

HOUSING AFFORDABILITY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions facilitating affordable housing.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ adopts a statewide building code for modular building units;
- ▶ modifies provisions related to reinvestment fee covenants or transfer fee covenants;
- ▶ modifies provisions of the First-Time Homebuyer Assistance Program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-1-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

15A-1-205, as enacted by Laws of Utah 2011, Chapter 14

15A-1-302, as enacted by Laws of Utah 2011, Chapter 14

15A-1-304, as enacted by Laws of Utah 2011, Chapter 14

57-1-46, as enacted by Laws of Utah 2010, Chapter 16



28 **63H-8-501**, as enacted by Laws of Utah 2023, Chapter 519

29 **63H-8-502**, as enacted by Laws of Utah 2023, Chapter 519

30 ENACTS:

31 **10-9a-540**, Utah Code Annotated 1953

32 **15A-1-306.1**, Utah Code Annotated 1953

33 **15A-1-307**, Utah Code Annotated 1953

34 **15A-1-308**, Utah Code Annotated 1953

35 **15A-1-309**, Utah Code Annotated 1953

36 **57-1-47**, Utah Code Annotated 1953



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

39 Section 1. Section **10-9a-540** is enacted to read:

40 **10-9a-540. Modular building.**

41 (1) Title 15A, State Construction and Fire Codes Act, governs regulations related to the
42 construction, transportation, installation, inspection, fees, and enforcement related to modular
43 building.

44 (2) A municipality may adopt an ordinance regulating modular building so long as the
45 ordinance conforms with Title 15A, State Construction and Fire Codes Act, and this chapter.

46 Section 2. Section **15A-1-202** is amended to read:

47 **15A-1-202. Definitions.**

48 As used in this chapter:

49 (1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops,
50 or keeping or raising domestic animals.

51 (2) (a) "Approved code" means a code, including the standards and specifications
52 contained in the code, approved by the division under Section **15A-1-204** for use by a
53 compliance agency.

54 (b) "Approved code" does not include the State Construction Code.

55 (3) "Building" means a structure used or intended for supporting or sheltering any use
56 or occupancy and any improvements attached to it.

57 (4) "Code" means:

58 (a) the State Construction Code; or

- 59 (b) an approved code.
- 60 (5) "Commission" means the Uniform Building Code Commission created in Section
- 61 [15A-1-203](#).
- 62 (6) "Compliance agency" means:
- 63 (a) an agency of the state or any of its political subdivisions which issues permits for
- 64 construction regulated under the codes;
- 65 (b) any other agency of the state or its political subdivisions specifically empowered to
- 66 enforce compliance with the codes; or
- 67 (c) any other state agency which chooses to enforce codes adopted under this chapter
- 68 by authority given the agency under a title other than this part and Part 3, Factory Built
- 69 Housing and Modular Units Administration Act.
- 70 (7) "Construction code" means standards and specifications published by a nationally
- 71 recognized code authority for use in circumstances described in Subsection [15A-1-204](#)(1),
- 72 including:
- 73 (a) a building code;
- 74 (b) an electrical code;
- 75 (c) a residential one and two family dwelling code;
- 76 (d) a plumbing code;
- 77 (e) a mechanical code;
- 78 (f) a fuel gas code;
- 79 (g) an energy conservation code;
- 80 (h) a swimming pool and spa code; [~~and~~]
- 81 (i) a manufactured housing installation standard code; and
- 82 (j) ICC/Modular Building Institute Standards 1200 and 1205, except as modified by
- 83 this title.
- 84 (8) "Construction project" means the same as that term is defined in Section [38-1a-102](#).
- 85 (9) "Executive director" means the executive director of the Department of Commerce.
- 86 (10) "Legislative action" includes legislation that:
- 87 (a) adopts a new State Construction Code;
- 88 (b) amends the State Construction Code; or
- 89 (c) repeals one or more provisions of the State Construction Code.

90 (11) (a) "Local regulator" means a political subdivision of the state that is empowered
91 to engage in the regulation of construction, alteration, remodeling, building, repair, [~~and~~]
92 installation, inspection, or other activities subject to the codes.

93 (b) "Local regulator" may include the local regulator's designee.

94 (12) "Membrane-covered frame structure" means a nonpressurized building with a
95 structure composed of a rigid framework to support a tensioned membrane that provides a
96 weather barrier.

97 (13) "Not for human occupancy" means use of a structure for purposes other than
98 protection or comfort of human beings, but allows people to enter the structure for:

99 (a) maintenance [~~and~~] or repair; [~~and~~] or

100 (b) the care of livestock, crops, or equipment intended for agricultural use which are
101 kept there.

