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RENTAL RESTRICTIONS AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Earl D. Tanner

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Condominium Ownership Act and the Community Association Act relating to rentals.

Highlighted Provisions:

This bill:

- ▶ modifies the method by which a condominium association or a homeowners association may restrict or prohibit rentals;
- ▶ addresses exceptions to the rental restriction and prohibition requirements described in this bill; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-10.1, as enacted by Laws of Utah 2014, Chapter 397

57-8a-209, as last amended by Laws of Utah 2014, Chapter 397

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



28 Section 1. Section 57-8-10.1 is amended to read:

29 **57-8-10.1. Rental restrictions.**

30 (1) As used in this section, "rentals" or "rental unit" means:

31 (a) a unit owned by an individual not described in Subsection (1)(b) that is occupied by
32 someone while no unit owner occupies the unit as the unit owner's primary residence; and

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

34 (2) (a) Subject to Subsections (2)(b), (2)(c), (6), and (7), an association of unit owners
35 may:

36 (i) create restrictions on the number and term of rentals in a condominium project; or

37 (ii) prohibit rentals in the condominium project.

38 (b) An association of unit owners that creates a rental restriction or prohibition in
39 accordance with Subsection (2)(a) shall create the rental restriction or prohibition in a
40 declaration or by amending the declaration.

41 (c) (i) To create a rental restriction or prohibition by amending the declaration, an
42 association of unit owners shall:

43 (A) vote on the proposed rental restriction or prohibition at a meeting of the association
44 of unit owners;

45 (B) obtain approval from at least 67% of all the unit owners; and

46 (C) fulfill all other requirements for amending the declaration described in the
47 association of unit owners' governing documents.

48 (ii) At least 10 days before a meeting described in Subsection (1)(c)(i)(A), the
49 management committee shall give written notice to each unit owner that:

50 (A) states the time, date, and location of the meeting; and

51 (B) provides a detailed description of the proposed rental restriction or prohibition.

52 (iii) A unit owner may vote at a meeting described in Subsection (1)(c)(i)(A) in person
53 or by proxy.

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

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

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

- 59 (ii) a unit occupied by a unit owner's parent, child, or sibling;
- 60 (iii) a unit owner whose employer has relocated the unit owner for no less than two
61 years; or
- 62 (iv) a unit owned by a trust or other entity created for estate planning purposes if the
63 trust or other estate planning entity was created for the estate of:
- 64 (A) a current resident of the unit; or
- 65 (B) the parent, child, or sibling of the current resident of the unit;
- 66 (b) a provision that allows a unit owner who has a rental in the condominium project
67 before the time the rental restriction described in Subsection (2)(a) is recorded with the county
68 recorder of the county in which the condominium project is located to continue renting until:
- 69 (i) the unit owner occupies the unit; or
- 70 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
71 similar position of ownership or control of an entity or trust that holds an ownership interest in
72 the unit, occupies the unit; and
- 73 (c) a requirement that the association of unit owners create, by rule or resolution,
74 procedures to:
- 75 (i) determine and track the number of rentals and units in the condominium project
76 subject to the provisions described in Subsections (3)(a) and (b); and
- 77 (ii) ensure consistent administration and enforcement of the rental restrictions.
- 78 (4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the
79 following occur:
- 80 (a) the conveyance, sale, or other transfer of a unit by deed;
- 81 (b) the granting of a life estate in the unit; or
- 82 (c) if the unit is owned by a limited liability company, corporation, partnership, or
83 other business entity, the sale or transfer of more than 75% of the business entity's share, stock,
84 membership interests, or partnership interests in a 12-month period.
- 85 (5) This section does not limit or affect residency age requirements for an association
86 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42
87 U.S.C. Sec. 3607.
- 88 (6) A declaration or amendment to a declaration recorded before transfer of the first
89 unit from the initial declarant may prohibit or restrict rentals without providing for the

90 exceptions, provisions, and procedures required under Subsection (3)(a).

91 (7) Subsections (2) through (6) do not apply to:

92 (a) a condominium project that contains a time period unit as defined in Section
93 57-8-3;

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

95 (c) a condominium project in which the initial declaration is recorded before May 12,
96 2009[-], unless, on or after May 12, 2015, the association of unit owners:

97 (i) adopts a rental restriction or prohibition; or

98 (ii) amends an existing rental restriction or prohibition.

99 (8) Notwithstanding this section, an association of unit owners may~~[, upon unanimous~~
100 ~~approval by all unit owners,]~~ restrict or prohibit rentals without an exception described in
101 Subsection (3)[-] if:

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

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

106 (9) Except as provided in Subsection (10), an association of unit owners may not
107 require a unit owner who owns a rental unit to:

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

109 (b) give the association of unit owners:

110 (i) a copy of a rental application;

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

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

113 (iv) documentation to verify the renter's age.

