Chapter 8  Condominium Ownership Act

57-8-1 Short title.
This act shall be known and may be cited as the “Condominium Ownership Act.”
Enacted by Chapter 111, 1963 General Session

57-8-2 Applicability of chapter.
This act shall be applicable only to property which the sole owner or all the owners submit to the provisions of the act by duly executing and recording a declaration as provided in the act.
Enacted by Chapter 111, 1963 General Session

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” 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 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 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.

(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) "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.

(23) "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 other units.

(24) “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.

(25) “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.

(26)
   (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.

(27) “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) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

(29) “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 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.

(30) “Period of administrative control” means the period of control described in Subsection 57-8-16.5(1).

(31) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

(32) “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.

(33) “Record,” “recording,” “recorded,” and “recorder” have the meaning stated in Title 57, Chapter 3, Recording of Documents.

(34) “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.

(35) “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 Subsection 57-19-2(19).

(36) “Unit” means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3).
condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

(37) “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.

(38) “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.

Amended by Chapter 22, 2015 General Session   Amended by Chapter 34, 2015 General Session   Amended by Chapter 213, 2015 General Session   Amended by Chapter 325, 2015 General Session   Amended by Chapter 387, 2015 General Session

57-8-4 Status of the units.

Each unit, together with its undivided interest in the common areas and facilities, shall, for all purposes, constitute real property and may be individually conveyed, leased and encumbered and may be inherited or devised by will and be subject to all types of juridic acts inter vivos or mortis causa as if it were sole and entirely independent of all other units, and the separate units shall have the same incidents as real property, and the corresponding individual titles and interests therein shall be recordable.

Enacted by Chapter 111, 1963 General Session

57-8-4.5 Removing or altering partition or creating aperture between adjoining units.

(1) Subject to the declaration, a unit owner may, after acquiring an adjoining unit that shares a common wall with the unit owner’s unit:
   (a) remove or alter a partition between the unit owner’s unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or
   (b) create an aperture to the adjoining unit or portion of a unit.

(2) A unit owner may not take an action under Subsection (1) if the action would:
   (a) impair the structural integrity or mechanical systems of the building or either unit;
   (b) reduce the support of any portion of the common areas and facilities or another unit; or
   (c) constitute a violation of Section 10-9a-608 or 17-27a-608, as applicable, a local government land use ordinance, or a building code.

(3) The management committee may require a unit owner to submit, at the unit owner’s expense, a registered professional engineer’s or registered architect’s opinion stating that a proposed change to the unit owner’s unit will not:
   (a) impair the structural integrity or mechanical systems of the building or either unit;
   (b) reduce the support or integrity of common areas and facilities; or
   (c) compromise structural components.

(4) The management committee may require a unit owner to pay all of the legal and other expenses of the association of unit owners related to a proposed alteration to the unit or building under this section.

(5) An action under Subsection (1) does not change an assessment or voting right attributable to the unit owner’s unit or the acquired unit, unless the declaration provides otherwise.

Enacted by Chapter 152, 2013 General Session

57-8-5 Recognized tenancy relationships.

Any unit may be held and owned by more than one person as joint tenants, or as tenants in common, or in any other real property tenancy relationship recognized under the laws of the state of Utah.

Enacted by Chapter 111, 1963 General Session

57-8-6 Ownership and possession rights.

Each unit owner shall be entitled to the exclusive ownership and possession of his unit. The owner of a time period condominium unit shall be entitled to the exclusive ownership and possession of the physical unit to which his time period relates and shall be entitled to the use
and enjoyment of the common areas and facilities during, but only during, such annually recurring part or parts of a year as describe and define the time period unit concerned in the declaration.

Amended by Chapter 173, 1975 General Session

**57-8-6.3 Fee for providing payoff information needed at closing.**
(1) Unless specifically authorized in the declaration, bylaws, or rules, an association of unit owners may not charge a fee for providing association payoff information needed in connection with the closing of a unit owner's financing, refinancing, or sale of the owner’s unit.
(2) An association of unit owners may not:
   (a) require a fee described in Subsection (1) that is authorized in the declaration, bylaws, or rules to be paid before closing; or
   (b) charge the fee if it exceeds $50.
(3) An association of unit owners that fails to provide information described in Subsection (1) within five business days after the closing agent requests the information may not enforce a lien against that unit for money due to the association at closing.
   (a) is conveyed in writing to the primary contact person designated under Subsection 57-8-13.1(3)(d);
   (ii) contains:
      (A) the name, telephone number, and address of the person making the request; and
      (B) the facsimile number or email address for delivery of the payoff information; and
   (iii) is accompanied by a written consent for the release of the payoff information:
      (A) identifying the person requesting the information as a person to whom the payoff information may be released; and
      (B) signed and dated by an owner of the unit for which the payoff information is requested.
(4) This section applies to each association of unit owners, regardless of when the association of unit owners is formed.

Enacted by Chapter 255, 2011 General Session

**57-8-6.7 Limit on fee for approval of plans.**
(1) As used in this section:
   (a) “Plan fee” means a fee that an association of unit owners charges for review and approval of unit plans.
   (b) “Unit plans” means plans:
      (i) for the construction or improvement of a unit; and
      (ii) that are required to be approved by the association of unit owners before the unit construction or improvement may occur.
(2) An association of unit owners may not charge a plan fee that exceeds the actual cost of reviewing and approving the unit plans.