102 (14) "Opinion" means a written, nonbinding, and advisory statement issued by the
103 commission concerning an interpretation of the meaning of the codes or the application of the
104 codes in a specific circumstance issued in response to a specific request by a party to the issue.

105 (15) "Remote yurt" means a membrane-covered frame structure that:

106 (a) is no larger than 710 square feet;

107 (b) is not used as a permanent residence;

108 (c) is located in an unincorporated county area that is not zoned for residential,
109 commercial, industrial, or agricultural use;

110 (d) does not have plumbing or electricity;

111 (e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

112 (f) is registered with the local health department.

113 (16) "State regulator" means an agency of the state which is empowered to engage in
114 the regulation of construction, alteration, remodeling, building, repair, and other activities
115 subject to the codes adopted pursuant to this chapter.

116 Section 3. Section **15A-1-205** is amended to read:

117 **15A-1-205. Division duties -- Relationship of division to other entities.**

118 (1) (a) The division shall administer the codes adopted or approved under Section
119 **15A-1-204** pursuant to this chapter.

120 (b) Notwithstanding Subsection (1)(a), the division has no responsibility to:

- 121 (i) conduct inspections to determine compliance with the codes;
- 122 (ii) issue permits; or
- 123 (iii) assess building permit fees.

124 (c) Notwithstanding any other provision, the division, the Division of Facilities
 125 Construction and Management, the state regulator, any approved third-party inspection agency
 126 as defined by Section 15A-1-302, or any approved third-party inspector as defined by Section
 127 15A-1-302 does not have the responsibility or authority to perform the duties reserved to a
 128 local regulator as set forth in Section 15A-1-304, unless designated by a local regulator to
 129 perform that duty.

130 (2) As part of the administration of the codes, the division shall:

- 131 (a) comply with Section 15A-1-206;
- 132 (b) schedule appropriate hearings;
- 133 (c) maintain and publish for reference:
 - 134 (i) the current State Construction Code; and
 - 135 (ii) any approved code; and
- 136 (d) publish the opinions of the commission with respect to interpretation and
 137 application of the codes.

138 (3) As part of the administration of the codes, the division shall:

- 139 (a) license inspectors, including approved third-party inspectors;
- 140 (b) approve modular manufacturers as defined in Section 15A-1-302; and
- 141 (c) provide a list of all licensed inspectors, including approved third-party inspectors,
 142 and approved modular manufacturers to the Division of Facilities Construction and
 143 Management.

144 Section 4. Section 15A-1-302 is amended to read:

145 **15A-1-302. Definitions.**

146 As used in this part:

- 147 (1) "Compliance agency" [~~is as~~] means the same as that term is defined in Section
 148 15A-1-202.
- 149 (2) "Construction documents" means the same as that term is defined by ICC/Modular
 150 Building Institute Standards 1200.
- 151 (3) "Decal" means a form of certification, created by the Division of Facilities

152 Construction and Management and issued by a third-party inspection agency, to be permanently
153 attached to a module, panelized system, or modular building unit indicating that the module,
154 panelized system, or modular building unit has been constructed to meet or exceed applicable
155 building code requirements.

156 ~~[(2)]~~ (4) "Factory built housing" means a manufactured home or mobile home.

157 ~~[(3)]~~ (5) "Factory built housing set-up contractor" means an individual licensed by the
158 division to set up or install factory built housing on a temporary or permanent basis.

159 ~~[(4)]~~ (6) "HUD Code" means the National Manufactured Housing Construction and
160 Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

161 ~~[(5)]~~ (7) "Local regulator" ~~[is as]~~ means the same as that term is defined in Section
162 15A-1-202.

163 ~~[(6)]~~ (8) "Manufactured home" means a transportable factory built housing unit
164 constructed on or after June 15, 1976, according to the HUD Code, in one or more sections,
165 that:

166 (a) in the traveling mode, is eight body feet or more in width or 40 body feet or more in
167 length, or when erected on site, is 400 or more square feet; and

168 (b) is built on a permanent chassis and designed to be used as a dwelling with or
169 without a permanent foundation when connected to the required utilities, and includes the
170 plumbing, heating, air-conditioning, and electrical systems.

171 (9) "Manufacturing plant" means the same as that term is defined by ICC/Modular
172 Building Institute Standards 1200.

173 ~~[(7)]~~ (10) "Mobile home" means a transportable factory built housing unit built before
174 June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD
175 Code.

176 (11) "Modular manufacturer" means the entity responsible for manufacturing a
177 panelized system or module.

