

**Senator Wayne A. Harper** proposes the following substitute bill:

**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**

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**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
- 13** copy 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
- 21** property 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

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **16-6a-1602**, as last amended by Laws of Utah 2023, Chapter 503
- 33 **57-8-3**, as last amended by Laws of Utah 2023, Chapter 503
- 34 **57-8-7.2**, as enacted by Laws of Utah 2004, Chapter 290
- 35 **57-8-8.1**, as last amended by Laws of Utah 2023, Chapter 503
- 36 **57-8-10.1**, as last amended by Laws of Utah 2023, Chapter 503
- 37 **57-8-32**, as last amended by Laws of Utah 2017, Chapter 405
- 38 **57-8a-102**, as last amended by Laws of Utah 2023, Chapter 503
- 39 **57-8a-209**, as last amended by Laws of Utah 2023, Chapter 503
- 40 **57-8a-218**, as last amended by Laws of Utah 2023, Chapter 503
- 41 **57-8a-231**, as last amended by Laws of Utah 2023, Chapters 139, 199
- 42 **59-2-301.1**, as last amended by Laws of Utah 2017, Chapter 49

43 ENACTS:

44 **57-8a-232**, Utah Code Annotated 1953



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

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

48 **16-6a-1602. Inspection of records by directors and members.**

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

- 51 (a) during regular business hours;
- 52 (b) at the nonprofit corporation's principal office; and
- 53 (c) if the director or member gives the nonprofit corporation written demand, at least  
54 five business days before the date on which the member wishes to inspect and copy the records.

55 (2) In addition to the rights set forth in Subsection (1), a director or member is entitled  
56 to inspect and copy any of the other records of the nonprofit corporation described in

- 57 ~~[Subsections 16-6a-1601(2) through (5)]~~ Subsections 16-6a-1601(1) through (3):  
58           (a) during regular business hours;  
59           (b) at a reasonable location specified by the nonprofit corporation; and  
60           (c) at least five business days before the date on which the member wishes to inspect  
61 and copy the records, if the director or member:  
62           (i) meets the requirements of Subsection (3); and  
63           (ii) gives the nonprofit corporation written demand.  
64           (3) A director or member may inspect and copy the records described in ~~[Subsection~~  
65 ~~(2)]~~ Subsections (1) and (2) only if:  
66           (a) the demand is made:  
67           (i) in good faith; and  
68           (ii) for a proper purpose;  
69           (b) the director or member describes with reasonable particularity the purpose and the  
70 records the director or member desires to inspect; and  
71           (c) the records are directly connected with the described purpose.  
72           (4) Notwithstanding Section 16-6a-102, for purposes of this section:  
73           (a) "member" includes:  
74           (i) a beneficial owner whose membership interest is held in a voting trust; and  
75           (ii) any other beneficial owner of a membership interest who establishes beneficial  
76 ownership; and  
77           (b) "proper purpose" means a purpose reasonably related to the demanding member's or  
78 director's interest as a member or director.  
79           (5) The right of inspection granted by this section may not be abolished or limited by  
80 the articles of incorporation or bylaws.  
81           (6) This section does not affect:  
82           (a) the right of a director or member to inspect records under Section 16-6a-710;  
83           (b) the right of a member to inspect records to the same extent as any other litigant if  
84 the member is in litigation with the nonprofit corporation; or  
85           (c) the power of a court, independent of this chapter, to compel the production of  
86 corporate records for examination.  
87           (7) A director or member may not use any information obtained through the inspection

88 or copying of records permitted by Subsection (2) for any purposes other than those set forth in  
89 a demand made under Subsection (3).

90 Section 2. Section 57-8-3 is amended to read:

91 **57-8-3. Definitions.**

92 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 (6) "Common expenses" means:

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

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

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

126 (d) expenses declared common expenses by this chapter, or by the declaration or the  
127 bylaws.

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

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

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

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

141 (11) "Condominium unit" means a unit together with the undivided interest in the  
142 common areas and facilities appertaining to that unit. Any reference in this chapter to a  
143 condominium unit includes both a physical unit together with its appurtenant undivided interest  
144 in the common areas and facilities and a time period unit together with its appurtenant  
145 undivided interest, unless the reference is specifically limited to a time period unit.

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

150 condominium within the meaning of this chapter.

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

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

157 (15) "Declarant" means all persons who execute the declaration or on whose behalf the  
158 declaration is executed. From the time of the recordation of any amendment to the declaration  
159 expanding an expandable condominium, all persons who execute that amendment or on whose  
160 behalf that amendment is executed shall also come within this definition. Any successors of  
161 the persons referred to in this subsection who come to stand in the same relation to the  
162 condominium project as their predecessors also come within this definition.

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

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

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

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

169 (20) "Governing documents":

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

171 (i) exercise powers; or

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

174 (b) includes:

175 (i) articles of incorporation;

176 (ii) bylaws;

177 (iii) a plat;

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

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

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

181 (a) is not related to the unit owner;  
182 (b) shares no pecuniary interests with the unit owner; and  
183 (c) purchases the unit in good faith and without the intent to defraud a current or future  
184 lienholder.

185 (22) "Judicial foreclosure" means a foreclosure of a unit:

186 (a) for the nonpayment of an assessment;  
187 (b) in the manner provided by law for the foreclosure of a mortgage on real property;

188 and

189 (c) as provided in this chapter.

190 (23) "Leasehold condominium" means a condominium project in all or any portion of  
191 which each unit owner owns an estate for years in his unit, or in the land upon which that unit  
192 is situated, or both, with all those leasehold interests to expire naturally at the same time. A  
193 condominium project including leased land, or an interest in the land, upon which no units are  
194 situated or to be situated is not a leasehold condominium within the meaning of this chapter.

195 (24) "Limited common areas and facilities" means those common areas and facilities  
196 designated in the declaration as reserved for use of a certain unit or units to the exclusion of the  
197 other units.

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

201 (26) "Management committee" means the committee as provided in the declaration  
202 charged with and having the responsibility and authority to make and to enforce all of the  
203 reasonable rules covering the operation and maintenance of the property.

