other properties in the vicinity of the project.
- 893 (12) A rule or association or board action may not interfere with:
- 894 (a) the use or operation of an amenity that the association does not own or control; or
895 (b) the exercise of a right associated with an easement.
- 896 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
897 completed application for design review, or to proceed in accordance with another
898 approval process, under the terms of the governing documents in existence at the time
899 the completed application was submitted by the owner for review.
- 900 (14) Unless otherwise provided in the declaration, an association may by rule:
- 901 (a) regulate the use, maintenance, repair, replacement, and modification of common
902 areas;
- 903 (b) impose and receive any payment, fee, or charge for:
- 904 (i) the use, rental, or operation of the common areas, except limited common areas;
905 and
906 (ii) a service provided to a lot owner;
- 907 (c) impose a charge for a late payment of an assessment; or
908 (d) provide for the indemnification of the association's officers and board consistent with
909 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 910 (15) A rule may not prohibit a lot owner from installing a personal security camera
911 immediately adjacent to the entryway, window, or other outside entry point of the

- 912 owner's dwelling unit.
- 913 (16) (a) ~~[An]~~ For any area for which one or more lot owners are responsible for landscape
914 maintenance of any landscaping within the lot owner's lot or the common areas, the association
915 shall adopt rules supporting ~~[water-efficient landscaping, including allowance for]~~ water
916 wise landscaping as defined in Section 57-8a-231 including:
- 917 (i) low water use requirements on lawns during drought conditions;
- 918 (ii) design criterion for water wise landscaping; and
- 919 (iii) ~~[.]~~ limiting permissible plant material to specific water wise plant material.
- 920 (b) A rule may not:
- 921 (i) prohibit or restrict the conversion of a grass park strip to ~~[water-efficient~~
922 ~~landscaping;]~~ water wise landscaping as defined in Section 57-8a-231; or
- 923 (ii) prohibit low water use on lawns during drought conditions.
- 924 ~~[(e) An association subject to this chapter and formed before March 5, 2023, shall adopt~~
925 ~~rules required under Subsection (16)(a) before June 30, 2023.]~~
- 926 (17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
927 residential lot from constructing an internal accessory dwelling unit, as defined in
928 Section 10-9a-530 or 17-27a-526, within the owner's residential lot.
- 929 (b) Subsection (17)(a) does not apply if the construction would violate:
- 930 (i) a local land use ordinance;
- 931 (ii) a building code;
- 932 (iii) a health code; or
- 933 (iv) a fire code.
- 934 (18) A rule may restrict a sex offender from accessing a protected area that is maintained,
935 operated, or owned by the association, subject to the exceptions described in Subsection
936 77-27-21.7(3).
- 937 (19) A rule shall be reasonable.
- 938 (20) A declaration, or an amendment to a declaration, may vary any of the requirements of
939 Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 940 (21) A rule may not be inconsistent with a provision of the association's declaration,
941 bylaws, or articles of incorporation.
- 942 (22) This section applies to an association regardless of when the association is created.
943 Section 10. Section **57-8a-231** is amended to read:
944 **57-8a-231 . Water wise landscaping.**
945 (1) As used in this section:

- 946 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
947 grasses.
- 948 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose
949 and applied to the soil.
- 950 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
951 through a nozzle.
- 952 (d) (i) "Vegetative coverage" means the ground level surface area covered by the
953 exposed leaf area of a plant or group of plants at full maturity.
- 954 (ii) "Vegetative coverage" does not mean the ground level surface area covered by
955 the exposed leaf area of a tree or trees.
- 956 (e) "Water wise landscaping" means any or all of the following:
- 957 (i) installation of plant materials suited to the microclimate and soil conditions that
958 can:
- 959 (A) remain healthy with minimal irrigation once established; or
960 (B) be maintained without the use of overhead spray irrigation;
- 961 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
962 and water application; or
- 963 (iii) the use of other landscape design features that:
- 964 (A) minimize the need of the landscape for supplemental water from irrigation;
965 (B) reduce the landscape area dedicated to lawn or turf; or
966 (C) encourage vegetative coverage.
- 967 (f) "Water wise plant material" means a plant material suited to water wise landscaping
968 as defined in this section.
- 969 (2) An association may not enact or enforce a governing document that prohibits, or has the
970 effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise
971 landscaping on the [property] lot owner's [property] lot.
- 972 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from
973 requiring a property owner to:
- 974 (i) comply with a site plan review or other review process before installing water
975 wise landscaping;
- 976 (ii) maintain plant material in a healthy condition; and
- 977 (iii) follow specific water wise landscaping design requirements adopted by the
978 association including a requirement that:
- 979 (A) restricts or clarifies the use of mulches considered detrimental to the

980 association's operations; and
981 (B) restricts or prohibits the use of specific plant materials other than water wise
982 plant materials.

983 (b) An association may not require a [property] lot owner to:

984 (i) install or keep in place lawn or turf in an area with a width less than eight feet; or

985 (ii) have more than 50% vegetative coverage, that is not water wise landscaping, on
986 the [property] lot owner's [property] lot.