178 ~~[(8)]~~ (12) "Modular unit" or "modular building unit" means a structure:

179 (a) ~~[built from sections that are manufactured]~~ constructed from one or more modules
180 or panelized systems that is manufactured in accordance with the State Construction Code and
181 transported to a ~~[building site; and]~~ location;

182 (b) the purpose of which is for human habitation, occupancy, or use; and

183 (c) is not a factory-built house, manufactured home, or mobile home.

184 (13) "Module" means a three-dimensional, volumetric section of a modular building
185 unit designed and approved to be transported as a single section, independent of other sections,
186 to a location for onsite construction.

187 (14) "Offsite construction" means a modular building unit that:

188 (a) is designed and constructed in compliance with this part;

189 (b) is wholly or in substantial part fabricated in a manufacturing plant for installation at
190 an onsite location; and

191 (c) has been manufactured in such a manner that all parts or processes cannot be
192 inspected at the end site location without disassembly, potentially resulting in damage or
193 destruction to the modular building unit.

194 (15) "Onsite construction" means:

195 (a) the preparation of a location where a modular building unit will be installed,
196 including preparation of site foundation, construction of any necessary supporting structure,
197 and preparation to connect the modular building unit to necessary utilities; and

198 (b) assembly and installation of one or more modules or panelized systems in
199 accordance with construction documents into a modular building unit, including completion of
200 any site-related construction and connecting the modular building unit to necessary utilities.

201 (16) "Panelized system" means a closed wall, roof, or floor component that is
202 constructed at a manufacturing plant or by a modular manufacturer in a manner that prevents
203 the construction from being fully inspected at an onsite location without disassembly.

204 [~~(9)~~] (17) "State regulator" [~~is as~~] means the same as that term is defined in Section
205 15A-1-202.

206 (18) "Third-party inspection agency" means an entity licensed by the division and
207 approved by the Division of Facilities Construction and Management to be qualified to inspect
208 a module or panelized system for compliance with the construction documents, compliance
209 control, and applicable code.

210 (19) "Third-party inspector" means a person who:

211 (a) is qualified to inspect a modular building unit for compliance with construction
212 documents, compliance control, and applicable building code;

213 (b) works under the direction of a third-party inspection agency;

214 (c) has been licensed by the division under Section 15A-1-307; and
215 (d) is approved by the Division of Facilities Construction and Management to conduct
216 third-party inspections, as described in Section 15A-1-307.

217 Section 5. Section **15A-1-304** is amended to read:

218 **15A-1-304. Modular units.**

219 Modular unit construction, ~~setup~~ installation, issuance of permits for construction or
220 ~~setup~~ installation, and setup shall be in accordance with the following:

221 (1) Construction, installation, and setup of a modular unit, module, or panelized system
222 shall be in accordance with the State Construction Code.

223 (2) A local regulator has the responsibility and exclusive authority ~~[for plan review and~~
224 ~~issuance of permits for construction, modification, or setup for the political subdivision in~~
225 ~~which the modular unit is to be setup;]~~ to:

226 (a) review and approve the elements of construction documents related to onsite
227 construction;

228 (b) issue a permit for construction of a modular building unit or a modular building
229 unit site modification;

230 (c) perform an inspection of onsite construction of a modular building unit or modular
231 building unit site modification;

232 (d) verify that a module or panelized system is installed in accordance with:

233 (i) the modular unit's construction documents;

234 (ii) the State Construction Code; and

235 (iii) applicable state and local requirements;

236 (e) verify that a decal has been permanently affixed to a modular building unit;

237 (f) subject to Subsection (3), establish and assess fees related to the construction and
238 installation of modular units;

239 (g) upon discovery of visible damage to a module or panelized system, require the
240 visibly damaged portion of the module or panelized system to be opened for further inspection
241 as reasonably necessary to inspect the damage;

242 (h) upon discovery of evidence that would cause a reasonable inspector to believe that
243 a modular building unit may not be in compliance with the State Construction Code or
244 construction documents, require a module or panelized system to be opened for further

245 inspection;

246 (i) notwithstanding any other provision of state law, the construction code and
 247 standards, agency rule, or local ordinance:

248 (i) prevent the use or occupancy of a modular building unit that, in the opinion of the
 249 local regulator, contains a serious defect or presents an imminent safety hazard; and

250 (ii) report the prevention of use or occupancy of a modular building unit to the
 251 Division of Facilities Construction and Management and the division; and

252 (j) perform all other duties and responsibilities set forth in the ICC/Modular Building
 253 Institute Standards 1200 and 1205 not otherwise listed in this section.

254 (3) Fees related to the construction and installation of modular building units may
 255 include building permit fees, inspection fees, impact fees, and administrative fees.

