

# SB0204S01 compared with SB0204

~~text~~ shows text that was in SB0204 but was deleted in SB0204S01.

text shows text that was not in SB0204 but was inserted into SB0204S01.

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Senator Wayne A. Harper proposes the following substitute bill:

## CONDOMINIUM AND COMMUNITY ASSOCIATION

### AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** Wayne A. Harper

House Sponsor: \_\_\_\_\_ Carol S. Moss

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#### LONG TITLE

##### General Description:

This bill amends provisions relating to homeowners' associations.

##### Highlighted Provisions:

This bill:

- ▶ modifies the rights of a board member of a nonprofit corporation to inspect and copy records;
- ▶ ~~prohibits an association from limiting an owner from using a short-term rental in an association;~~
- ▶ adds an internal accessory dwelling unit to the definition of a rental;
- ▶ restricts a homeowners' association from regulating lease agreements in certain

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### circumstances:

- ▶ permits the board of a homeowners' association to presume the vote or approval of an association member to amend the governing documents under certain conditions;
- ▶ requires that a homeowners' association adopt water wise landscaping rules;
- ▶ provides a remedy for an owner if the association does not implement water wise landscaping rules;
- ▶ clarifies the process by which a county assessor may assess a common area for property tax purposes;
- ▶ provides a process by which a homeowners' association may sell the common areas located within the homeowners' association:
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

**16-6a-1602**, as last amended by Laws of Utah 2023, Chapter 503

**57-8-3**, as last amended by Laws of Utah 2023, Chapter 503

**57-8-7.2**, as enacted by Laws of Utah 2004, Chapter 290

**57-8-8.1**, as last amended by Laws of Utah 2023, Chapter 503

**57-8-10.1**, as last amended by Laws of Utah 2023, Chapter 503

**57-8-32**, as last amended by Laws of Utah 2017, Chapter 405

**57-8-39**, as last amended by Laws of Utah 2017, Chapter 324

**57-8a-102**, as last amended by Laws of Utah 2023, Chapter 503

**57-8a-104**, as last amended by Laws of Utah 2015, Chapters 34, 325 and 387

**57-8a-209**, as last amended by Laws of Utah 2023, Chapter 503

**57-8a-218**, as last amended by Laws of Utah 2023, Chapter 503

**57-8a-231**, as last amended by Laws of Utah 2023, Chapters 139, 199

**59-2-301.1**, as last amended by Laws of Utah 2017, Chapter 49

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ENACTS:

~~{57-8-10.2}~~57-8a-232, Utah Code Annotated 1953

~~{57-8a-209.5, Utah Code Annotated 1953}~~

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

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

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

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

- (a) during regular business hours;
- (b) at the nonprofit corporation's principal office; and
- (c) if the director or member gives the nonprofit corporation written demand, at least

five business days before the date on which the member wishes to inspect and copy the records.

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

[Subsections ~~{}~~ ~~{}~~ 16-6a-1601(2) through (5)] Subsections 16-6a-1601(1) through (3):

- (a) during regular business hours;
- (b) at a reasonable location specified by the nonprofit corporation; and
- (c) at least five business days before the date on which the member wishes to inspect

and copy the records, if the director or member:

- (i) meets the requirements of Subsection (3); and
- (ii) gives the nonprofit corporation written demand.

(3) A director or member may inspect and copy the records described in [Subsection ~~(2)~~] Subsections (1) and (2) only if:

- (a) the demand is made:
  - (i) in good faith; and
  - (ii) for a proper purpose;
- (b) the director or member describes with reasonable particularity the purpose and the records the director or member desires to inspect; and
- (c) the records are directly connected with the described purpose.

(4) Notwithstanding Section 16-6a-102, for purposes of this section:

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(a) "member" includes:

- (i) a beneficial owner whose membership interest is held in a voting trust; and
- (ii) any other beneficial owner of a membership interest who establishes beneficial

ownership; and

(b) "proper purpose" means a purpose reasonably related to the demanding member's or director's interest as a member or director.

(5) The right of inspection granted by this section may not be abolished or limited by the articles of incorporation or bylaws.

(6) This section does not affect:

- (a) the right of a director or member to inspect records under Section 16-6a-710;
- (b) the right of a member to inspect records to the same extent as any other litigant if

the member is in litigation with the nonprofit corporation; or

(c) the power of a court, independent of this chapter, to compel the production of corporate records for examination.

(7) A director or member may not use any information obtained through the inspection or copying of records permitted by Subsection (2) for any purposes other than those set forth in a demand made under Subsection (3).