Enacted by Chapter 152, 2013 General Session

**57-8-7 Common areas and facilities.**
(1) As used in this section:
   (a) “Emergency repairs” means any repairs that, if not made in a timely manner, will likely result in immediate and substantial damage to the common areas and facilities or to another unit or units.
   (b) “Reasonable notice” means:
      (i) written notice that is hand delivered to the unit at least 24 hours prior to the proposed entry; or
      (ii) in the case of emergency repairs, notice that is reasonable under the circumstances.
(2) Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the percentages or fractions expressed in the declaration. The declaration may allocate to each unit an undivided interest in the common areas and facilities proportionate to
either the size or par value of the unit. Otherwise, the declaration shall allocate to each unit an equal undivided interest in the common areas and facilities, subject to the following exception: each convertible space depicted on the condominium plat shall be allocated an undivided interest in the common areas and facilities proportionate to the size of the space vis-a-vis the aggregate size of all units so depicted, while the remaining undivided interest in the common areas and facilities shall be allocated equally among the other units so depicted. The undivided interest in the common areas and facilities allocated in accordance with this Subsection (2) shall add up to one if stated as fractions or to 100% if stated as percentages. If an equal undivided interest in the common areas and facilities is allocated to each unit, the declaration may simply state that fact and need not express the fraction or percentage so allocated. Otherwise, the undivided interest allocated to each unit shall be reflected by a table in the declaration, or by an exhibit or schedule accompanying the declaration and recorded simultaneously with it, containing columns. The first column shall identify the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated. Corresponding figures in the second and third columns shall set forth the respective sizes or par values of those units and the fraction or percentage of undivided interest in the common areas and facilities allocated thereto.

(3) Except as otherwise expressly provided by this act, the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of two-thirds of the unit owners expressed in an amended declaration duly recorded. The undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains and shall be considered to be conveyed or encumbered or released from liens with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. A time period unit may not be further divided into shorter time periods by a conveyance or disclaimer.

(4) The common areas and facilities shall remain undivided and no unit owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this act as provided in Sections 57-8-22 and 57-8-31. Any covenants to the contrary shall be null and void.

(5) Each unit owner may use the common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other unit owners.

(6) The necessary work of maintenance, repair, and replacement of the common areas and facilities and the making of any additions or improvements thereon shall be carried out only as provided in this chapter or in the declaration or bylaws.

(7) Except as otherwise provided in the declaration or Section 57-8-43:

(a) an association of unit owners is responsible for the maintenance, repair, and replacement of common areas and facilities; and

(b) a unit owner is responsible for the maintenance, repair, and replacement of the unit owner’s unit.

(8) After reasonable notice to the occupant of the unit being entered, the manager or management committee may access a unit:

(a) from time to time during reasonable hours, as may be necessary for the maintenance, repair, or replacement of any of the common areas and facilities; or

(b) for making emergency repairs.

(9)

(a) An association of unit owners is liable to repair damage it causes to the common areas and facilities or to a unit the association of unit owners uses to access the common areas and facilities.

(b) An association of unit owners shall repair damage described in Subsection (9)(a) within a time that is reasonable under the circumstances.

Amended by Chapter 152, 2013 General Session
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, 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.

(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.

Enacted by Chapter 290, 2004 General Session

57-8-7.5 Reserve analysis -- Reserve fund.
(1) As used in this section:
   (a) “Reserve analysis” means an analysis to determine:
      (i) the need for a reserve fund to accumulate reserve funds; and
      (ii) the appropriate amount of any reserve fund.
   (b) “Reserve fund line item” means the line item in an association of unit owners’ annual budget that identifies the amount to be placed into a reserve fund.
   (c) “Reserve funds” means money to cover the cost of repairing, replacing, or restoring
common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners.

(2) Except as otherwise provided in the declaration, a management committee shall:
   (a) cause a reserve analysis to be conducted no less frequently than every six years; and
   (b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:
   (a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;
   (b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;
   (c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;
   (d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component’s useful life and at the end of the component’s useful life; and
   (e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:
   (a) annually provide unit owners a summary of the most recent reserve analysis or update; and
   (b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating its budget each year, an association of unit owners shall include a reserve fund line item in:
   (a) an amount the management committee determines, based on the reserve analysis, to be prudent; or
   (b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts its annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.
   (b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:
   (i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);
   (ii) $500 or 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 unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c)
to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:
   (i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;
   (ii) a demand that the association of unit owners come into compliance with the requirements; and
   (iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners’ expense.

(9)

(a) A management committee may not use money in a reserve fund:
   (i) for daily maintenance expenses, unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose; or
   (ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.

(c) This Subsection (9) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of administrative control.

(11) For a condominium project whose initial declaration is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:
   (a) a copy of the association of unit owners’ governing documents; and
   (b) a copy of the association of unit owners’ most recent financial statement that includes any reserve funds held by the association of unit owners or by a subsidiary of the association of unit owners.

(12) Except as otherwise provided in this section, this section applies to each association of unit owners, regardless of when the association of unit owners was created.

Amended by Chapter 34, 2015 General Session
Amended by Chapter 325, 2015 General Session

57-8-8 Compliance with covenants, bylaws and/or house rules and administrative provisions.

Subject to reasonable compliance therewith by the manager and the management committee, each unit owner shall reasonably comply with the covenants, conditions, and restrictions as set forth in the declaration or in the deed to his unit, and with the bylaws and/or house rules and with the administrative rules and regulations drafted pursuant thereto, as either of the same may be lawfully amended from time to time, and failure to comply shall be ground for an action to recover sums due for damages or injunctive relief or both, maintainable by the manager or management committee on behalf of the unit owners, or in a proper case, by an aggrieved unit owner.

Amended by Chapter 132, 2000 General Session

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; and
   (ii) differ between residential and nonresidential uses.
(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), 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 for purposes other than attending an association meeting or managing the rental unit;
(ii) if the rental unit owner retains the right to use the association of unit owners’ common areas, even occasionally, charge a rental unit owner a fee to use the common areas; 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.

(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;
(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 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 board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) A rule shall be reasonable.

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

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

Enacted by Chapter 22, 2015 General Session

57-8-9 Certain work prohibited.

No unit owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the property, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other unit owners being first obtained.

Enacted by Chapter 111, 1963 General Session

57-8-10 Contents of declaration.

(1) Before the conveyance of any unit in a condominium project, a declaration shall be recorded that contains the covenants, conditions, and restrictions relating to the project that shall be enforceable equitable servitudes, where reasonable, and which shall run with the land. Unless otherwise provided, these servitudes may be enforced by a unit owner or a unit owner’s successor in interest.

(2) (a) For every condominium project, the declaration shall:
(i) include a description of the land or interests in real property included within the project;
(ii) contain a description of any buildings that states the number of storeys and basements, the number of units, the principal materials of which the building is or is to be constructed, and a description of all other significant improvements contained or to be contained in the project;
(iii) contain the unit number of each unit, the square footage of each unit, and any other description or information necessary to properly identify each unit;
(iv) describe the common areas and facilities of the project; and
(v) describe any limited common areas and facilities and state to which units the use of the common areas and facilities is reserved.