256 (4) (a) In addition to any immunity and protections set forth in the Utah Governmental
 257 Immunity Act, a municipality shall not be liable for a claim arising solely from the offsite
 258 construction of a module, panelized system, or modular building unit.

259 (b) A local regulator may provide written notice with the certificate of occupancy that
 260 explains the municipality's limitations of liability pursuant to this section and the Utah
 261 Governmental Immunity Act.

262 [~~3~~] (5) An inspection of the construction, modification of, or setup of a modular unit
 263 shall conform with this chapter.

264 [~~4~~] (6) A local regulator has the responsibility to issue an approval for the political
 265 subdivision in which a modular unit is to be setup or is setup.

266 [~~5~~] (7) Nothing in this section precludes:

267 (a) a local regulator from contracting with a qualified third party to act as its designee
 268 for the inspection or plan review provided in this section; or

269 (b) the state from entering into an interstate compact for [~~third party~~] third-party
 270 inspection of the construction of a modular unit.

271 Section 6. Section **15A-1-306.1** is enacted to read:

272 **15A-1-306.1. Division of Facilities Construction and Management duties for**
 273 **modular building units.**

274 The Division of Facilities Construction and Management:

275 (1) shall maintain current information on the HUD Code and the portions of the State

276 Construction Code relevant to modular building unit installation and provide at reasonable cost
277 the information to compliance agencies or local regulators requesting the information;

278 (2) shall provide qualified personnel to advise compliance agencies and local
279 regulators regarding the standards for:

280 (a) construction and setup of modular building units;

281 (b) construction and setup inspection of modular building units; and

282 (c) additions or modifications to modular building units;

283 (3) may inspect modular building units during the construction or manufacturing
284 process to determine compliance of a modular manufacturer with this title for modular building
285 units to be installed within the state;

286 (4) upon a finding of substantive deficiency at a modular manufacturer, through
287 inspection or based on a report from an approved third-party inspection agency, may:

288 (a) suspend the manufacturer's construction of modular units to be sold or installed in
289 the state;

290 (b) issue a corrective order to the manufacturer; or

291 (c) require an increase in third-party inspections until the Division of Facilities

292 Construction and Management is satisfied that the deficiency is resolved;

293 (5) shall, if an action is taken pursuant to Subsection (4), provide notice of its action
294 and a copy of the corrective order to the local regulator in the political subdivision where a
295 modular unit is to be installed;

296 (6) shall have rights of entry and inspection as specified under the HUD Code and
297 ICC/Modular Building Institute Standard 1200 and Standard 1205, as applicable;

298 (7) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
299 Rulemaking Act, to implement this section and Section [15A-1-307](#), including a continuing
300 education requirement for modular building unit construction and installation contractors; and

301 (8) shall have the authority to set and collect fees associated with the provision of
302 decals to support the administration of the modular building unit program.

303 Section 7. Section **15A-1-307** is enacted to read:

304 **15A-1-307. Third-party review - inspection agencies.**

305 (1) By no later than July 1, 2024, the Division of Facilities Construction and
306 Management shall maintain a list of third-party inspection agencies that have been:

- 307 (a) licensed by the division; and
- 308 (b) approved by the Division of Facilities Construction and Management to conduct:
- 309 (i) review of construction documents; and
- 310 (ii) an inspection of a module or panelized system.
- 311 (2) An approved third-party inspection agency:
- 312 (a) shall demonstrate knowledge of applicable sections of the Utah Code and State
- 313 Construction Code and other applicable laws and rules;
- 314 (b) shall be independent in judgment and not have any actual or potential conflict of
- 315 interest;
- 316 (c) is not affiliated with or influenced or controlled by any producer, supplier, vendor,
- 317 developer, builder, or related fields applicable to the construction of modular units in any
- 318 manner that might affect its capacity to render its conclusions and inspections without bias;
- 319 (d) shall carry insurance in the amount set by the Division of Facilities Construction
- 320 and Management to cover liabilities and losses arising or relating to possible errors and
- 321 omissions from its operations, reviews, and inspections; and
- 322 (e) shall perform all duties set forth in the ICC/Modular Building Institute 1205,
- 323 Chapter 4, as amended.
- 324 (3) An approved third-party inspector:
- 325 (a) shall demonstrate knowledge of applicable sections of the Utah Code and State
- 326 Construction Code and other applicable laws and rules;
- 327 (b) shall be independent in judgment and not have any actual or potential conflict of
- 328 interest;
- 329 (c) is not affiliated with or influenced or controlled by any producer, supplier, vendor,
- 330 developer, builder, or related fields applicable to the construction of modular units in any
- 331 manner that might affect its capacity to render its conclusions and inspections without bias;
- 332 (d) shall carry insurance in the amount set by the Division of Facilities Construction
- 333 and Management to cover liabilities and losses arising or relating to possible errors and
- 334 omissions from its operations, reviews, and inspections; and
- 335 (e) shall perform all duties set forth in the ICC/Modular Building Institute 1205,
- 336 Chapter 4, as amended.
- 337 (4) A third-party inspector at an approved third-party agency shall:

338 (a) be licensed and certified as a combination inspector in the state of Utah;
339 (b) meet the requirements for a third-party inspector under the ICC/Modular Building
340 Institute 312 Standard 1205, Chapter 4; and

341 (c) be knowledgeable regarding the construction, installation, and setup of modular
342 units.

343 (5) (a) A modular manufacturer shall contract with one or more third-party agencies or
344 third-party inspectors to perform offsite construction documents review and inspection.

345 (b) A contract described in Subsection (5)(a) does not constitute an actual or implied
346 conflict of interest.

347 Section 8. Section **15A-1-308** is enacted to read:

348 **15A-1-308. Manufacturing plants -- Quality assurance inspections.**

349 (1) The Division of Facilities Construction and Management shall approve a modular
350 manufacturer before modular building units produced by or sold by the modular manufacturer
351 may be used for human occupancy within the state.

352 (2) A modular manufacturer, or an employee of a modular manufacturer, shall meet
353 each requirement of ICC/Modular Building Institute 1200 Standard, Chapter 5 and 1205
354 Standard, Chapters 4 and 5.

355 (3) The quality assurance and control plan, as required in ICC/Modular Building
356 Institute 1200 Standard, Chapter 5, and further defined per ICC/Modular Building Institute
357 1205 Standard, Chapter 5, shall include a conflict of interest form developed by the Division of
358 Facilities Construction and Management.

359 (4) Quality assurance personnel at the manufacturing plant shall:

360 (a) demonstrate to the Division of Facilities Construction and Management and an
361 applicable third-party inspection agency that the quality assurance personnel have adequate
362 knowledge of the product, factory operations, and the codes and standards for the product being
363 manufactured;

364 (b) demonstrate to the satisfaction of the Division of Facilities Construction and
365 Management the ability of the quality assurance personnel to perform required duties, as
366 outlined by the Division of Facilities Construction and Management by rule; and

367 (c) inspect each module and panelized system for quality control.

368 (5) (a) A modular manufacturer, third-party agency, or third-party inspector may not

369 amend a construction document without approval from a local regulator.

370 (b) A local regulator shall approve an amendment to a construction document unless it
371 violates a site-specific provision of municipal code or affects the safety or the habitability of a
372 modular unit.

373 Section 9. Section **15A-1-309** is enacted to read:

374 **15A-1-309. Decal.**

375 A decal issued by the Division of Facilities Construction and Management and affixed
376 by a third-party inspection agency in compliance with this part shall warrant that the modular
377 building unit has been inspected in accordance with this part and the modular building unit is:

378 (1) fit for human occupancy; and

379 (2) manufactured in accordance with applicable codes and the construction documents.

380 Section 10. Section **57-1-46** is amended to read:

381 **57-1-46. Transfer fee and reinvestment fee covenants.**

382 (1) As used in this section:

383 (a) "Association expenses" means expenses incurred by a common interest association
384 for:

385 (i) the administration of the common interest association;

386 (ii) the purchase, ownership, leasing, construction, operation, use, administration,
387 maintenance, improvement, repair, or replacement of association facilities, including expenses
388 for taxes, insurance, operating reserves, capital reserves, and emergency funds;

389 (iii) providing, establishing, creating, or managing a facility, activity, service, or
390 program for the benefit of property owners, tenants, common areas, the burdened property, or
391 property governed by the common interest association; or

392 (iv) other facilities, activities, services, or programs that are required or permitted
393 under the common interest association's organizational documents.

394 (b) "Association facilities" means any real property, improvements on real property, or
395 personal property owned, leased, constructed, developed, managed, or used by a common
396 interest association, including common areas.

397 (c) "Burdened property" means the real property that is subject to a reinvestment fee
398 covenant or transfer fee covenant.