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

### **57-8-3. Definitions.**

As used in this chapter:

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

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

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

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

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

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

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

(4) "Commercial condominium project" means a condominium project that has no

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residential units within the project.

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

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

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

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

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

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

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

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

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

(6) "Common expenses" means:

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

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

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

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

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

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

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in

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accordance with Section 57-8-13.

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

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

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

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

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

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

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

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

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

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

(20) "Governing documents":

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

(i) exercise powers; or

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

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

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

(v) rules of the association of unit owners.

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

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

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

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in this chapter.

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

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

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other units.

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

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

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

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

(b) "Means of electronic communication" includes:

- (i) web conferencing;
- (ii) video conferencing; and
- (iii) telephone conferencing.

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

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

- (a) for the nonpayment of an assessment;
- (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- (c) as provided in this chapter.

(31) "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any



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undivided interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

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

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

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

- (a) the election or defeat of a candidate for public office; or
- (b) the approval or defeat of a ballot proposition.

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

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

(37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter 3, Recording of Documents.

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

(a) a unit that:

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

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

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

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

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

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

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

(b) is not constructed.

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

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

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

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

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

(45) "Water wise landscaping" means:

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

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

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

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

(c) use of other landscape design features that:

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

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

(iii) encourage vegetative coverage.

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

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

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### 57-8-7.2. Scope -- Designation of certain areas.

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

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

(i) lath;

(ii) furring;

(iii) wallboard;

(iv) plasterboard;

(v) plaster;

(vi) paneling;

(vii) tiles;

(viii) wallpaper;

(ix) paint;

(x) finished flooring; and

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

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

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

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

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

(i) more than one unit; or

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

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

(a) spaces;

(b) interior partitions; and

(c) other fixtures and improvements.

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

- (a) a shutter;
- (b) an awning;
- (c) a window box;
- (d) a doorstep;
- (e) a stoop;
- (f) a porch;
- (g) a balcony;
- (h) a patio;
- (i) an exterior door;
- (j) an exterior window; and
- (k) any other fixture.

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

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

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

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

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

(ii) differ between residential and nonresidential uses; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) size and facilities; and

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

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

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

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

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

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

(ii) a service provided to a unit owner;

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

(d) provide for the indemnification of the association of unit owners' officers and

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management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

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

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

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

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

(8) (a) A rule may not:

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

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

(9) ~~[An]~~ ~~↔~~ For any area for which one or more unit owners are responsible for landscape maintenance, the association of unit owners:

(a) shall adopt rules supporting ~~[water-efficient landscaping, including allowance for]~~ water wise landscaping, including:

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

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material;

(b) may not prohibit low water use on lawns during drought conditions; and

~~[(b)]~~ (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

(10) A rule may restrict a sex offender from accessing a protected area that is

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maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(11) A rule shall be reasonable.

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

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

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

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

(1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

- (i) create restrictions on the number and term of rentals in a condominium project; or
- (ii) prohibit rentals in the condominium project.

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

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

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

- (i) a unit owner in the military for the period of the unit owner's deployment;
- (ii) a unit occupied by a unit owner's parent, child, or sibling;
- (iii) a unit owner whose employer has relocated the unit owner for two years or less;
- (iv) a unit owned by an entity that is occupied by an individual who:
  - (A) has voting rights under the entity's organizing documents; and
  - (B) has a 25% or greater share of ownership, control, and right to profits and losses of

the entity; or

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

- (A) a current resident of the unit; or
- (B) the parent, child, or sibling of the current resident of the unit;

(b) a provision that allows a unit owner who has a rental in the condominium project

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before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:

(i) the unit owner occupies the unit;

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

(iii) the unit is transferred; and

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

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

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

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

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

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

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

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

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

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

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

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

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



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- (A) adopts a rental restriction or prohibition; or
- (B) amends an existing rental restriction or prohibition.

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

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

- (a) the restriction or prohibition receives unanimous approval by all unit owners; and
- (b) when the restriction or prohibition requires an amendment to the association of unit owners' declaration, the association of unit owners fulfills all other requirements for amending the declaration described in the association of unit owners' governing documents.