204 (27) "Management committee meeting" means a gathering of a management  
205 committee, whether in person or by means of electronic communication, at which the  
206 management committee can take binding action.

207 (28) (a) "Means of electronic communication" means an electronic system that allows  
208 individuals to communicate orally in real time.

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

210 (i) web conferencing;  
211 (ii) video conferencing; and

212 (iii) telephone conferencing.

213 (29) "Mixed-use condominium project" means a condominium project that has both  
214 residential and commercial units in the condominium project.

215 (30) "Nonjudicial foreclosure" means the sale of a unit:

216 (a) for the nonpayment of an assessment;

217 (b) in the same manner as the sale of trust property under Sections 57-1-19 through  
218 57-1-34; and

219 (c) as provided in this chapter.

220 (31) "Par value" means a number of dollars or points assigned to each unit by the  
221 declaration. Substantially identical units shall be assigned the same par value, but units located  
222 at substantially different heights above the ground, or having substantially different views, or  
223 having substantially different amenities or other characteristics that might result in differences  
224 in market value, may be considered substantially identical within the meaning of this  
225 subsection. If par value is stated in terms of dollars, that statement may not be considered to  
226 reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or  
227 fair market transaction at a different figure may affect the par value of any unit, or any  
228 undivided interest in the common areas and facilities, voting rights in the unit owners'  
229 association, liability for common expenses, or right to common profits, assigned on the basis  
230 thereof.

231 (32) "Period of administrative control" means the period of control described in  
232 Subsection 57-8-16.5(1).

233 (33) "Person" means an individual, corporation, partnership, association, trustee, or  
234 other legal entity.

235 (34) "Political sign" means any sign or document that advocates:

236 (a) the election or defeat of a candidate for public office; or

237 (b) the approval or defeat of a ballot proposition.

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

241 (36) "Protected area" means the same as that term is defined in Section 77-27-21.7.

242 (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in



243 Chapter 3, Recording of Documents.

244 (38) "Rentals" or "rental unit" means:

245 (a) a unit that:

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

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

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

250 (39) "Size" means the number of cubic feet, or the number of square feet of ground or  
251 floor space, within each unit as computed by reference to the record of survey map and rounded  
252 off to a whole number. Certain spaces within the units including attic, basement, or garage  
253 space may be omitted from the calculation or be partially discounted by the use of a ratio, if the  
254 same basis of calculation is employed for all units in the condominium project and if that basis  
255 is described in the declaration.

256 (40) "Time period unit" means an annually recurring part or parts of a year specified in  
257 the declaration as a period for which a unit is separately owned and includes a timeshare estate  
258 as defined in Section [57-19-2](#).

259 (41) "Unconstructed unit" means a unit that:

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

262 (b) is not constructed.

263 (42) (a) "Unit" means a separate part of the property intended for any type of  
264 independent use, which is created by the recording of a declaration and a condominium plat  
265 that describes the unit boundaries.

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

268 (c) "Unit" includes a convertible space, in accordance with Subsection [57-8-13.4\(3\)](#).

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

271 (44) "Unit owner" means the person or persons owning a unit in fee simple and an  
272 undivided interest in the fee simple estate of the common areas and facilities in the percentage  
273 specified and established in the declaration or, in the case of a leasehold condominium project,

274 the person or persons whose leasehold interest or interests in the condominium unit extend for  
275 the entire balance of the unexpired term or terms.

276 (45) "Water wise landscaping" means:

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

278 can:

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

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

281 (b) use of water for outdoor irrigation through proper and efficient irrigation design and

282 water application; or

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

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

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

286 (iii) encourage vegetative coverage.

287 (46) "Water wise plant material" means a plant material suited to water wise

288 landscaping.

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

290 **57-8-7.2. Scope -- Designation of certain areas.**

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

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

294 (i) lath;

295 (ii) furring;

296 (iii) wallboard;

297 (iv) plasterboard;

298 (v) plaster;

299 (vi) paneling;

300 (vii) tiles;

301 (viii) wallpaper;

302 (ix) paint;

303 (x) finished flooring; and

304 (xi) any other material constituting part of the finished surface of a wall, floor, or

305 ceiling.

306 (b) Any portion of a wall, floor, or ceiling not listed in Subsection (2)(a) is part of the  
307 common areas and facilities.

308 (3) If a chute, flue, duct, pipe, wire, conduit, bearing wall, bearing column, or any other  
309 fixture lies partially within and partially outside the designated boundaries of a unit:

310 (a) any portion of an item described in this Subsection (3) serving only that unit is part  
311 of the limited common areas and facilities; and

312 (b) any portion of an item described in this Subsection (3) is part of the common areas  
313 and facilities if the item serves:

314 (i) more than one unit; or

315 (ii) any portion of the common areas and facilities.

316 (4) Subject to Subsection (3), the following within the boundaries of a unit are part of  
317 the unit:

318 (a) spaces;

319 (b) interior partitions; and

320 (c) other fixtures and improvements.

321 (5) The following, if designated to serve a single unit but located outside the unit's  
322 boundaries, are limited common areas and facilities allocated exclusively to a unit:

323 (a) a shutter;

324 (b) an awning;

325 (c) a window box;

326 (d) a doorstep;

327 (e) a stoop;

328 (f) a porch;

329 (g) a balcony;

330 (h) a patio;

331 (i) an exterior door;

332 (j) an exterior window; and

333 (k) any other fixture.

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

335 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

336 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit  
337 owners similarly.

338 (b) Notwithstanding Subsection (1)(a), a rule may:

339 (i) vary according to the level and type of service that the association of unit owners  
340 provides to unit owners;

341 (ii) differ between residential and nonresidential uses; or

342 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a  
343 reasonable limit on the number of individuals that may use the common areas and facilities as  
344 the rental unit tenant's guest or as the unit owner's guest.

345 (2) (a) If a unit owner owns a rental unit and is in compliance with the association of  
346 unit owners' governing documents and any rule that the association of unit owners adopts under  
347 [~~Subsection (4)~~] Subsection (5), a rule may not treat the unit owner differently because the unit  
348 owner owns a rental unit.