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

117 (b) If an association of unit owners' declaration lawfully prohibits or restricts
118 occupancy of the units by a certain class of individuals, the association of unit owners may
119 require a unit owner who owns a rental unit to give the association of unit owners the
120 information described in Subsection (9)(b), if:

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

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

125 Section 2. Section **57-8a-209** is amended to read:

126 **57-8a-209. Rental restrictions.**

127 (1) As used in this section, "rentals" or "rental lot" means:

128 (a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by
129 someone while no lot owner occupies the lot as the lot owner's primary residence; and

130 (b) a lot owned by an entity or trust, regardless of who occupies the lot.

131 (2) (a) Subject to Subsections (2)(b), (2)(c), (6), and (7), an association may:

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

133 (ii) prohibit rentals in the association.

134 (b) An association that creates a rental restriction or prohibition in accordance with

135 Subsection (1)(a)(i) shall create the rental restriction or prohibition in a recorded declaration of

136 covenants, conditions, and restrictions, or by amending the recorded declaration of covenants,

137 conditions, and restrictions.

138 (c) (i) To create a rental restriction or prohibition by amending the recorded declaration
139 of covenants, conditions, and restrictions, an association shall:

140 (A) vote on the proposed rental restriction or prohibition at a meeting of the

141 association;

142 (B) obtain approval from at least 67% of all the lot owners; and

143 (C) fulfill all other requirements for amending the recorded declaration of covenants,

144 conditions, and restrictions described in the association's governing documents.

145 (ii) At least 10 days before a meeting described in Subsection (1)(c)(i)(A), the board

146 shall give written notice to each lot owner that:

147 (A) states the time, date, and location of the meeting; and

148 (B) provides a detailed description of the proposed rental restriction or prohibition.

149 (iii) A lot owner may vote at a meeting described in Subsection (1)(c)(i)(A) in person

150 or by proxy.

151 (3) If an association prohibits or imposes restrictions on the number and term of

152 rentals, the restrictions shall include:

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

- 155 (i) a lot owner in the military for the period of the lot owner's deployment;
- 156 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 157 (iii) a lot owner whose employer has relocated the lot owner for no less than two years;

158 or

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

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

163 (b) a provision that allows a lot owner who has a rental in the association before the
164 time the rental restriction described in Subsection (2)(a) is recorded with the county recorder of
165 the county in which the association is located to continue renting until:

- 166 (i) the lot owner occupies the lot; or
- 167 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
168 similar position of ownership or control of an entity or trust that holds an ownership interest in
169 the lot, occupies the lot; and

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

- 171 (i) determine and track the number of rentals and lots in the association subject to the
172 provisions described in Subsections (3)(a) and (b); and
- 173 (ii) ensure consistent administration and enforcement of the rental restrictions.

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

- 176 (a) the conveyance, sale, or other transfer of a lot by deed;
- 177 (b) the granting of a life estate in the lot; or
- 178 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
179 business entity, the sale or transfer of more than 75% of the business entity's share, stock,
180 membership interests, or partnership interests in a 12-month period.

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

183 3607.

184 (6) The declaration of covenants, conditions, and restrictions or amendments to the
185 declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot
186 from the initial declarant may prohibit or restrict rentals without providing for the exceptions,
187 provisions, and procedures required under Subsection (3)(a).

188 (7) Subsections (2) through (6) do not apply to:

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

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

191 (c) an association in which the initial declaration of covenants, conditions, and
192 restrictions is recorded before May 12, 2009~~[-]~~, unless, on or after May 12, 2015, the
193 association:

194 (i) adopts a rental restriction or prohibition; or

195 (ii) amends an existing rental restriction or prohibition.

196 (8) Notwithstanding this section, an association may~~[-, upon unanimous approval by all~~
197 ~~lot owners,]~~ restrict or prohibit rentals without an exception described in Subsection (3)~~[-]~~ if:

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

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

203 (9) Except as provided in Subsection (10), an association may not require a lot owner
204 who owns a rental lot to:

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

206 (b) give the association:

207 (i) a copy of a rental application;

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

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

210 (iv) documentation to verify the renter's age.

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

214 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
215 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may
216 require a lot owner who owns a rental lot to give the association the information described in
217 Subsection (9)(b), if:

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

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

Legislative Review Note
as of 12-10-14 7:49 PM

Office of Legislative Research and General Counsel