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

- (a) obtain the association of unit owners' approval of a prospective renter;
- (b) give the association of unit owners:
  - (i) a copy of a rental application;
  - (ii) a copy of a renter's or prospective renter's credit information or credit report;
  - (iii) a copy of a renter's or prospective renter's background check; or
  - (iv) documentation to verify the renter's age; ~~or~~
- (c) pay an additional assessment, fine, or fee because the unit is a rental unit~~[-];~~
- (d) use a lease agreement provided by the association;
- (e) obtain the association's approval of a lease agreement;
- (f) use a lease agreement for an initial term longer than six months; or
- (g) otherwise make a rental unit available for an initial term longer than six months.

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

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (8)(b), if:

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(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.

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

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

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

Section ~~{5}6~~. Section ~~{57-8-10.2}~~ 57-8-32 is ~~{enacted to read:~~

~~57-8-10.2. Short-term rental requirements:~~

~~(1) As used in this section:~~

~~(a) "Master association" means an association of unit owners that controls two or more smaller associations of unit owners.~~

~~(b) "Sub-association" means an association of unit owners coordinated and managed by a master association.~~

~~(2) Subject to Subsection (3), an association may not regulate:~~

~~(a) whether a person who operates a short-term rental uses a short-term rental company; or~~

~~(b) which short-term rental company a person chooses to facilitate the person's short-term rental.~~

~~(3) (a) An association may adopt criteria for a short-term rental company that operates within the association.~~

~~(b) A person may not use a short-term rental company within the association, unless the short-term rental company satisfies the criteria described in Subsection (3)(a).~~

~~(4) If short-term rentals exist in an association, an association shall provide unit owners a list of two or more short-term rental companies from which a unit owner may choose to~~

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manage their property:

~~— (5) A unit owner is not required to use a short-term rental company described in Subsection (4):~~

~~— (6) The short-term rental companies described in Subsection (4) may not have a financial relationship with:~~

~~— (a) the association;~~

~~— (b) the condominium project developer; or~~

~~— (c) an entity owned by or affiliated with the association or the condominium project developer:~~

~~— (7) If a master association controls a sub association, only the sub association may make determinations related to a short-term rental company as described in this section:~~

~~†~~ amended to read:

### **57-8-32. Sale of property.**

(1) Unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may ~~], at a meeting of unit owners called for the purpose of voting, ]~~ by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

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

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

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

(i) the provisions of this section; and

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

(b) the sale, conveyance, transfer, or other disposition of the portion of the common

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areas and facilities results in a person other than the association or a unit owner owning the portion of the common areas and facilities.

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

Section ~~6~~7. Section 57-8-39 is amended to read:

### **57-8-39. Limitation on requirements for amending governing documents --**

#### **Limitation on contracts.**

(1) (a) (i) To amend the governing documents, the governing documents may not require:

(A) for an amendment adopted after the period of administrative control, the vote or approval of unit owners with more than 67% of the voting interests;

(B) the approval of any specific unit owner; or

(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association of unit owners.

(ii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

(b) Subsection (1)(a) does not apply to an amendment affecting only:

(i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the declaration;

(ii) unit boundaries; or

(iii) unit owners' voting rights.

(2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association of unit owners during a period of administrative control is binding beyond the period of administrative control unless terminated by the management committee after the period of administrative control ends.

(b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

(3) Voting interests under Subsection (1) are calculated in the manner required by the governing documents.

(4) (a) A unit owner is considered to vote in favor of a proposed amendment to the governing documents if:

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- (i) the association satisfies the notice requirements described in this Subsection (4);
- (ii) the unit owner does not respond before the deadline described in Subsection (4)(c)(iii);
- (iii) the unit owner does not vote on the proposed amendment:
  - (A) in the meeting in which the vote occurs; or
  - (B) by written ballot in accordance with Section 16-6a-709;
- (iv) at least 36% of ~~the~~ voting interests, excluding the voting interests of the management committee members, vote in the meeting on the proposed amendment; and
- (v) 67% of voting interests that vote ~~in the meeting~~ on the proposed amendment vote in favor of the proposed amendment, or a lower threshold if provided in the governing documents.

(b) (i) A proposed amendment to the governing documents is adopted if the total voting interests represented by the presumptive votes described in Subsection (4)(a) and the affirmative votes ~~at the meeting~~ satisfy the threshold in the governing documents required for an amendment.

(ii) An amendment to the governing documents that is adopted as a result of one or more presumptive votes described in Subsection (4)(a) may not take effect before 14 days after the day on which the vote on the amendment occurs.

(iii) An association may overturn an amendment to the governing documents that is adopted as a result of one or more presumptive votes described in Subsection (4)(a) if:

(A) the association convenes a meeting for the purpose of voting to overturn the amendment; and

(B) at least 51% of ~~the total~~ voting interests vote to overturn the amendment.