349 (b) Notwithstanding Subsection (2)(a), a rule may:

350 (i) limit or prohibit a rental unit owner from using the common areas and facilities for  
351 purposes other than attending an association meeting or managing the rental unit;

352 (ii) if the rental unit owner retains the right to use the association of unit owners'  
353 common areas and facilities, even occasionally:

354 (A) charge a rental unit owner a fee to use the common areas and facilities; and

355 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a  
356 reasonable limit on the number of individuals that may use the common areas and facilities as  
357 the rental unit tenant's guest or as the unit owner's guest; or

358 (iii) include a provision in the association of unit owners' governing documents that:

359 (A) requires each tenant of a rental unit to abide by the terms of the governing  
360 documents; and

361 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation  
362 of a provision of the governing documents.

363 (3) (a) A rule may not interfere with the freedom of a unit owner to determine the  
364 composition of the unit owner's household.

365 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:

366 (i) require that all occupants of a dwelling be members of a single housekeeping unit;

367 or

368 (ii) limit the total number of occupants permitted in each residential dwelling on the  
369 basis of the residential dwelling's:

370 (A) size and facilities; and

371 (B) fair use of the common areas and facilities.

372 (4) Unless contrary to a declaration, a rule may require a minimum lease term.

373 (5) Unless otherwise provided in the declaration, an association of unit owners may by  
374 rule:

375 (a) regulate the use, maintenance, repair, replacement, and modification of common  
376 areas and facilities;

377 (b) impose and receive any payment, fee, or charge for:

378 (i) the use, rental, or operation of the common areas, except limited common areas and  
379 facilities; and

380 (ii) a service provided to a unit owner;

381 (c) impose a charge for a late payment of an assessment; or

382 (d) provide for the indemnification of the association of unit owners' officers and  
383 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit  
384 Corporation Act.

385 (6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner  
386 from installing a personal security camera immediately adjacent to the entryway, window, or  
387 other outside entry point of the owner's condominium unit.

388 (b) A rule may prohibit a unit owner from installing a personal security camera in a  
389 common area not physically connected to the owner's unit.

390 (7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday  
391 sign, symbol, or decoration inside the owner's condominium unit.

392 (b) An association may adopt a reasonable time, place, and manner restriction with  
393 respect to a display that is visible from the exterior of a unit.

394 (8) (a) A rule may not:

395 (i) prohibit a unit owner from displaying in a window of the owner's condominium  
396 unit:

397 (A) a for-sale sign; or

398 (B) a political sign;  
399 (ii) regulate the content of a political sign; or  
400 (iii) establish design criteria for a political sign.  
401 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and  
402 time, place, and manner of posting a for-sale sign or a political sign.  
403 (9) ~~[An]~~ For any area for which one or more unit owners are responsible for landscape  
404 maintenance, the association of unit owners:  
405 (a) shall adopt rules supporting ~~[water-efficient landscaping, including allowance for]~~  
406 water wise landscaping, including:  
407 (i) low water use requirements on lawns during drought conditions;  
408 (ii) design criterion for water wise landscaping; and  
409 (iii) limiting permissible plant material to specific water wise plant material;  
410 (b) may not prohibit low water use on lawns during drought conditions; and  
411 ~~[(b)]~~ (c) may not prohibit or restrict the conversion of a grass park strip to  
412 water-efficient landscaping.  
413 (10) A rule may restrict a sex offender from accessing a protected area that is  
414 maintained, operated, or owned by the association, subject to the exceptions described in  
415 Subsection [77-27-21.7\(3\)](#).  
416 (11) A rule shall be reasonable.  
417 (12) A declaration, or an amendment to a declaration, may vary any of the  
418 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).  
419 (13) This section applies to an association of unit owners regardless of when the  
420 association of unit owners is created.  
421 Section 5. Section **57-8-10.1** is amended to read:  
422 **57-8-10.1. Rental restrictions.**  
423 (1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:  
424 (i) create restrictions on the number and term of rentals in a condominium project; or  
425 (ii) prohibit rentals in the condominium project.  
426 (b) An association of unit owners that creates a rental restriction or prohibition in  
427 accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a  
428 declaration or by amending the declaration.

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

431 (a) a provision that requires a condominium project to exempt from the rental  
432 restrictions the following unit owner and the unit owner's unit:

433 (i) a unit owner in the military for the period of the unit owner's deployment;

434 (ii) a unit occupied by a unit owner's parent, child, or sibling;

435 (iii) a unit owner whose employer has relocated the unit owner for two years or less;

436 (iv) a unit owned by an entity that is occupied by an individual who:

437 (A) has voting rights under the entity's organizing documents; and

438 (B) has a 25% or greater share of ownership, control, and right to profits and losses of  
439 the entity; or

440 (v) a unit owned by a trust or other entity created for estate planning purposes if the  
441 trust or other estate planning entity was created for the estate of:

442 (A) a current resident of the unit; or

443 (B) the parent, child, or sibling of the current resident of the unit;

444 (b) a provision that allows a unit owner who has a rental in the condominium project  
445 before the time the rental restriction described in Subsection (1)(a) is recorded with the county  
446 recorder of the county in which the condominium project is located to continue renting until:

447 (i) the unit owner occupies the unit;

448 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a  
449 similar position of ownership or control of an entity or trust that holds an ownership interest in  
450 the unit, occupies the unit; or

451 (iii) the unit is transferred; and

452 (c) a requirement that the association of unit owners create, by rule or resolution,  
453 procedures to:

454 (i) determine and track the number of rentals and units in the condominium project  
455 subject to the provisions described in Subsections (2)(a) and (b); and

456 (ii) ensure consistent administration and enforcement of the rental restrictions.

457 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the  
458 following occur:

459 (a) the conveyance, sale, or other transfer of a unit by deed;

460 (b) the granting of a life estate in the unit; or

461 (c) if the unit is owned by a limited liability company, corporation, partnership, or  
462 other business entity, the sale or transfer of more than 75% of the business entity's share, stock,  
463 membership interests, or partnership interests in a 12-month period.

464 (4) This section does not limit or affect residency age requirements for an association  
465 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42  
466 U.S.C. Sec. 3607.

467 (5) A declaration or amendment to a declaration recorded before transfer of the first  
468 unit from the initial declarant may prohibit or restrict rentals without providing for the  
469 exceptions, provisions, and procedures required under Subsection (2).