(b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other apparatus intended to serve a single unit, but located outside the boundaries of the unit, shall constitute a limited common area and facility appertaining to that unit exclusively, whether or not the declaration makes such a provision.

(c) The condominium plat recorded with the declaration may provide or supplement the information required under Subsections (2)(a) and (b).

(d)
(i) The declaration shall include the percentage or fraction of undivided interest in the common areas and facilities appurtenant to each unit and the unit owner for all purposes, including voting, derived and allocated in accordance with Subsection 57-8-7(2).
(ii) If any use restrictions are to apply, the declaration shall state the purposes for which the units are intended and the use restrictions that apply.
(iii)
(A) The declaration shall include the name and address of a person to receive service of process on behalf of the project, in the cases provided by this chapter.
(B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall maintain a place of business within, this state.
(iv) The declaration shall describe the method by which the declaration may be amended consistent with this chapter.
(v) Any further matters in connection with the property may be included in the declaration, which the person or persons executing the declaration may consider desirable, consistent with this chapter.
(vi) The declaration shall contain a statement of intention that this chapter applies to the property.

(e) The initial recorded declaration shall include:
(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
and
(ii) the following statement: “The declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the unit and all improvements to the unit for the purpose of securing payment of assessments under the terms of the declaration.”

(3)
(a) If the condominium project contains any convertible land, the declaration shall:
(i) contain a legal description by metes and bounds of each area of convertible land within the condominium project;
(ii) state the maximum number of units that may be created within each area of convertible land;
(iii) state, with respect to each area of convertible land, the maximum percentage of the aggregate land and floor area of all units that may be created and the use of which will not or may not be restricted exclusively to residential purposes, unless none of the units on other portions of the land within the project are restricted exclusively to residential use;
(iv) state the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the land within the condominium project in terms of quality of construction, the principal materials to be used, and architectural style;
(v) describe all other improvements that may be made on each area of convertible land within the condominium project;
(vi) state that any units created within each area of convertible land will be substantially identical to the units on other portions of the land within the project or describe in detail what other type of units may be created; and
(vii) describe the declarant’s reserved right, if any, to create limited common areas and facilities within any convertible land in terms of the types, sizes, and maximum number of the limited common areas within each convertible land.

(b) The condominium plat recorded with the declaration may provide or supplement the information required under Subsection (3)(a).

(4)
(a) If the condominium project is an expandable condominium project, the declaration shall:
(i) contain an explicit reservation of an option to expand the project;
(ii) include a statement of any limitations on the option to expand, including a statement as to whether the consent of any unit owners is required and, a statement as to the method by which consent shall be ascertained, or a statement that there are no such limitations;
(iii) include a time limit, not exceeding seven years after the day on which the declaration is recorded, upon which the option to expand the condominium project expires and a statement of any circumstances that will terminate the option before expiration of the specified time limits;
(iv) contain a legal description by metes and bounds of all land that may be added to the condominium project, which is known as additional land;
(v) state:
   (A) if any of the additional land is added to the condominium project, whether all of it or any particular portion of it must be added;
   (B) any limitations as to what portions may be added; or
   (C) a statement that there are no such limitations;
(vi) include a statement as to whether portions of the additional land may be added to the condominium project at different times, including any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds of these lands and regulating the order in which they may be added to the condominium project;
(vii) include a statement of any limitations on the locations of any improvements that may be made on any portions of the additional land added to the condominium project, or a statement that no assurances are made in that regard;
(viii)
   (A) state the maximum number of units that may be created on the additional land;
   (B) if portions of the additional land may be added to the condominium project and the boundaries of those portions are fixed in accordance with Subsection (4)(a)(vi), state the maximum number of units that may be created on each portion added to the condominium project; and
   (C) if portions of the additional land may be added to the condominium project and the boundaries of those portions are not fixed in accordance with Subsection (4)(a)(vi), state the maximum number of units per acre that may be created on any portion added to the condominium project;
(ix) with respect to the additional land and to any portion of the additional land that may be added to the condominium project, state the maximum percentage of the aggregate
land and floor area of all units that may be created on it, the use of which will not or may
not be restricted exclusively to residential purposes, unless none of the units on the land
originally within the project are restricted exclusively to residential use;
(x) state the extent to which any structures erected on any portion of the additional land
added to the condominium project will be compatible with structures on the land
originally within the project in terms of quality of construction, the principal materials to
be used, and architectural style, or that no assurances are made in those regards;
(xi) describe all other improvements that will be made on any portion of the additional
land added to the condominium project, including any limitations on what other
improvements may be made on the additional land, or state that no assurances are made
in that regard;
(xii) contain a statement that any units created on any portion of the additional land
added to the condominium project will be substantially identical to the units on the land
originally within the project, a statement of any limitations on what types of units may be
created on the additional land, or a statement that no assurances are made in that regard;
and
(xiii) describe the declarant’s reserved right, if any, to create limited common areas and
facilities within any portion of the additional land added to the condominium project, in
terms of the types, sizes, and maximum number of limited common areas within each
portion, or state that no assurances are made in those regards.
(b) The condominium plat recorded with the declaration may provide or supplement the
information required under Subsections (4)(a)(iv) through (a)(vii) and (a)(x) through
(a)(xiii).
(5)
(a) If the condominium project is a contractible condominium, the declaration shall:
(i) contain an explicit reservation of an option to contract the condominium project;
(ii) contain a statement of any limitations on the option to contract, including a statement
regarding whether the consent of any unit owners is required, and if so, a statement
regarding the method by which this consent shall be ascertained, or a statement that
there are no such limitations;
(iii) state the time limit, not exceeding seven years after the day on which the declaration
is recorded, upon which the option to contract the condominium project expires, together
with a statement of any circumstances that will terminate the option before expiration of
the specified time limit;
(iv) include a legal description by metes and bounds of all land that may be withdrawn
from the condominium project, which is known as withdrawable land;
(v) include a statement as to whether portions of the withdrawable land may be
withdrawn from the condominium project at different times, together with any limitations
fixing the boundaries of those portions by legal descriptions setting forth the metes and
bounds and regulating the order in which they may be withdrawn from the condominium
project; and
(vi) include a legal description by metes and bounds of all of the land within the
condominium project to which the option to contract the project does not extend.
(b) The condominium plat recorded with the declaration may provide or supplement the
information required under Subsections (5)(a)(iv) through (vi).
(6)
(a) If the condominium project is a leasehold condominium, the declaration shall, with
respect to any ground lease or other leases the expiration or termination of which will or
may terminate or contract the condominium project:
(i) include recording information enabling the location of each lease in the official records
of the county recorder;
(ii) include the date upon which each lease is due to expire;
(iii) state whether any land or improvements will be owned by the unit owners in fee
simple;
(iv) if there is to be fee simple ownership of any land or improvement, as described in Subsection (6)(a)(iii), include:
   (A) a description of the land or improvements, including a legal description by metes and bounds of the land; or
   (B) a statement of any rights the unit owners have to remove these improvements within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights; and
(v) include a statement of the rights the unit owners have to extend or renew any of the leases or to redeem or purchase any of the reversions, or a statement that they have no such rights.
(b) After the recording of the declaration, a lessor who executed the declaration, or the lessor's successor in interest, may not terminate any part of the leasehold interest of any unit owner who:
   (i) makes timely payment of the unit owner’s share of the rent to the persons designated in the declaration for the receipt of the rent; and
   (ii) otherwise complies with all covenants which would entitle the lessor to terminate the lease if the covenants were violated.
(7)
   (a) If the condominium project contains time period units, the declaration shall also contain the location of each condominium unit in the calendar year. This information shall be set out in a fourth column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the exhibit or schedule accompanies the declaration.
   (b) The declaration shall also put timeshare owners on notice that tax notices will be sent to the management committee, not each timeshare owner.
   (c) The time period units created with respect to any given physical unit shall be such that the aggregate of the durations involved constitute a full calendar year.
(8)
   (a) The declaration, bylaws, and condominium plat shall be duly executed and acknowledged by all of the owners and any lessees of the land which is made subject to this chapter.
   (b) As used in Subsection (8)(a), “owners and lessees” does not include, in their respective capacities, any mortgagee, any trustee or beneficiary under a deed of trust, any other lien holder, any person having an equitable interest under any contract for the sale or lease of a condominium unit, or any lessee whose leasehold interest does not extend to any portion of the common areas and facilities.
Amended by Chapter 397, 2014 General Session
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 no less than two years; or
(iv) 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 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; or
   (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; 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), 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)(a).
(6) Subsections (1) through (5) do not apply to:
   (a) a condominium project that contains a time period unit as defined in Section 57-8-3;
   (b) any other form of timeshare interest as defined in Section 57-19-2; or
   (c) 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:
      (i) adopts a rental restriction or prohibition; or
      (ii) amends an existing rental restriction or prohibition.
(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.
(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:

(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.

(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.

Amended by Chapter 22, 2015 General Session

57-8-10.3 Indemnification and limit of liability.

Notwithstanding any conflict with the declaration or recorded bylaws, the organizational documents of an association of unit owners may indemnify and limit management committee member and officer liability to the extent permitted by the law under which the association of unit owners is organized.

Enacted by Chapter 152, 2013 General Session

57-8-10.5 Amending the declaration to make provisions of this chapter applicable.

(1) An association of unit owners may amend the declaration to make applicable to the association of unit owners a provision of this chapter that is enacted after the creation of the association of unit owners, by complying with:

(a) the amendment procedures and requirements specified in the declaration and applicable provisions of this chapter; or

(b) the amendment procedures and requirements of this chapter, if the declaration being amended does not contain amendment procedures and requirements.

(2) If an amendment under Subsection (1) adopts a specific section of this chapter:

(a) the amendment grants a right, power, or privilege permitted by that specific section; and

(b) all correlative obligations, liabilities, and restrictions in that section also apply.

Enacted by Chapter 152, 2013 General Session

57-8-11 Contents of deeds of units.

A deed of units may include:

(1) a description of the land as provided in Section 57-8-10, including the book and page or entry number and date of recording of the declaration;

(2) the unit number of the unit and any other data necessary for its proper identification;

(3) percentage of undivided interest appertaining to the unit in the common or community areas and facilities; and

(4) any further particulars that the grantor and grantee consider desirable to set forth consistent with the declaration and this chapter.

Amended by Chapter 268, 2007 General Session

57-8-12 Recording.

(1) The declaration, any amendment, any instrument by which the provisions of this act may be waived, and every instrument affecting the property or any unit shall be entitled to be recorded. Neither the declaration nor any amendment thereof shall be valid unless recorded.

(2) In addition to the records and indexes now required to be maintained by the recorder, the recorder shall maintain an index whereby the record of each condominium project contains a reference to the declaration, each conveyance of, lien against, and all other instruments referring to a unit affected by such declaration, and the record of each conveyance of, lien against, and all other instruments referring to a unit shall contain a reference to the declaration of the property of which the unit is a part.
Condominium plat to be recorded.

(1) Simultaneously with the recording of the declaration there shall be recorded a standard size, original linen (21" x 31") condominium plat with 6-1/4" x 1-1/2" recording information block, which map shall be made by a registered Utah land surveyor and shall set forth:

(i) a description of the surface of the land included within the project, including all angular and linear data along the exterior boundaries of the property;

(ii) the linear measurement and location, with reference to the exterior boundaries, of the building or buildings, if any, located or to be located on the property other than within the boundaries of any convertible lands;

(iii) diagrammatic floor plans of the building or buildings, if any, built or to be built on the property, other than within the boundaries of any convertible lands, in sufficient detail to identify each convertible space and physical unit contained within a building, including its identifying number or symbol, the official datum elevations of the finished or unfinished interior surfaces of the floors and ceilings and the linear measurements of the finished or unfinished interior surfaces of the perimeter walls, and the lateral extensions, of every such convertible space and unit;

(iv) a description or delineation of the boundaries of any unit or convertible space not contained or to be contained in a building or whose boundaries are not to be coextensive with walls, ceilings, or floors within a building, other than units located within the boundaries of any convertible lands, including the horizontal (upper and lower) boundaries, if any, as well as the vertical (lateral or perimetric) boundaries;

(v) a distinguishing number or other symbol for every physical unit identified on the condominium plat;

(vi) to the extent feasible, the location and dimensions of all easements appurtenant to the land included within the project;

(vii) the label “convertible space” for each such space, if any;

(viii) the location and dimensions of any convertible lands within the condominium project, with each such convertible land labeled as such, and if there be more than one such land, with each labeled with a different letter or number;

(ix) the location and dimensions of any withdrawable lands, with each such withdrawable land labeled as such, and if there be more than one such land, with each labeled with a different letter or number;

(x) if with respect to any portion or portions, but less than all, of the land included within the project the unit owners are to own only an estate for years, the location and dimensions of any such portion, with each labeled as a leased land, and if there be more than one such land, with each labeled with a different letter or number; and

(xi) any encroachments by or on any portion of the condominium project.