(c) Before an association considers a unit owner's vote on a proposed amendment to the governing documents as a favorable vote in accordance with Subsection (4)(a), the association shall provide the unit owner:

(i) written notice, as described in this Subsection (4)(c), at least 60 days before the day on which the association votes on the proposed amendment; and

(ii) if the unit owner does not respond to the written notice within 30 days after the day on which the notice is sent, a second written notice that includes the information described in Subsection (4)(c)(iii).

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(iii) An association shall include the following in a notice under this Subsection (4)(c):

(A) a copy of the proposed amendment;

(B) ~~if the vote will occur at a meeting,~~ the time, date, and location of the meeting where the vote on the proposed amendment will occur;

(C) a deadline by which the unit owner must respond to the notice and indicate whether the unit owner supports the proposed amendment;

(D) the name and contact information for the individual designated to receive a response described in Subsection (4)(c)(iii)(C); and

(E) a statement that failure to respond by the deadline described in Subsection (4)(c)(iii)(C) may have the effect of voting in favor of the proposed amendment.

(d) (i) An association may send a notice described in Subsection (4)(c) electronically or via certified mail.

(ii) If the association sends the notice electronically, the association shall deliver the notice to the email address that the unit owner provides to the management committee.

(iii) If the association sends the notice via certified mail, the association shall deliver the notice to the unit owner's mailing address provided to the management committee or, if the unit owner does not provide a mailing address, the address listed in the most recently recorded instrument containing an address.

~~[(4)]~~ (5) Nothing in this section affects any other rights reserved by the declarant.

~~[(5)]~~ (6) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section ~~{7}~~8. Section **57-8a-102** is amended to read:

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

As used in this chapter:

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

(i) by the association;

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

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

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

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(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

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

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

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

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

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

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

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

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

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

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

(7) "Declarant":

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

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

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

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

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

(11) (a) "Governing documents" means a written instrument by which the association

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may:

- (i) exercise powers; or
- (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the

association.

(b) "Governing documents" includes:

- (i) articles of incorporation;
- (ii) bylaws;
- (iii) a plat;
- (iv) a declaration of covenants, conditions, and restrictions; and
- (v) rules of the association.

(12) "Independent third party" means a person that:

- (a) is not related to the owner of the residential lot;
- (b) shares no pecuniary interests with the owner of the residential lot; and
- (c) purchases the residential lot in good faith and without the intent to defraud a current

or future lienholder.

(13) "Judicial foreclosure" means a foreclosure of a lot:

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

and

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

(14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

- (a) by a person or persons other than the owner; and
- (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(15) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(16) "Lot" means:

- (a) a lot, parcel, plot, or other division of land:
  - (i) designated for separate ownership or occupancy; and
  - (ii) (A) shown on a recorded subdivision plat; or
  - (B) the boundaries of which are described in a recorded governing document; or



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(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

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

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

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

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

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

(a) for the nonpayment of an assessment;

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

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

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

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

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

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

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

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

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

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

(a) a lot that:

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

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot

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owner's primary residence; [or]

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

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

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

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

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

(ii) governs:

(A) the conduct of persons; or

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

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

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

(27) "Solar energy system" means:

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

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

Section ~~8}9~~. Section **57-8a-104** is amended to read:

**57-8a-104. Limitation on requirements for amending governing documents --**

**Limitation on contracts.**

(1) (a) (i) To amend the governing documents, the governing documents may not require:

(A) for an amendment adopted after the period of administrative control, the vote or approval of lot owners with more than 67% of the voting interests;

(B) the approval of any specific lot owner; or

(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.

(ii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

(b) Subsection (1)(a) does not apply to an amendment affecting only:

(i) lot boundaries; or

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(ii) lot owner's voting rights.

(2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.

(b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

(3) Voting interests under Subsection (1) are calculated in the manner required by the governing documents.

(4) (a) A lot owner is considered to vote in favor of a proposed amendment to the governing documents if:

(i) the association satisfies the notice requirements described in this Subsection (4);

(ii) the lot owner does not respond before the deadline described in Subsection

(4)(c)(iii);

(iii) the lot owner does not vote on the proposed amendment:

(A) in the meeting in which the vote occurs; or

(B) by written ballot in accordance with Section 16-6a-709;

(iv) at least 36% of voting interests, excluding the voting interests of the members of the board of directors, vote in the meeting on the proposed amendment; and

(v) 67% of ~~the~~ voting interests that vote ~~{ in the meeting }~~ on the proposed amendment vote in favor of the proposed amendment, or a lower threshold if provided in the governing documents.