470 (6) (a) Subsections (1) through (5) do not apply to:

471 (i) a condominium project that contains a time period unit as defined in Section 57-8-3;

472 (ii) any other form of timeshare interest as defined in Section 57-19-2; or

473 (iii) subject to Subsection (6)(b), a condominium project in which the initial  
474 declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the association  
475 of unit owners:

476 (A) adopts a rental restriction or prohibition; or

477 (B) amends an existing rental restriction or prohibition.

478 (b) An association that adopts a rental restriction or amends an existing rental  
479 restriction or prohibition before May 9, 2017, is not required to include the exemption  
480 described in Subsection (2)(a)(iv).

481 (7) Notwithstanding this section, an association of unit owners may restrict or prohibit  
482 rentals without an exception described in Subsection (2) if:

483 (a) the restriction or prohibition receives unanimous approval by all unit owners; and

484 (b) when the restriction or prohibition requires an amendment to the association of unit  
485 owners' declaration, the association of unit owners fulfills all other requirements for amending  
486 the declaration described in the association of unit owners' governing documents.

487 (8) Except as provided in Subsection (9), an association of unit owners may not require  
488 a unit owner who owns a rental unit to:

489 (a) obtain the association of unit owners' approval of a prospective renter;

490 (b) give the association of unit owners:



- 491 (i) a copy of a rental application;
- 492 (ii) a copy of a renter's or prospective renter's credit information or credit report;
- 493 (iii) a copy of a renter's or prospective renter's background check; or
- 494 (iv) documentation to verify the renter's age; [or]
- 495 (c) pay an additional assessment, fine, or fee because the unit is a rental unit[-];
- 496 (d) use a lease agreement provided by the association; or
- 497 (e) obtain the association's approval of a lease agreement.
- 498 (9) (a) A unit owner who owns a rental unit shall give an association of unit owners the
- 499 documents described in Subsection (8)(b) if the unit owner is required to provide the
- 500 documents by court order or as part of discovery under the Utah Rules of Civil Procedure.
- 501 (b) If an association of unit owners' declaration lawfully prohibits or restricts
- 502 occupancy of the units by a certain class of individuals, the association of unit owners may
- 503 require a unit owner who owns a rental unit to give the association of unit owners the
- 504 information described in Subsection (8)(b), if:
- 505 (i) the information helps the association of unit owners determine whether the renter's
- 506 occupancy of the unit complies with the association of unit owners' declaration; 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' declaration.
- 509 (c) An association that permits at least 35% of the units in the association to be rental
- 510 units may charge a unit owner who owns a rental unit an annual fee of up to \$200 to defray the
- 511 association's additional administrative expenses directly related to a unit that is a rental unit, as
- 512 detailed in an accounting provided to the unit owner.
- 513 (d) An association may require a unit owner who owns a rental unit and the renter of
- 514 the unit owner's rental unit to sign an addendum to a lease agreement provided by the
- 515 association.
- 516 (10) The provisions of Subsections (8) and (9) apply to an association of unit owners
- 517 regardless of when the association of unit owners is created.
- 518 Section 6. Section **57-8-32** is amended to read:
- 519 **57-8-32. Sale of property and common areas and facilities.**
- 520 (1) [~~Unless~~] Subject to Subsection [10-9a-605\(5\)](#) or [17-27a-606\(5\)](#), unless otherwise
- 521 provided in the declaration or bylaws, and notwithstanding the provisions of Sections [57-8-30](#)

522 and [57-8-31](#), the unit owners may~~], at a meeting of unit owners called for the purpose of~~  
523 ~~voting,]~~ by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or  
524 otherwise dispose of the property or all or part of the common areas and facilities.

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

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

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

535 (i) the provisions of this section; and

536 (ii) Section [10-9a-606](#) or [17-27a-606](#); and

537 (b) the sale, conveyance, transfer, or other disposition of the portion of the common  
538 areas and facilities results in a person other than the association or a unit owner owning the  
539 portion of the common areas and facilities.

540 (4) This section applies to an association of unit owners regardless of when the  
541 association of unit owners is created.

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

543 **57-8a-102. Definitions.**

544 As used in this chapter:

545 (1) (a) "Assessment" means a charge imposed or levied:

546 (i) by the association;

547 (ii) on or against a lot or a lot owner; and

548 (iii) pursuant to a governing document recorded with the county recorder.

549 (b) "Assessment" includes:

550 (i) a common expense; and

551 (ii) an amount assessed against a lot owner under Subsection [57-8a-405\(7\)](#).

552 (2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or

553 other legal entity, any member of which:

554 (i) is an owner of a residential lot located within the jurisdiction of the association, as  
555 described in the governing documents; and

556 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:

557 (A) real property taxes;

558 (B) insurance premiums;

559 (C) maintenance costs; or

560 (D) for improvement of real property not owned by the member.

561 (b) "Association" or "homeowner association" does not include an association created  
562 under Chapter 8, Condominium Ownership Act.

563 (3) "Board meeting" means a gathering of a board, whether in person or by means of  
564 electronic communication, at which the board can take binding action.

565 (4) "Board of directors" or "board" means the entity, regardless of name, with primary  
566 authority to manage the affairs of the association.

567 (5) "Common areas" means property that the association:

568 (a) owns;

569 (b) maintains;

570 (c) repairs; or

571 (d) administers.

572 (6) "Common expense" means costs incurred by the association to exercise any of the  
573 powers provided for in the association's governing documents.

574 (7) "Declarant":

575 (a) means the person who executes a declaration and submits it for recording in the  
576 office of the recorder of the county in which the property described in the declaration is  
577 located; and

578 (b) includes the person's successor and assign.

579 (8) "Director" means a member of the board of directors.