399 (d) "Common areas" means areas described within:

- 400 (i) the definition of "common areas and facilities" under Section 57-8-3; and
- 401 (ii) the definition of "common areas" under Section 57-8a-102.
- 402 (e) "Common interest association":
- 403 (i) means:
- 404 (A) an association, as defined in Section 57-8a-102;
- 405 (B) an association of unit owners, as defined in Section 57-8-3; or
- 406 (C) a nonprofit association; and
- 407 (ii) includes a person authorized by an association, association of unit owners, or
- 408 nonprofit association, as the case may be.
- 409 (f) "Large master planned development" means an approved development:
- 410 (i) of at least 500 acres or 500 units; and
- 411 (ii) that includes a commitment to fund, construct, develop, or maintain:
- 412 (A) common infrastructure;
- 413 (B) association facilities;
- 414 (C) community programming;
- 415 (D) resort facilities;
- 416 (E) open space; or
- 417 (F) recreation amenities.
- 418 (g) "Nonprofit association" means a nonprofit corporation organized under Title 16,
- 419 Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern,
- 420 manage, or maintain burdened property.
- 421 (h) "Organizational documents":
- 422 (i) for an association, as defined in Section 57-8a-102, means governing documents as
- 423 defined in Section 57-8a-102;
- 424 (ii) for an association of unit owners, as defined in Section 57-8-3, means a declaration
- 425 as defined in Section 57-8-3; and
- 426 (iii) for a nonprofit association:
- 427 (A) means a written instrument by which the nonprofit association exercises powers or
- 428 manages, maintains, or otherwise affects the property under the jurisdiction of the nonprofit
- 429 association; and
- 430 (B) includes articles of incorporation, bylaws, plats, charters, the nonprofit

431 association's rules, and declarations of covenants, conditions, and restrictions.

432 (i) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

433 (i) affects real property; and

434 (ii) obligates a future buyer or seller of the real property to pay to a common interest

435 association, upon and as a result of a transfer of the real property, a fee that is dedicated to

436 benefitting the burdened property, including payment for:

437 (A) common planning, facilities, and infrastructure;

438 (B) obligations arising from an environmental covenant;

439 (C) community programming;

440 (D) resort facilities;

441 (E) open space;

442 (F) recreation amenities;

443 (G) charitable purposes; or

444 (H) association expenses.

445 (j) "Transfer fee covenant":

446 (i) means an obligation, however denominated, expressed in a covenant, restriction,

447 agreement, or other instrument or document:

448 (A) that affects real property;

449 (B) that is imposed on a future buyer or seller of real property, other than a person who

450 is a party to the covenant, restriction, agreement, or other instrument or document; and

451 (C) to pay a fee upon and as a result of a transfer of the real property; and

452 (ii) does not include:

453 (A) an obligation imposed by a court judgment, order, or decree;

454 (B) an obligation imposed by the federal government or a state or local government

455 entity; or

456 (C) a reinvestment fee covenant.

457 (2) A transfer fee covenant recorded on or after March 16, 2010 is void and

458 unenforceable.

459 (3) (a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not

460 be sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a common

461 interest association that was formed to benefit the burdened property.

462 (b) A common interest association may assign or pledge to a lender the right to receive
463 payment under a reinvestment fee covenant if:

464 (i) the assignment or pledge is as collateral for a credit facility; and

465 (ii) the lender releases the collateral interest upon payment in full of all amounts that
466 the common interest association owes to the lender under the credit facility.

467 (4) A reinvestment fee covenant recorded on or after March 16, 2010 is not enforceable
468 if the reinvestment fee covenant is intended to affect property that is the subject of a previously
469 recorded transfer fee covenant or reinvestment fee covenant.

470 (5) A reinvestment fee covenant recorded on or after March 16, 2010 may not obligate
471 the payment of a fee that exceeds .5% of the value of the burdened property, unless the
472 burdened property is part of a large master planned development.

473 (6) (a) A reinvestment fee covenant recorded on or after March 16, 2010 is void and
474 unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment fee
475 covenant, is recorded in the office of the recorder of each county in which any of the burdened
476 property is located.

477 (b) A notice under Subsection (6)(a) shall:

478 (i) state the name and address of the common interest association to which the fee
479 under the reinvestment fee covenant is required to be paid;

480 (ii) include the notarized signature of the common interest association's authorized
481 representative;

482 (iii) state that the burden of the reinvestment fee covenant is intended to run with the
483 land and to bind successors in interest and assigns;

484 (iv) state that the existence of the reinvestment fee covenant precludes the imposition
485 of an additional reinvestment fee covenant on the burdened property;

486 (v) state the duration of the reinvestment fee covenant;

487 (vi) state the purpose of the fee required to be paid under the reinvestment fee
488 covenant; and

489 (vii) state that the fee required to be paid under the reinvestment fee covenant is
490 required to benefit the burdened property.

491 (c) A recorded notice of reinvestment fee covenant that substantially complies with the
492 requirements of Subsection (6)(b) is valid and effective.