(b) (i) A proposed amendment to the governing documents is adopted if the total voting interests represented by the presumptive votes described in Subsection (4)(a) and the affirmative votes ~~{ at the meeting }~~ satisfy the threshold in the governing documents required for an amendment.

(ii) An amendment to the governing documents that is adopted as a result of one or more presumptive votes described in Subsection (4)(a) may not take effect before 14 days after the day on which the vote on the amendment occurs.

(iii) An association may overturn an amendment to the governing documents that is adopted as a result of one or more presumptive votes described in Subsection (4)(a) if:

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(A) the association convenes a meeting for the purpose of voting to overturn the amendment; and

(B) at least 51% of **the total** voting interests vote to overturn the amendment.

(c) Before an association considers a lot owner's vote on a proposed amendment to the governing documents as a favorable vote in accordance with Subsection (4)(a), the association shall provide the lot owner:

(i) written notice, as described in this Subsection (4)(c), at least 60 days before the day on which the association votes on the proposed amendment; and

(ii) if the lot owner does not respond to the written notice within 30 days after the day on which the notice is sent, a second written notice that includes the information described in Subsection (4)(c)(iii).

(iii) An association shall include the following in a notice under this Subsection (4)(c):

(A) a copy of the proposed amendment;

(B) **if the vote will occur at a meeting**, the time, date, and location of the meeting where the vote on the proposed amendment will occur;

(C) a deadline by which the lot owner must respond to the notice and indicate whether the lot owner supports the proposed amendment;

(D) the name and contact information for the individual designated to receive a response described in Subsection (4)(c)(iii)(C); and

(E) a statement that failure to respond by the deadline described in Subsection (4)(c)(iii)(C) may have the effect of voting in favor of the proposed amendment.

(d) (i) An association may send a notice described in Subsection (4)(c) electronically or via certified mail.

(ii) If the association sends the notice electronically, the association shall deliver the notice to the email address that the lot owner provides to the board of directors.

(iii) If the association sends the notice via certified mail, the association shall deliver the notice to the lot owner's mailing address provided to the board of directors or, if the lot owner does not provide a mailing address, the address listed in the most recently recorded instrument containing an address.

[~~(4)~~ (5) Nothing in this section affects any other rights reserved by the person who filed the association's original governing documents or a successor in interest.

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~~[(5)]~~ (6) This section applies to an association regardless of when the association is created.

Section ~~9~~10. Section 57-8a-209 is amended to read:

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

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

- (i) create restrictions on the number and term of rentals in an association; or
- (ii) prohibit rentals in the association.

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

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

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

- (i) a lot owner in the military for the period of the lot owner's deployment;
- (ii) a lot occupied by a lot owner's parent, child, or sibling;
- (iii) a lot owner whose employer has relocated the lot owner for two years or less;
- (iv) a lot owned by an entity that is occupied by an individual who:
  - (A) has voting rights under the entity's organizing documents; and
  - (B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

- (A) the estate of a current resident of the lot; or
- (B) the parent, child, or sibling of the current resident of the lot;

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

- (i) the lot owner occupies the lot;
- (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a

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similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

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

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

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

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

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

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

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

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

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

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

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

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

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

- (a) the restriction or prohibition receives unanimous approval by all lot owners; and
- (b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

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

- (a) obtain the association's approval of a prospective renter;
- (b) give the association:
  - (i) a copy of a rental application;
  - (ii) a copy of a renter's or prospective renter's credit information or credit report;
  - (iii) a copy of a renter's or prospective renter's background check; or
  - (iv) documentation to verify the renter's age; ~~or~~
- (c) pay an additional assessment, fine, or fee because the lot is a rental lot~~[-]~~;
- (d) use a lease agreement provided by the association;
- (e) obtain the association's approval of a lease agreement;
- (f) use a lease agreement for an initial term longer than six months; or
- (g) otherwise make a rental lot available for an initial term longer than six months.

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

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

- (i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and
- (ii) the association uses the information to determine whether the renter's occupancy of

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the lot complies with the association's declaration of covenants, conditions, and restrictions.

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

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

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

- (a) land use ordinances;
- (b) building codes;
- (c) health codes; and
- (d) fire codes.