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

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

582 (11) (a) "Governing documents" means a written instrument by which the association  
583 may:

- 584 (i) exercise powers; or  
585 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the  
586 association.
- 587 (b) "Governing documents" includes:  
588 (i) articles of incorporation;  
589 (ii) bylaws;  
590 (iii) a plat;  
591 (iv) a declaration of covenants, conditions, and restrictions; and  
592 (v) rules of the association.
- 593 (12) "Independent third party" means a person that:  
594 (a) is not related to the owner of the residential lot;  
595 (b) shares no pecuniary interests with the owner of the residential lot; and  
596 (c) purchases the residential lot in good faith and without the intent to defraud a current  
597 or future lienholder.
- 598 (13) "Judicial foreclosure" means a foreclosure of a lot:  
599 (a) for the nonpayment of an assessment;  
600 (b) in the manner provided by law for the foreclosure of a mortgage on real property;  
601 and  
602 (c) as provided in Part 3, Collection of Assessments.
- 603 (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:  
604 (a) by a person or persons other than the owner; and  
605 (b) for which the owner receives a consideration or benefit, including a fee, service,  
606 gratuity, or emolument.
- 607 (15) "Limited common areas" means common areas described in the declaration and  
608 allocated for the exclusive use of one or more lot owners.
- 609 (16) "Lot" means:  
610 (a) a lot, parcel, plot, or other division of land:  
611 (i) designated for separate ownership or occupancy; and  
612 (ii) (A) shown on a recorded subdivision plat; or  
613 (B) the boundaries of which are described in a recorded governing document; or  
614 (b) (i) a unit in a condominium association if the condominium association is a part of

615 a development; or

616 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a  
617 development.

618 (17) (a) "Means of electronic communication" means an electronic system that allows  
619 individuals to communicate orally in real time.

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

621 (i) web conferencing;

622 (ii) video conferencing; and

623 (iii) telephone conferencing.

624 (18) "Mixed-use project" means a project under this chapter that has both residential  
625 and commercial lots in the project.

626 (19) "Nonjudicial foreclosure" means the sale of a lot:

627 (a) for the nonpayment of an assessment;

628 (b) in the same manner as the sale of trust property under Sections 57-1-19 through  
629 57-1-34; and

630 (c) as provided in Part 3, Collection of Assessments.

631 (20) "Period of administrative control" means the period during which the person who  
632 filed the association's governing documents or the person's successor in interest retains  
633 authority to:

634 (a) appoint or remove members of the association's board of directors; or

635 (b) exercise power or authority assigned to the association under the association's  
636 governing documents.

637 (21) "Political sign" means any sign or document that advocates:

638 (a) the election or defeat of a candidate for public office; or

639 (b) the approval or defeat of a ballot proposition.

640 (22) "Protected area" means the same as that term is defined in Section 77-27-21.7.

641 (23) "Rentals" or "rental lot" means:

642 (a) a lot that:

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

644 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot  
645 owner's primary residence; [or]

646 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot[-]; or

647 (c) an internal accessory dwelling unit as defined in Section [10-9a-530](#) or [17-27a-526](#).

648 (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or  
649 otherwise to primarily residential or recreational purposes.

650 (25) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an  
651 association that:

652 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or  
653 declaration; and

654 (ii) governs:

655 (A) the conduct of persons; or

656 (B) the use, quality, type, design, or appearance of real property or personal property.

657 (b) "Rule" does not include the internal business operating procedures of a board.

658 (26) "Sex offender" means the same as that term is defined in Section [77-27-21.7](#).

659 (27) "Solar energy system" means:

660 (a) a system that is used to produce electric energy from sunlight; and

661 (b) the components of the system described in Subsection (27)(a).

662 Section 8. Section **57-8a-209** is amended to read:

663 **57-8a-209. Rental restrictions.**

664 (1) (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

665 (i) create restrictions on the number and term of rentals in an association; or

666 (ii) prohibit rentals in the association.

667 (b) An association that creates a rental restriction or prohibition in accordance with  
668 Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of  
669 covenants, conditions, and restrictions, or by amending the recorded declaration of covenants,  
670 conditions, and restrictions.

671 (2) If an association prohibits or imposes restrictions on the number and term of  
672 rentals, the restrictions shall include:

673 (a) a provision that requires the association to exempt from the rental restrictions the  
674 following lot owner and the lot owner's lot:

675 (i) a lot owner in the military for the period of the lot owner's deployment;

676 (ii) a lot occupied by a lot owner's parent, child, or sibling;

677 (iii) a lot owner whose employer has relocated the lot owner for two years or less;  
678 (iv) a lot owned by an entity that is occupied by an individual who:  
679 (A) has voting rights under the entity's organizing documents; and  
680 (B) has a 25% or greater share of ownership, control, and right to profits and losses of  
681 the entity; or  
682 (v) a lot owned by a trust or other entity created for estate planning purposes if the trust  
683 or other estate planning entity was created for:  
684 (A) the estate of a current resident of the lot; or  
685 (B) the parent, child, or sibling of the current resident of the lot;  
686 (b) a provision that allows a lot owner who has a rental in the association before the  
687 time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of  
688 the county in which the association is located to continue renting until:  
689 (i) the lot owner occupies the lot;  
690 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a  
691 similar position of ownership or control of an entity or trust that holds an ownership interest in  
692 the lot, occupies the lot; or  
693 (iii) the lot is transferred; and  
694 (c) a requirement that the association create, by rule or resolution, procedures to:  
695 (i) determine and track the number of rentals and lots in the association subject to the  
696 provisions described in Subsections (2)(a) and (b); and  
697 (ii) ensure consistent administration and enforcement of the rental restrictions.  
698 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the  
699 following occur:  
700 (a) the conveyance, sale, or other transfer of a lot by deed;  
701 (b) the granting of a life estate in the lot; or  
702 (c) if the lot is owned by a limited liability company, corporation, partnership, or other  
703 business entity, the sale or transfer of more than 75% of the business entity's share, stock,  
704 membership interests, or partnership interests in a 12-month period.  
705 (4) This section does not limit or affect residency age requirements for an association  
706 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.  
707 3607.

708 (5) A declaration of covenants, conditions, and restrictions or amendments to the  
709 declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot  
710 from the initial declarant may prohibit or restrict rentals without providing for the exceptions,  
711 provisions, and procedures required under Subsection (2).