(b) Each such condominium plat shall be certified as to its accuracy and compliance with the provisions of this Subsection (1) by the land surveyor who prepared or who supervised the preparation of the same and shall be executed and acknowledged as provided in Subsection 57-8-10(8).

(2) When converting all or any portion of any convertible land or when adding additional land to an expandable condominium, the declarant shall record a new or supplemental condominium plat which shall contain the information necessary to comply with the requirements of Subsection (1) of this section. In any case where less than all of a convertible land is being converted, the condominium plat shall show the location and dimensions of the remaining portion or portions of the land in addition to otherwise meeting such requirements.

(3) When converting all or any portion of any convertible space into one or more units or limited common areas and facilities, the declarant shall record, with regard to the structure or portion of it constituting that convertible space, a supplemental condominium plat showing the
location and dimensions of the vertical and horizontal boundaries of each unit formed out of this space. The supplemental map shall be certified as to its accuracy and compliance with this Subsection (3) by the land surveyor who prepared or who supervised the preparation of it.

(4) In interpreting the condominium plat or any deed or other instrument affecting a building or unit, the boundaries of the building or unit constructed or reconstructed in substantial accordance with the condominium plat shall be conclusively presumed to be the actual boundaries rather than the description expressed in the condominium plat, regardless of the settling or lateral movement of the building and regardless of minor variance between boundaries shown on the condominium plat and those of the building or unit.

Amended by Chapter 265, 2003 General Session

57-8-13.1 Registration with Department of Commerce.

(1) As used in this section, “department” means the Department of Commerce created in Section 13-1-2.

(2)  
(a) No later than 90 days after the recording of a declaration, an association of unit owners shall register with the department in the manner established by the department.
(b) An association of unit owners existing under a declaration recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.

(3) The department shall require an association of unit owners registering as required in this section to provide with each registration:
(a) the name and address of the association of unit owners;
(b) the name, address, telephone number, and, if applicable, email address of the president of the association of unit owners;
(c) the name and address of each management committee member;
(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's unit; and
(e) a registration fee not to exceed $37.

(4) An association of unit owners that has registered under Subsection (2) shall submit to the department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5)  
(a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection (4):
(i) a lien may not arise under Section 57-8-44; and
(ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.

(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection (4) does not begin until after the expiration of the 90-day period specified in Subsection (2) or (4), respectively.
(c) An association of unit owners that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).
(d) An association of unit owners that is not in compliance with the updated registration requirement described in Subsection (4) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection (4).
(e) Except as described in Subsection (5)(f), beginning on the date an association of unit owners ends a period of noncompliance:
(i) a lien may arise under Section 57-8-44 for any event that:
   (A) occurred during the period of noncompliance; and
   (B) would have given rise to a lien under Section 57-8-44 had the association of unit
owners been in compliance with the registration requirements described in this section;
and
(ii) an association of unit owners may enforce a lien described in Subsection (5)(e) or a
lien that existed before the period of noncompliance.

(f) If an owner's unit is conveyed to an independent third party during a period of
noncompliance described in this Subsection (5):
   (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became
final is extinguished when the conveyance of the unit becomes
final; and
   (ii) an event that occurred before the conveyance of the unit became final, and that
would have given rise to a lien under Section 57-8-44 had the association of unit owners
been in compliance with the registration requirements of this section, may not give rise
to a lien under Section 57-8-44 if the conveyance of the unit becomes final before the
association of unit owners ends the period of noncompliance.

Amended by Chapter 95, 2013 General Session

57-8-13.2 Conversion of convertible land -- Amendment to declaration --
Limitations.
(1) The declarant may convert all or any portion of any convertible land into one or more units
or limited common areas and facilities subject to any restrictions and limitations which the
declaration may specify. Any such conversion shall be deemed to have occurred at the time
of the recordation of the appropriate instruments under Subsection (2) of this section and
Subsection 57-8-13(2).
(2) Simultaneously with the recording of the condominium plat pursuant to Subsection 57-8-
13(2), the declarant shall prepare, execute, and record an amendment to the declaration
describing the conversion. The amendment shall assign an identifying number to each unit
formed out of a convertible land and shall reallocate undivided interests in the common areas
and facilities in accordance with Subsection 57-8-13.10(2). The amendment shall describe or
delineate the limited common areas and facilities formed out of the convertible land, showing
or designating the unit or units to which each is assigned.
(3) All convertible lands shall be deemed part of the common areas and facilities except for
such portions of them as are converted in accordance with this section. No such conversions
shall occur after five years from the recordation of the declaration, or such shorter period of
time as the declaration may specify, unless three-fourths of unit owners vote in favor of
converting the land after the time period has expired.

Amended by Chapter 265, 2003 General Session

57-8-13.4 Conversion of convertible space -- Amendment to declaration --
Limitations.
(1) The declarant may convert any portion of any convertible space into one or more units or
common areas and facilities, including, without limitation, limited common areas and facilities,
subject to any restrictions and limitations which the declaration may specify. Any such
conversion shall be deemed to have occurred at the time of the recordation of the appropriate
instruments under Subsection (2) of this section and Subsection 57-8-13(3).
(2) Simultaneously with the recording of the supplemental record survey map under
Subsection 57-8-13(3), the declarant shall prepare, execute, and record an amendment to the
description describing the conversion. The amendment shall assign an identifying number to
each unit formed out of a convertible space and shall allocate to each unit a portion of the
undivided interest in the common areas and facilities appertaining to that space. The
amendment shall describe or delineate the limited common areas and facilities formed out of
the convertible space, showing or designating the unit or units to which each is assigned.
(3) Any convertible space not converted in accordance with this section, or any portion of it
not so converted, shall be treated for all purposes as a single unit until and unless it is so
converted; and this act shall be deemed applicable to any such space, or portion of it, as though the same were a unit.