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

~~{ Section 10. Section 57-8a-209.5 is enacted to read:~~

~~57-8a-209.5. Short-term rental requirements:~~

~~(1) As used in this section:~~

~~(a) "Master association" means an association of lot owners that controls two or more smaller associations of lot owners.~~

~~(b) "Sub-association" means an association of lot owners coordinated and managed by a master association.~~

~~(2) Subject to Subsection (3), an association may not regulate:~~

~~(a) whether a person who operates a short-term rental uses a short-term rental company; or~~

~~(b) which short-term rental company a person chooses to facilitate the person's short-term rental.~~

~~(3) (a) An association may adopt criteria for a short-term rental company that operates within the association:~~



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~~(b) A person may not use a short-term rental company within the association, unless the short-term rental company satisfies the criteria described in Subsection (3)(a):~~

~~(4) If short-term rentals exist in an association, an association shall provide lot owners a list of two or more short-term rental companies from which a lot owner may choose to manage their property:~~

~~(5) A lot owner is not required to use a short-term rental company described in Subsection (4):~~

~~(6) The short-term rental companies described in Subsection (4) may not have a financial relationship with:~~

~~(a) the association;~~

~~(b) the residential lot developer; or~~

~~(c) an entity owned by or affiliated with the association or the residential lot project developer:~~

~~(7) If a master association controls a sub-association, only the sub-association may make determinations related to a short-term rental company as described in this section:~~

‡ Section 11. Section **57-8a-218** is amended to read:

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

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

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

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

(ii) differ between residential and nonresidential uses; and

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

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

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

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

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

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

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

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

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

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

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

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

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(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

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

(b) A rule may not regulate the content of a political sign.

(c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.

(d) An association design provision may not establish design criteria for a political sign.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

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

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

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

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

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

or

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

(A) size and facilities; and

(B) fair use of the common areas.

(7) (a) A rule may not interfere with a reasonable activity of a lot owner within the

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confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

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

- (i) is not normally associated with a project restricted to residential use; or
- (ii) (A) creates monetary costs for the association or other lot owners;
- (B) creates a danger to the health or safety of occupants of other lots;
- (C) generates excessive noise or traffic;
- (D) creates unsightly conditions visible from outside the dwelling;
- (E) creates an unreasonable source of annoyance to persons outside the lot; or
- (F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

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

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

(b) Notwithstanding Subsection (8)(a), an association may:

- (i) change the common areas available to a lot owner;
- (ii) adopt generally applicable rules for the use of common areas; or
- (iii) deny use privileges to a lot owner who:
  - (A) is delinquent in paying assessments;
  - (B) abuses the common areas; or
  - (C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

- (i) alters the method of levying assessments; or
- (ii) increases the amount of assessments as provided in the declaration.

(9) (a) Subject to Subsection (9)(b), a rule may not:

- (i) prohibit the transfer of a lot; or
- (ii) require the consent of the association or board to transfer a lot.

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

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(10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

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

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

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

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

(ii) a service provided to a lot owner;

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

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

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

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

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

- (i) low water use requirements on lawns during drought conditions;
- (ii) design criterion for water wise landscaping; and
- (iii) [-] limiting permissible plant material to specific water wise plant material.

(b) A rule may not:

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

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

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

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

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

- (i) a local land use ordinance;
- (ii) a building code;
- (iii) a health code; or
- (iv) a fire code.

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

(19) A rule shall be reasonable.

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

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

(22) This section applies to an association regardless of when the association is

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created.

Section 12. Section **57-8a-231** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

(A) remain healthy with minimal irrigation once established; or

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

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

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation;

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

(C) encourage vegetative coverage.

(f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the [property] lot owner's [property] lot.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association

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from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and

(B) restricts or prohibits the use of specific plant materials other than water wise plant materials.

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

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

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

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

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

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

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

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

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

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

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

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



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Section 13. Section ~~59-2-301.1~~ is amended to read:

~~57-8a-232~~ is enacted to read:

### 57-8a-232. Sale of common areas.

(1) Unless otherwise provided in the governing documents, an association may by an affirmative vote of at least 67% of the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.

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

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

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

(i) the provisions of this section; and

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

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

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

Section 14. Section 59-2-301.1 is amended to read:

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

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

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

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

(b) practical and legal restrictions on the development potential of the property because

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of the presence of the conservation easement;

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

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

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

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

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

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

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

(i) the cost approach;

(ii) the income capitalization approach; and

(iii) the sales comparison approach.

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

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

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

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

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

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

Section ~~{14}~~15. **Effective date.**

This bill takes effect on May 1, 2024.