712 (6) (a) Subsections (1) through (5) do not apply to:

713 (i) an association that contains a time period unit as defined in Section 57-8-3;

714 (ii) any other form of timeshare interest as defined in Section 57-19-2; or

715 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,

716 unless, on or after May 12, 2015, the association:

717 (A) adopts a rental restriction or prohibition; or

718 (B) amends an existing rental restriction or prohibition.

719 (b) An association that adopts a rental restriction or amends an existing rental

720 restriction or prohibition before May 9, 2017, is not required to include the exemption

721 described in Subsection (2)(a)(iv).

722 (7) Notwithstanding this section, an association may restrict or prohibit rentals without  
723 an exception described in Subsection (2) if:

724 (a) the restriction or prohibition receives unanimous approval by all lot owners; and

725 (b) when the restriction or prohibition requires an amendment to the association's  
726 recorded declaration of covenants, conditions, and restrictions, the association fulfills all other  
727 requirements for amending the recorded declaration of covenants, conditions, and restrictions  
728 described in the association's governing documents.

729 (8) Except as provided in Subsection (9), an association may not require a lot owner  
730 who owns a rental lot to:

731 (a) obtain the association's approval of a prospective renter;

732 (b) give the association:

733 (i) a copy of a rental application;

734 (ii) a copy of a renter's or prospective renter's credit information or credit report;

735 (iii) a copy of a renter's or prospective renter's background check; or

736 (iv) documentation to verify the renter's age; [or]

737 (c) pay an additional assessment, fine, or fee because the lot is a rental lot[-];

738 (d) use a lease agreement provided by the association; or



739 (e) obtain the association's approval of a lease agreement.

740 (9) (a) A lot owner who owns a rental lot shall give an association the documents  
741 described in Subsection (8)(b) if the lot owner is required to provide the documents by court  
742 order or as part of discovery under the Utah Rules of Civil Procedure.

743 (b) If an association's declaration of covenants, conditions, and restrictions lawfully  
744 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may  
745 require a lot owner who owns a rental lot to give the association the information described in  
746 Subsection (8)(b), if:

747 (i) the information helps the association determine whether the renter's occupancy of  
748 the lot complies with the association's declaration of covenants, conditions, and restrictions;  
749 and

750 (ii) the association uses the information to determine whether the renter's occupancy of  
751 the lot complies with the association's declaration of covenants, conditions, and restrictions.

752 (c) An association that permits at least 35% of the lots in the association to be rental  
753 lots may charge a lot owner who owns a rental lot an annual fee of up to \$200 to defray the  
754 association's additional administrative expenses directly related to a lot that is a rental lot, as  
755 detailed in an accounting provided to the lot owner.

756 (d) An association may require a lot owner who owns a rental lot and the renter of the  
757 lot owner's rental lot to sign an addendum to a lease agreement provided by the association.

758 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the  
759 rental of an internal accessory dwelling unit, as defined in Section [10-9a-530](#) or [17-27a-526](#),  
760 constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies  
761 with all applicable:

762 (a) land use ordinances;

763 (b) building codes;

764 (c) health codes; and

765 (d) fire codes.

766 (11) The provisions of Subsections (8) through (10) apply to an association regardless  
767 of when the association is created.

768 Section 9. Section **57-8a-218** is amended to read:

769 **57-8a-218. Equal treatment by rules required -- Limits on association rules and**

770 **design criteria.**

771 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot  
772 owners similarly.

773 (b) Notwithstanding Subsection (1)(a), a rule may:

774 (i) vary according to the level and type of service that the association provides to lot  
775 owners;

776 (ii) differ between residential and nonresidential uses; and

777 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable  
778 limit on the number of individuals who may use the common areas and facilities as guests of  
779 the lot tenant or lot owner.

780 (2) (a) If a lot owner owns a rental lot and is in compliance with the association's  
781 governing documents and any rule that the association adopts under Subsection (4), a rule may  
782 not treat the lot owner differently because the lot owner owns a rental lot.

783 (b) Notwithstanding Subsection (2)(a), a rule may:

784 (i) limit or prohibit a rental lot owner from using the common areas for purposes other  
785 than attending an association meeting or managing the rental lot;

786 (ii) if the rental lot owner retains the right to use the association's common areas, even  
787 occasionally:

788 (A) charge a rental lot owner a fee to use the common areas; or

789 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable  
790 limit on the number of individuals who may use the common areas and facilities as guests of  
791 the lot tenant or lot owner; or

792 (iii) include a provision in the association's governing documents that:

793 (A) requires each tenant of a rental lot to abide by the terms of the governing  
794 documents; and

795 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation  
796 of a provision of the governing documents.

797 (3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious  
798 or holiday sign, symbol, or decoration:

799 (i) inside a dwelling on a lot; or

800 (ii) outside a dwelling on:

- 801 (A) a lot;
- 802 (B) the exterior of the dwelling, unless the association has an ownership interest in, or  
803 a maintenance, repair, or replacement obligation for, the exterior; or
- 804 (C) the front yard of the dwelling, unless the association has an ownership interest in,  
805 or a maintenance, repair, or replacement obligation for, the yard.
- 806 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,  
807 place, and manner restriction with respect to a display that is:
- 808 (i) outside a dwelling on:
- 809 (A) a lot;
- 810 (B) the exterior of the dwelling; or
- 811 (C) the front yard of the dwelling; and
- 812 (ii) visible from outside the lot.
- 813 (4) (a) A rule may not prohibit a lot owner from displaying a political sign:
- 814 (i) inside a dwelling on a lot; or
- 815 (ii) outside a dwelling on:
- 816 (A) a lot;
- 817 (B) the exterior of the dwelling, regardless of whether the association has an ownership  
818 interest in the exterior; or
- 819 (C) the front yard of the dwelling, regardless of whether the association has an  
820 ownership interest in the yard.
- 821 (b) A rule may not regulate the content of a political sign.
- 822 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,  
823 and manner of posting a political sign.
- 824 (d) An association design provision may not establish design criteria for a political  
825 sign.
- 826 (5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:
- 827 (i) inside a dwelling on a lot; or
- 828 (ii) outside a dwelling on:
- 829 (A) a lot;
- 830 (B) the exterior of the dwelling, regardless of whether the association has an ownership  
831 interest in the exterior; or

832 (C) the front yard of the dwelling, regardless of whether the association has an  
833 ownership interest in the yard.