493 (7) (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16,
494 2010 is not enforceable after May 31, 2010, unless:

495 (i) a notice that is consistent with the notice described in Subsection (6) is recorded in
496 the office of the recorder of each county in which any of the burdened property is located; or

497 (ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in
498 Subsection (7)(b), is recorded in the office of the recorder of each county in which any of the
499 burdened property is located.

500 (b) A notice under Subsection (7)(a)(ii) shall:

501 (i) include the notarized signature of the beneficiary of the reinvestment fee covenant
502 or transfer fee covenant, or the beneficiary's authorized representative;

503 (ii) state the name and current address of the beneficiary under the reinvestment fee
504 covenant or transfer fee covenant;

505 (iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is
506 intended to run with the land and to bind successors in interest and assigns; and

507 (iv) state the duration of the reinvestment fee covenant or transfer fee covenant.

508 (c) A recorded notice of reinvestment fee covenant or transfer fee covenant that
509 substantially complies with the requirements of Subsection (7)(b) is valid and effective.

510 (d) A notice under Subsection (7)(b):

511 (i) that is recorded after May 31, 2010, is not enforceable; and

512 (ii) shall comply with the requirements of Section [57-1-47](#).

513 (e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010,
514 seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is not an
515 enforceable amendment.

516 (8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be
517 enforced upon:

518 (a) an involuntary transfer;

519 (b) a transfer that results from a court order;

520 (c) a bona fide transfer to a family member of the seller within three degrees of
521 consanguinity who, before the transfer, provides adequate proof of consanguinity;

522 (d) a transfer or change of interest due to death, whether provided in a will, trust, or
523 decree of distribution; or

524 (e) the transfer of burdened property by a financial institution, except to the extent that
525 the reinvestment fee covenant requires the payment of a common interest association's costs
526 directly related to the transfer of the burdened property, not to exceed \$250.

527 Section 11. Section **57-1-47** is enacted to read:

528 **57-1-47. Notice requirements for continuation of existing private transfer fee**
529 **obligations.**

530 (1) In addition to the requirements described in Subsection 57-1-46(7), a person
531 required to file a notice under this section shall:

532 (a) (i) file the notice described in this section on or before May 31, 2024; and

533 (ii) re-file the notice, no earlier than May 1 and no later than May 31, every three years
534 thereafter; and

535 (b) amend the notice to reflect any change in the name or address of any payee included
536 in the notice no later than the 30 days after the day on which the change occurs.

537 (2) A person who amends a notice filed under Subsection (1) shall include with the
538 amendment:

539 (a) the recording information of the original notice; and

540 (b) the legal description of the property subject to the private transfer fee obligation.

541 (3) To be effective, a notice filed under this section shall be approved in writing by
542 every person holding a majority of the beneficial interests in the private transfer fee obligation.

543 (4) If a person required to file a notice under this section fails to comply with this
544 section:

545 (a) payment of the private transfer fee may not be a requirement for the conveyance of
546 an interest in the property to a purchaser;

547 (b) the property is not subject to further obligation under the private transfer fee
548 obligation; and

549 (c) the private transfer fee obligation is void.

550 (5) A recorded notice of transfer fee covenant that complies with the requirements of
551 this section is valid and effective.

552 (6) (a) A person that is no longer subject to a private transfer fee obligation may seek
553 declaratory relief in court to address any encumbrance on real property owned by the person.

554 (b) Upon a successful claim for declaratory relief, as described in Subsection (6)(a), a

555 court may award the person costs and reasonable attorney fees.

556 Section 12. Section **63H-8-501** is amended to read:

557 **63H-8-501. Definitions.**

558 As used in this part:

559 (1) "First-time homebuyer" means an individual who [~~qualifies for assistance under 42~~
560 ~~U.S.C. Sec. 12852.~~] satisfies:

561 (a) the three-year requirement described in Section 143(d) of the Internal Revenue
562 Code of 1986, as amended, and any corresponding federal regulations; and

563 (b) requirements made by the corporation by rule, as described in Section [63H-8-502](#).

564 (2) "Home equity amount" means the difference between:

565 (a) (i) in the case of a sale, the sales price for which the qualifying residential unit is
566 sold by the recipient in a bona fide sale to a third party with no right to repurchase less an
567 amount up to 1% of the sales price used for seller-paid closing costs; or

568 (ii) in the case of a refinance, the current appraised value of the qualifying residential
569 unit; and

570 (b) the total payoff amount of any qualifying mortgage loan that was used to finance
571 the purchase of the qualifying residential unit.

572 (3) "Program" means the First-Time Homebuyer Assistance Program created in Section
573 [63H-8-502](#).

574 (4) "Program funds" means money appropriated for the program.