Enacted by Chapter 173, 1975 General Session

57-8-13.6 Expansion of project.

A condominium project may be expanded under the provisions of the declaration and of this act. Any such expansion shall be deemed to have occurred at the time of the recordation of the condominium plat under Subsection 57-8-13(2), together with an amendment to the declaration, duly executed and acknowledged by the declarant, including, without limitation, all of the owners and lessees of the additional land added to the condominium project. The amendment shall contain a legal description by metes and bounds of the land added to the condominium project and shall reallocate undivided interests in the common areas and facilities in accordance with Subsection 57-8-13.10(2).

Amended by Chapter 265, 2003 General Session

57-8-13.8 Contraction of project.

A condominium project may be contracted under the provisions of the declaration and the provisions of this chapter. Any such contraction shall be considered to have occurred at the time of the recordation of an amendment to the declaration, executed by the declarant, containing a legal description by metes and bounds of the land withdrawn from the condominium project. If portions of the withdrawable land were described pursuant to Subsection 57-8-10(5)(a)(iv), then no described portion may be so withdrawn after the conveyance of any unit on the portion. If no withdrawable portions were described, then none of the withdrawable land may be withdrawn after the first conveyance of any unit on the portion.

Amended by Chapter 397, 2014 General Session

57-8-13.10 Condominiums containing convertible land -- Expandable condominiums -- Allocation of interests in common areas and facilities.

(1) If a condominium project contains any convertible land or is an expandable condominium, then the declaration may not allocate undivided interests in the common areas and facilities on the basis of par value unless the declaration:

(a) prohibits the creation of any units not substantially identical to the units depicted on the condominium plat recorded pursuant to Subsection 57-8-13(1); or

(b) prohibits the creation of any units not described under Subsection 57-8-10(3)(a)(vii) in the case of convertible land, Subsection 57-8-10(4)(a)(xii) in the case of additional land, and contains from the outset a statement of the par value that shall be assigned to every unit that may be created.

(2) Interests in the common areas and facilities may not be allocated to any units to be created within any convertible land or within any additional land until a condominium plat depicting the same is recorded pursuant to Subsection 57-8-13(2).

(b) Simultaneously with the recording of the supplemental condominium plat required under Subsection (2)(a), the declarant shall execute and record an amendment to the declaration which reallocates undivided interests in the common areas and facilities so that the units depicted on the supplemental condominium plat shall be allocated undivided interests in the common areas and facilities on the same basis as the units depicted on the condominium plat that was recorded simultaneously with the declaration pursuant to Subsection 57-8-13(1).

(3) If all of a convertible space is converted into common areas and facilities, including limited common areas and facilities, then the undivided interest in the common areas and facilities appertaining to the convertible space shall afterward appertain to the remaining units and shall be allocated among them in proportion to their undivided interests in the common areas and facilities. The principal officer of the unit owners’ association or of the management committee, or any other officer specified in the declaration, shall immediately prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided

interest produced by the conversion.

(4)

(a) If the expiration or termination of any lease of a leasehold condominium causes a contraction of the condominium project which reduces the number of units, or if the withdrawal of withdrawable land of a contractible condominium causes a contraction of the condominium project which reduces the number of units, the undivided interest in the common areas and facilities appertaining to any units so withdrawn shall afterward appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common areas and facilities.

(b) The principal officer of the unit owners’ association or of the management committee, or any other officer specified in the declaration shall immediately prepare, execute, and record an amendment to the declaration, reflecting the reallocation of undivided interests produced by the reduction of units.

Amended by Chapter 397, 2014 General Session

57-8-13.12 Land to be withdrawn or added to project -- Applicability of restrictions.

No covenants, restrictions, limitations, or other representations or commitments in the declaration concerning anything that is or is not to be done on the additional land, the withdrawable land, or any portion of either, shall be binding as to any portion of either lawfully withdrawn from the condominium project or never added to it except to the extent that the declaration so provides. In the case of any covenant, restriction, limitation, or other representation or commitment in the declaration or in any other agreement requiring the declarant to add any portion of the additional land or to withdraw any portion of the withdrawable land, or imposing any obligations concerning anything that is or is not to be done on it or concerning it, or imposing any obligations about anything that is or is not to be done on or in respect to the condominium project or any portion of it, this section shall not be construed to nullify, limit, or otherwise affect any such obligation.

Enacted by Chapter 173, 1975 General Session

57-8-13.14 Easement rights -- Sales offices and model units -- Damage to property.

(1) Subject to any restrictions and limitations the declaration may specify, the declarant shall have a transferable easement over and on the common areas and facilities for the purpose of making improvements on the land within the project or on any additional land under the declaration and this act, and for the purpose of doing all things reasonably necessary and proper in connection with the same.

(2) The declarant and his duly authorized agents, representatives, and employees may maintain sales offices or model units on the land within the project if the declaration provides for the same and specifies the rights of the declarant about the number, size, location, and relocation of them. Any sales office or model unit which is not designated a unit by the declaration shall become a common area and facility as soon as the declarant ceases to be a unit owner, and the declarant shall cease to have any rights concerning it unless the sales office or model unit is removed immediately from the land included within the project in accordance with a right reserved in the declaration to make this removal.

(3) To the extent that damage is inflicted on any part of the condominium project by any person or persons utilizing the easements reserved by the declaration or created by Subsections (1) and (2) of this section, the declarant, together with the person or persons causing the same, shall be jointly and severally liable for the prompt repair of the damage and for the restoration of the same to a condition compatible with the remainder of the condominium project.

Enacted by Chapter 173, 1975 General Session

57-8-14 Legal description of units.