834 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,  
835 and manner of posting a for-sale sign.

836 (6) (a) A rule may not interfere with the freedom of a lot owner to determine the  
837 composition of the lot owner's household.

838 (b) Notwithstanding Subsection (6)(a), an association may:

839 (i) require that all occupants of a dwelling be members of a single housekeeping unit;

840 or

841 (ii) limit the total number of occupants permitted in each residential dwelling on the  
842 basis of the residential dwelling's:

843 (A) size and facilities; and

844 (B) fair use of the common areas.

845 (7) (a) A rule may not interfere with a reasonable activity of a lot owner within the  
846 confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that  
847 the activity is in compliance with local laws and ordinances, including nuisance laws and  
848 ordinances.

849 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the  
850 confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

851 (i) is not normally associated with a project restricted to residential use; or

852 (ii) (A) creates monetary costs for the association or other lot owners;

853 (B) creates a danger to the health or safety of occupants of other lots;

854 (C) generates excessive noise or traffic;

855 (D) creates unsightly conditions visible from outside the dwelling;

856 (E) creates an unreasonable source of annoyance to persons outside the lot; or

857 (F) if there are attached dwellings, creates the potential for smoke to enter another lot  
858 owner's dwelling, the common areas, or limited common areas.

859 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)  
860 that affect the use of or behavior inside the dwelling.

861 (8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written  
862 objection to the board, alter the allocation of financial burdens among the various lots.

- 863 (b) Notwithstanding Subsection (8)(a), an association may:
- 864 (i) change the common areas available to a lot owner;
- 865 (ii) adopt generally applicable rules for the use of common areas; or
- 866 (iii) deny use privileges to a lot owner who:
- 867 (A) is delinquent in paying assessments;
- 868 (B) abuses the common areas; or
- 869 (C) violates the governing documents.
- 870 (c) This Subsection (8) does not permit a rule that:
- 871 (i) alters the method of levying assessments; or
- 872 (ii) increases the amount of assessments as provided in the declaration.
- 873 (9) (a) Subject to Subsection (9)(b), a rule may not:
- 874 (i) prohibit the transfer of a lot; or
- 875 (ii) require the consent of the association or board to transfer a lot.
- 876 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 877 (10) (a) A rule may not require a lot owner to dispose of personal property that was in
- 878 or on a lot before the adoption of the rule or design criteria if the personal property was in
- 879 compliance with all rules and other governing documents previously in force.
- 880 (b) The exemption in Subsection (10)(a):
- 881 (i) applies during the period of the lot owner's ownership of the lot; and
- 882 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of
- 883 the rule described in Subsection (10)(a).
- 884 (11) A rule or action by the association or action by the board may not unreasonably
- 885 impede a declarant's ability to satisfy existing development financing for community
- 886 improvements and right to develop:
- 887 (a) the project; or
- 888 (b) other properties in the vicinity of the project.
- 889 (12) A rule or association or board action may not interfere with:
- 890 (a) the use or operation of an amenity that the association does not own or control; or
- 891 (b) the exercise of a right associated with an easement.
- 892 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
- 893 completed application for design review, or to proceed in accordance with another approval

894 process, under the terms of the governing documents in existence at the time the completed  
895 application was submitted by the owner for review.

896 (14) Unless otherwise provided in the declaration, an association may by rule:

897 (a) regulate the use, maintenance, repair, replacement, and modification of common  
898 areas;

899 (b) impose and receive any payment, fee, or charge for:

900 (i) the use, rental, or operation of the common areas, except limited common areas; and

901 (ii) a service provided to a lot owner;

902 (c) impose a charge for a late payment of an assessment; or

903 (d) provide for the indemnification of the association's officers and board consistent  
904 with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

905 (15) A rule may not prohibit a lot owner from installing a personal security camera  
906 immediately adjacent to the entryway, window, or other outside entry point of the owner's  
907 dwelling unit.

908 (16) (a) ~~[An]~~ For any area for which one or more lot owners are responsible for  
909 landscape maintenance of any landscaping within the lot owner's lot or the common areas, the  
910 association

911 shall adopt rules supporting ~~[water-efficient landscaping, including allowance for]~~  
912 water wise landscaping as defined in Section 57-8a-231 including:

913 (i) low water use requirements on lawns during drought conditions;

914 (ii) design criterion for water wise landscaping; and

915 (iii) ~~[-]~~ limiting permissible plant material to specific water wise plant material.

916 (b) A rule may not:

917 (i) prohibit or restrict the conversion of a grass park strip to ~~[water-efficient~~  
918 ~~landscaping;]~~ water wise landscaping as defined in Section 57-8a-231; or

919 (ii) prohibit low water use on lawns during drought conditions.

920 ~~[(c) An association subject to this chapter and formed before March 5, 2023, shall~~  
921 ~~adopt rules required under Subsection (16)(a) before June 30, 2023.]~~

922 (17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of  
923 a residential lot from constructing an internal accessory dwelling unit, as defined in Section  
924 10-9a-530 or 17-27a-526, within the owner's residential lot.

925 (b) Subsection (17)(a) does not apply if the construction would violate:

926 (i) a local land use ordinance;

927 (ii) a building code;

928 (iii) a health code; or

929 (iv) a fire code.

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

933 (19) A rule shall be reasonable.

934 (20) A declaration, or an amendment to a declaration, may vary any of the  
935 requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

936 (21) A rule may not be inconsistent with a provision of the association's declaration,  
937 bylaws, or articles of incorporation.

938 (22) This section applies to an association regardless of when the association is  
939 created.

940 Section 10. Section 57-8a-231 is amended to read:

941 **57-8a-231. Water wise landscaping.**

942 (1) As used in this section:

943 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed  
944 grasses.

945 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left  
946 loose and applied to the soil.

947 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water  
948 through a nozzle.

949 (d) (i) "Vegetative coverage" means the ground level surface area covered by the  
950 exposed leaf area of a plant or group of plants at full maturity.

951 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the  
952 exposed leaf area of a tree or trees.