575 (5) "Qualifying mortgage loan" means a mortgage loan that:

576 (a) is purchased by the corporation; and

577 (b) is subject to a document that is recorded in the office of the county recorder of the
578 county in which the residential unit is located.

579 (6) "Qualifying residential unit" means a residential unit that:

580 (a) is located in the state;

581 (b) is new construction or newly constructed but not yet inhabited;

582 (c) is financed by a qualifying mortgage loan;

583 (d) is owner-occupied [~~upon~~] within 60 days of purchase, or in the case of a two-unit
584 dwelling, at least one unit is owner-occupied within 60 days of purchase; and

585 (e) is purchased for an amount that does not exceed:

586 (i) \$450,000; or
587 (ii) if applicable, the maximum purchase price established by the corporation under
588 Subsection [63H-8-502\(6\)](#).

589 (7) "Recipient" means a first-time homebuyer who receives program funds.

590 (8) (a) "Residential unit" means a house, condominium, townhome, or similar
591 residential structure that serves as a one-unit dwelling or forms part of a two-unit dwelling.

592 (b) "Residential unit" includes a manufactured home or modular home that is attached
593 to a permanent foundation.

594 Section 13. Section **63H-8-502** is amended to read:

595 **63H-8-502. First-Time Homebuyer Assistance Program.**

596 (1) There is created the First-Time Homebuyer Assistance Program administered by
597 the corporation.

598 (2) Subject to appropriations from the Legislature, the corporation shall distribute
599 program funds to:

600 (a) first-time homebuyers to provide support for the purchase of qualifying residential
601 units; and

602 (b) reimburse the corporation for a distribution of funds under Subsection (2)(a) that
603 took place on or after July 1, 2023.

604 (3) The maximum amount of program funds that a first-time homebuyer may receive
605 under the program is \$20,000.

606 (4) (a) A recipient may use program funds to pay for:

607 (i) the down payment on a qualifying residential unit;

608 (ii) closing costs associated with the purchase of a qualifying residential unit;

609 (iii) a permanent reduction in the advertised par interest rate on a qualifying mortgage
610 loan that is used to finance a qualifying residential unit; or

611 (iv) any combination of Subsections (4)(a)(i), (ii), and (iii).

612 (b) The corporation shall direct the disbursement of program funds for a purpose
613 authorized in Subsection (4)(a).

614 (c) A recipient may not receive a payout or distribution of program funds upon closing.

615 (5) The builder or developer of a qualifying residential unit may not increase the price
616 of the qualifying residential unit on the basis of program funds being used towards the purchase

617 of that qualifying residential unit.

618 (6) (a) In accordance with rules made by the corporation under Subsection (9), the
619 corporation may adjust the maximum purchase price of a qualifying residential unit for which a
620 first-time homebuyer qualifies to receive program funds in order to reflect current market
621 conditions~~[, provided that]~~.

622 (b) In connection with an adjustment made under Subsection (6)(a), the corporation
623 may establish one or more maximum purchase prices corresponding by residential unit type,
624 geographic location, and any other factor the corporation considers relevant.

625 ~~(c) [the]~~ The corporation ~~[adjusts the]~~ may adjust a maximum purchase price under this
626 Subsection (6) no more frequently than once each calendar year.

627 (7) (a) [If] Except as provided in Subsection (7)(b), if the recipient sells the qualifying
628 residential unit or refinances the qualifying mortgage loan that was used to finance the
629 purchase of the qualifying residential unit before the end of the original term of the qualifying
630 mortgage loan, the recipient shall repay to the corporation an amount equal to the lesser of:

631 ~~[(a)]~~ (i) the amount of program funds the recipient received; or

632 ~~[(b)]~~ (ii) 50% of the recipient's home equity amount.

633 (b) Subsection (7)(a) does not apply to a qualifying mortgage loan that is refinanced
634 with a new qualifying mortgage loan if any subordinate qualifying mortgage loan, or loan from
635 program funds used on the purchase of the qualifying residential unit, is resubordinated only to
636 the new qualifying mortgage loan.

637 (8) Any funds repaid to the corporation under Subsection (7) shall be used for program
638 distributions.

639 (9) The corporation shall make rules governing the application form, process, and
640 criteria the corporation will use to distribute program funds to first-time homebuyers, in
641 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

642 (10) The corporation may use up to 5% of program funds for administration.

643 (11) The corporation shall report annually to the Social Services Appropriations
644 Subcommittee on disbursements from the program and any adjustments made to the maximum
645 purchase price or maximum purchase prices of a qualifying residential unit under Subsection
646 (6).

647 Section 14. **Effective date.**

648

This bill takes effect on May 1, 2024.