(1) A deed, lease, mortgage, or other instrument may legally describe a unit by its identifying number or symbol as designated in the declaration or as shown on the condominium plat.

(2) Each description under Subsection (1) shall be considered:

(a) to be good and sufficient for all purposes; and
(b) to convey, transfer, encumber or otherwise affect the unit owner’s corresponding percentage of ownership in the common or community areas and facilities even though the percentage of ownership is not expressly mentioned or described.

Amended by Chapter 268, 2007 General Session

57-8-15 Bylaws.

The administration of every property shall be governed by bylaws, which may either be embodied in the declaration or in a separate instrument, a true copy of which shall be appended to and recorded with the declaration. No modification or amendment of the declaration or bylaws shall be valid unless the same is set forth in an amendment and such amendment is recorded.

Enacted by Chapter 111, 1963 General Session

57-8-16 Contents of bylaws.

The bylaws may provide for the following:

(1) the establishment of a management committee, the number of persons constituting the committee and the method of selecting the members of the committee; the powers and duties of the management committee; and whether or not the management committee may engage the services of a manager;

(2) the method of calling meetings of the unit owners; what percentage of the unit owners shall constitute a quorum, and be authorized to transact business;

(3) the maintenance, repair, and replacement of the common areas and facilities and payment therefor;

(4) the manner of collecting from the unit owners their share of the common expenses;

(5) the designation and removal of personnel necessary for the maintenance, repair, and replacement of the common areas and facilities;

(6) the method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities;

(7)

(a) restrictions on and requirements respecting the use and maintenance of the units and the use of the common areas and facilities as are designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several unit owners; and

(b) restrictions regarding the use of the units may include other prohibitions on, or allowance of, smoking tobacco products;

(8) the percentage of votes required to amend the bylaws; and

(9) other provisions as may be considered necessary for the administration of the property consistent with this act.

Amended by Chapter 230, 1997 General Session

57-8-16.5 Appointment and removal of committee members and association officers -- Renewal or ratification of contracts -- Failure to establish association or committee.

(1) The declaration may authorize the declarant, or a managing agent or some other person or persons selected or to be selected by the declarant, to appoint and remove some or all of the members of the management committee or some or all of the officers of the unit owners’ association, or to exercise powers and responsibilities otherwise assigned by the declaration and by this act to the unit owners’ association, its officers, or the management committee. No amendment to the declaration not consented to by all unit owners shall increase the scope of this authorization, and no such authorization shall be valid after the first to occur of the following:

(a) expiration of the time limit set by the declaration, which shall not exceed six years in the case of an expandable condominium, four years in the case of a condominium project containing any convertible land, or three years in the case of any other condominium project; or

(b) after units to which three-fourths of the undivided interest in the common areas and
facilities appertain have been conveyed, or after all additional land has been added to the project and all convertible land has been converted, whichever last occurs.

(2) If entered into during the period of control contemplated by Subsection (1), no management contract, lease of recreational areas or facilities, or any other contract or lease designed to benefit the declarant which was executed by or on behalf of the unit owners’ association or the unit owners as a group shall be binding after such period of control unless then renewed or ratified by the consent of unit owners of units to which a majority of the votes in the unit owners’ association appertains.

(3) If the unit owners’ association or management committee is not in existence or does not have officers at the time of the creation of a condominium project, the declarant shall, until there is an association or management committee with these officers, have the power and responsibility to act in all instances where this act or the declaration requires action by the unit owners’ association, the management committee, or any of the officers of them.

(4) This section shall be strictly construed to protect the rights of the unit owners.

Enacted by Chapter 173, 1975 General Session

57-8-17 Records -- Availability for examination.

(1)
(a) Subject to Subsection (1)(b), an association of unit owners shall keep and make documents available to unit owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610, regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
(b) An association of unit owners may redact the following information from any document the association of unit owners produces for inspection or copying:
   (i) a Social Security number;
   (ii) a bank account number; or
   (iii) any communication subject to attorney-client privilege.

(2)
(a) In addition to the requirements described in Subsection (1), an association of unit owners shall make documents available to unit owners in accordance with the association of unit owners’ governing documents.
(b) If a provision of an association of unit owners’ governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a request to inspect or copy documents, a unit owner may:
(a) elect whether to inspect or copy the documents;
(b) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
(c) subject to Subsection (4), request that:
   (i) the association of unit owners make the copies or electronic scans of the requested documents;
   (ii) a recognized third party duplicating service make the copies or electronic scans of the requested documents; or
   (iii) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents.

(4)
(a) An association of unit owners shall comply with a request described in Subsection (3).
(b) If an association of unit owners produces the copies or electronic scans:
   (i) the copies or electronic scans shall be legible and accurate; and
   (ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans, which may not exceed:
      (A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or
      (B) if an employee, manager, or other agent of the association of unit owners makes
the copies or electronic scans, 10 cents per page and $15 per hour for the employee’s, manager’s, or other agent’s time making the copies or electronic scans.

(c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
   (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
   (ii) the unit owner shall pay the duplicating service directly.

(d) If a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a unit owner’s request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:
   (a) the reasonable costs of inspecting and copying the requested documents; and
   (b) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

(6)
   (a) In addition to any remedy in the association of unit owners’ governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:
      (i) an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners’ governing documents, or as otherwise provided by law; and
      (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).

   (b) In an action described in Subsection (6)(a):
      (i) the unit owner may request:
         (A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;
         (B) $500 or actual damage, whichever is greater; or
         (C) any other relief provided by law; and
      (ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

   (c)
      (i) In an action described in Subsection (6)(a), upon motion by the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.
      (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

   (d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:
      (i) the unit owner’s name, address, telephone number, and email address;
      (ii) each requirement of this section with which the association of unit owners has failed to comply;
      (iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and
      (iv) a date by which the association of unit owners shall remedy the association of unit owners’ noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.

(7)
   (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.
   (b) The provisions of this section apply regardless of any conflicting provision in Title 16,
(8) A unit owner’s agent may, on the unit owner’s behalf, exercise or assert any right that the unit owner has under this section.

Repealed and Re-enacted by Chapter 325, 2015 General Session

57-8-18 Blanket mortgages and other blanket liens affecting unit at time of first conveyance.