953 (e) "Water wise landscaping" means any or all of the following:

954 (i) installation of plant materials suited to the microclimate and soil conditions that  
955 can:

956 (A) remain healthy with minimal irrigation once established; or  
957 (B) be maintained without the use of overhead spray irrigation;  
958 (ii) use of water for outdoor irrigation through proper and efficient irrigation design  
959 and water application; or  
960 (iii) the use of other landscape design features that:  
961 (A) minimize the need of the landscape for supplemental water from irrigation;  
962 (B) reduce the landscape area dedicated to lawn or turf; or  
963 (C) encourage vegetative coverage.  
964 (f) "Water wise plant material" means a plant material suited to water wise landscaping  
965 as defined in this section.  
966 (2) An association may not enact or enforce a governing document that prohibits, or  
967 has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise  
968 landscaping on the [property] lot owner's [property] lot.  
969 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association  
970 from requiring a property owner to:  
971 (i) comply with a site plan review or other review process before installing water wise  
972 landscaping;  
973 (ii) maintain plant material in a healthy condition; and  
974 (iii) follow specific water wise landscaping design requirements adopted by the  
975 association including a requirement that:  
976 (A) restricts or clarifies the use of mulches considered detrimental to the association's  
977 operations; and  
978 (B) restricts or prohibits the use of specific plant materials other than water wise plant  
979 materials.  
980 (b) An association may not require a [property] lot owner to:  
981 (i) install or keep in place lawn or turf in an area with a width less than eight feet; or  
982 (ii) have more than 50% vegetative coverage, that is not water wise landscaping, on the  
983 [property] lot owner's [property] lot.  
984 (4) (a) Subject to Subsection (4)(b), if an association does not adopt rules as required  
985 by Subsection 57-8a-218(16) and fails to remedy the noncompliance within the time specified  
986 in Subsection (4)(c), a lot owner may file an action in state court for:



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

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

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

991 (iv) reasonable costs and attorney fees.

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

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

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

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

999 (iii) a date, no fewer than 90 days after the day on which the lot owner delivers the  
1000 notice, by which the association must remedy the association's noncompliance.

1001 Section 11. Section **57-8a-232** is enacted to read:

1002 **57-8a-232. Sale of common areas.**

1003 (1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in  
1004 the governing documents, an association may by an affirmative vote of at least 67% of the  
1005 voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or  
1006 part of the common areas.

1007 (2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and  
1008 each lot owner shall execute and deliver the appropriate instruments and perform all acts as  
1009 necessary to effect the sale, conveyance, transfer, or other disposition of the common areas.

1010 (3) The general easement of ingress, egress, and use of the common areas and facilities  
1011 granted to an association and lot owners through recorded governing documents is  
1012 extinguished in any portion of the common areas and facilities the association sells, conveys,  
1013 transfers, or otherwise disposes of, if:

1014 (a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the  
1015 portion of the common areas, comply with:

1016 (i) the provisions of this section; and

1017 (ii) Section 10-9a-606 or 17-27a-606; and

1018            (b) the sale, conveyance, transfer, or other disposition of the portion of the common  
1019 areas results in a person other than the association or a lot owner owning the portion of the  
1020 common areas and facilities.

1021            (4) This section applies to an association regardless of when the association is created.

1022            Section 12. Section **59-2-301.1** is amended to read:

1023            **59-2-301.1. Assessment of property subject to a conservation easement --**

1024 **Assessment of golf course or hunting club -- Assessment of common areas.**

1025            (1) In assessing the fair market value of property subject to a conservation easement  
1026 under Title 57, Chapter 18, Land Conservation Easement Act, a county assessor shall consider  
1027 factors relating to the property and neighboring property that affect the fair market value of the  
1028 property being assessed, including:

1029            (a) value that transfers to neighboring property because of the presence of a  
1030 conservation easement on the property being assessed;

1031            (b) practical and legal restrictions on the development potential of the property because  
1032 of the presence of the conservation easement;

1033            (c) the absence of neighboring property similarly subject to a conservation easement to  
1034 provide a basis for comparing values between properties; and

1035            (d) any other factor that causes the fair market value of the property to be affected  
1036 because of the presence of a conservation easement.

1037            (2) (a) In assessing the fair market value of a golf course or hunting club, a county  
1038 assessor shall consider factors relating to the golf course or hunting club and neighboring  
1039 property that affect the fair market value of the golf course or hunting club, including:

1040            (i) value that transfers to neighboring property because of the presence of the golf  
1041 course or hunting club;

1042            (ii) practical and legal restrictions on the development potential of the golf course or  
1043 hunting club; and

1044            (iii) the history of operation of the golf course or hunting club and the likelihood that  
1045 the present use will continue into the future.

1046            (b) The valuation method a county assessor may use in determining the fair market  
1047 value of a golf course or hunting club includes:

1048            (i) the cost approach;

1049 (ii) the income capitalization approach; and

1050 (iii) the sales comparison approach.

1051 (3) Except as otherwise provided by the plat or accompanying recorded document, a  
1052 county assessor shall assess a common area and facility as defined in Section 57-8-3 or a  
1053 common area as defined in Section 57-8a-102 consistent with the equal ownership interests  
1054 described in Subsection 10-9a-606(4) or 17-27a-606(4) and may not assess the common area  
1055 and facility or common area in a manner that reflects a different division of interest.

1056 [~~3~~] (4) In assessing the fair market value of property that is a common area or facility  
1057 under Title 57, Chapter 8, Condominium Ownership Act, or a common area under Title 57,  
1058 Chapter 8a, Community Association Act, a county assessor shall consider factors relating to the  
1059 property and neighboring property that affect the fair market value of the property being  
1060 assessed, including:

1061 (a) value that transfers to neighboring property because the property is a common area  
1062 or facility;

1063 (b) practical and legal restrictions on the development potential of the property because  
1064 the property is a common area or facility;

1065 (c) the absence of neighboring property similarly situated as a common area or facility  
1066 to provide a basis for comparing values between properties; and

1067 (d) any other factor that causes the fair market value of the property to be affected  
1068 because the property is a common area or facility.

1069 Section 13. **Effective date.**

1070 This bill takes effect on May 1, 2024.