987 (4) (a) Subject to Subsection (4)(b), if an association does not adopt rules as required by
988 Subsection 57-8a-218(16) and fails to remedy the noncompliance within the time
989 specified in Subsection (4)(c), a lot owner may file an action in state court for:

990 (i) injunctive relief requiring the association to comply with the requirements of
991 Subsection 57-8a-218(16);

992 (ii) \$500, or the lot owner's actual damages, whichever is greater;

993 (iii) any other remedy provided by law; and

994 (iv) reasonable costs and attorney fees.

995 (b) No fewer than 90 days before the day on which a lot owner files a complaint under
996 Subsection (4)(a), the lot owner shall deliver written notice described in Subsection
997 (4)(c) to the association.

998 (c) The lot owner shall include in a notice described in Subsection (4)(b):

999 (i) the requirements in Subsection 57-8a-218(16) for adopting water wise landscaping
1000 rules with which the association has failed to comply;

1001 (ii) a demand that the association come into compliance with the requirements; and

1002 (iii) a date, no fewer than 90 days after the day on which the lot owner delivers the
1003 notice, by which the association must remedy the association's noncompliance.

1004 Section 11. Section **57-8a-232** is enacted to read:

1005 **57-8a-232 . Sale of common areas.**

1006 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the
1007 governing documents, an association may by an affirmative vote of at least 67% of the
1008 voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of
1009 all or part of the common areas.

1010 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each
1011 lot owner shall execute and deliver the appropriate instruments and perform all acts as
1012 necessary to effect the sale, conveyance, transfer, or other disposition of the common
1013 areas.

- 1014 (3) The general easement of ingress, egress, and use of the common areas and facilities
 1015 granted to an association and lot owners through recorded governing documents is
 1016 extinguished in any portion of the common areas and facilities the association sells,
 1017 conveys, transfers, or otherwise disposes of, if:
- 1018 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the
 1019 portion of the common areas, comply with:
- 1020 (i) the provisions of this section; and
 1021 (ii) Section 10-9a-606 or 17-27a-606; and
- 1022 (b) the sale, conveyance, transfer, or other disposition of the portion of the common
 1023 areas results in a person other than the association or a lot owner owning the portion
 1024 of the common areas and facilities.
- 1025 (4) This section applies to an association regardless of when the association is created.
 1026 Section 12. Section **59-2-301.1** is amended to read:
- 1027 **59-2-301.1 . Assessment of property subject to a conservation easement --**
 1028 **Assessment of golf course or hunting club -- Assessment of common areas.**
- 1029 (1) In assessing the fair market value of property subject to a conservation easement under
 1030 Title 57, Chapter 18, Land Conservation Easement Act, a county assessor shall consider
 1031 factors relating to the property and neighboring property that affect the fair market value
 1032 of the property being assessed, including:
- 1033 (a) value that transfers to neighboring property because of the presence of a conservation
 1034 easement on the property being assessed;
- 1035 (b) practical and legal restrictions on the development potential of the property because
 1036 of the presence of the conservation easement;
- 1037 (c) the absence of neighboring property similarly subject to a conservation easement to
 1038 provide a basis for comparing values between properties; and
- 1039 (d) any other factor that causes the fair market value of the property to be affected
 1040 because of the presence of a conservation easement.
- 1041 (2) (a) In assessing the fair market value of a golf course or hunting club, a county
 1042 assessor shall consider factors relating to the golf course or hunting club and
 1043 neighboring property that affect the fair market value of the golf course or hunting
 1044 club, including:
- 1045 (i) value that transfers to neighboring property because of the presence of the golf
 1046 course or hunting club;
- 1047 (ii) practical and legal restrictions on the development potential of the golf course or

- 1048 hunting club; and
- 1049 (iii) the history of operation of the golf course or hunting club and the likelihood that
- 1050 the present use will continue into the future.
- 1051 (b) The valuation method a county assessor may use in determining the fair market value
- 1052 of a golf course or hunting club includes:
- 1053 (i) the cost approach;
- 1054 (ii) the income capitalization approach; and
- 1055 (iii) the sales comparison approach.
- 1056 (3) Except as otherwise provided by the plat or accompanying recorded document, a county
- 1057 assessor shall assess a common area and facility as defined in Section 57-8-3 or a
- 1058 common area as defined in Section 57-8a-102 consistent with the equal ownership
- 1059 interests described in Subsection 10-9a-606(4) or 17-27a-606(4) and may not assess the
- 1060 common area and facility or common area in a manner that reflects a different division
- 1061 of interest.
- 1062 [~~3~~] (4) In assessing the fair market value of property that is a common area or facility
- 1063 under Title 57, Chapter 8, Condominium Ownership Act, or a common area under Title
- 1064 57, Chapter 8a, Community Association Act, a county assessor shall consider factors
- 1065 relating to the property and neighboring property that affect the fair market value of the
- 1066 property being assessed, including:
- 1067 (a) value that transfers to neighboring property because the property is a common area or
- 1068 facility;
- 1069 (b) practical and legal restrictions on the development potential of the property because
- 1070 the property is a common area or facility;
- 1071 (c) the absence of neighboring property similarly situated as a common area or facility to
- 1072 provide a basis for comparing values between properties; and
- 1073 (d) any other factor that causes the fair market value of the property to be affected
- 1074 because the property is a common area or facility.

1075 Section 13. **Effective date.**

1076 This bill takes effect on May 1, 2024.