At the time of the first conveyance of each unit, every mortgage and other lien affecting such unit, including the percentage of undivided interest of the unit in the common areas and facilities, shall have been paid and satisfied of record, or the unit being conveyed and its percentage of undivided interest in the common areas and facilities shall have been released therefrom by partial release duly recorded. The provisions of this section shall not apply, however, to any withdrawable land in a contractible condominium.

Amended by Chapter 173, 1975 General Session

57-8-19 Liens against units -- Removal from lien -- Effect of part payment.

(1) Subsequent to recording the declaration as provided in this act, and while the property remains subject to this act, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided that no labor performed or materials furnished with the consent or at the request of a unit owner or his agent or his contractor or subcontractor shall be the basis for the filing of a lien pursuant to the lien law against the unit of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs. Labor performed or materials furnished for the common areas and facilities, if authorized by the unit owners, the manager or management committee in accordance with this act, the declaration or bylaws or the house rules, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien pursuant to the lien law against each of the units.

(2) In the event a lien against two or more units becomes effective, the unit owners of the separate units may remove their units and the percentage of undivided interest in the common areas and facilities appurtenant to such units from the lien by payment of the fractional or proportional amount attributable to each of the units affected. Such individual payment shall be computed by reference to the percentages appearing in the declaration. Subsequent to any payment, discharge or other satisfaction, the unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall be free and clear of the lien so paid, satisfied or discharged. Partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

Enacted by Chapter 111, 1963 General Session

57-8-21 Acquisition through tax deed or foreclosure of liens.

In the event any person shall acquire, through foreclosure, exercise of power of sale, or other enforcement of any lien, or by tax deed, the interest of any unit owner, the interest acquired shall be subject to all the provisions of this act and to the covenants, conditions and restrictions contained in the declaration, the condominium plat, the bylaws, the house rules, or any deed affecting the interest then in force.

Amended by Chapter 265, 2003 General Session

57-8-22 Removal of property from statutory provisions.

(1) All of the unit owners may remove a property from the provisions of this act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the units consent or agree by instruments duly recorded, that their liens be transferred to the
percentage of the undivided interest of the unit owner in the property.
(2) Upon removal of the property from the provisions of this act, the property shall be deemed
to be owned in common by the unit owners. The undivided interest in the property owned in
common which shall appertain to each unit owner shall be the percentage of undivided
interest previously owned by such owner in the common areas and facilities.

Enacted by Chapter 111, 1963 General Session

57-8-23 Removal no bar to subsequent resubmission.

The removal provided for in Section 57-8-22 does not bar the subsequent resubmission
of the property to the provisions of this chapter.

Amended by Chapter 152, 2013 General Session

57-8-24 Common profits, common expenses, and voting rights.

The common profits of the property shall be distributed among, the common expenses
shall be charged to, and the voting rights shall be available to, the unit owners according to
their respective percentage or fractional undivided interests in the common areas and
facilities.

Amended by Chapter 173, 1975 General Session

57-8-25 Joint and several liability of grantor and grantee for unpaid common
expenses.

In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable
with the grantor for all unpaid assessments against the latter for his share of the common
expenses up to the time of the grant or conveyance, without prejudice to the grantee’s rights
to recover from the grantor the amounts paid by the grantee. However, any such grantee
shall be entitled to a statement from the manager or management committee setting forth the
amounts of the unpaid assessments against the grantor, and such grantee shall not be liable
for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the
grantor in excess of the amount set forth.

Enacted by Chapter 111, 1963 General Session

57-8-26 Waiver of use of common areas and facilities -- Abandonment of unit.

No unit owner may exempt himself from liability for his contribution towards the
common expenses by waiver of the use or enjoyment of any of the common areas and
facilities or by abandonment of his unit.

Enacted by Chapter 111, 1963 General Session

57-8-27 Separate taxation.

(1) Each unit and its percentage of undivided interest in the common or community areas and
facilities shall be considered to be a parcel and shall be subject to separate assessment and
taxation by each assessing unit, local district, and special service district for all types of taxes
authorized by law, including ad valorem levies and special assessments. Neither the building
or buildings, the property, nor any of the common areas and facilities may be considered a
parcel.

(2) In the event any of the interests in real property made subject to this chapter by the
declaration are leasehold interests, if the lease creating these interests is of record in the
office of the county recorder, if the balance of the term remaining under the lease is at least
40 years at the time the leasehold interest is made subject to this chapter, if units are
situated or are to be situated on or within the real property covered by the lease, and if the
lease provides that the lessee shall pay all taxes and assessments imposed by governmental
authority, then until 10 years prior to the date that the leasehold is to expire or until the lease
is terminated, whichever first occurs, all taxes and assessments on the real property covered
by the lease shall be levied against the owner of the lessee’s interest. If the owner of the
reversion under the lease has executed the declaration and condominium plat, until 10 years
prior to the date that the leasehold is to expire, or until the lease is terminated, whichever
first occurs, all taxes and assessments on the real property covered by the lease shall be
separately levied against the unit owners having an interest in the lease, with each unit owner
for taxation purposes being considered the owner of a parcel consisting of his undivided
condominium interest in the fee of the real property affected by the lease.

(3) No forfeiture or sale of the improvements or the property as a whole for delinquent real estate taxes, special assessments, or charges shall divest or in anywise affect the title to an individual unit if the real estate taxes or duly levied share of the assessments and charges on the individual unit are currently paid.

(4) Any exemption from taxes that may exist on real property or the ownership of the property may not be denied by virtue of the submission of the property to this chapter.

(5) Timeshare interests and timeshare estates, as defined in Subsection 57-19-2(19), may not be separately taxed but shall be valued, assessed, and taxed at the unit level. The value of timeshare interests and timeshare estates, for purposes of ad valorem taxation, shall be determined by valuing the real property interest associated with the timeshare interest or timeshare estate, exclusive of the value of any intangible property and rights associated with the acquisition, operation, ownership, and use of the timeshare interest or timeshare estate, including the fees and costs associated with the sale of timeshare interests and timeshare estates that exceed those fees and costs normally incurred in the sale of other similar properties, the fees and costs associated with the operation, ownership, and use of timeshare interests and timeshare estates, vacation exchange rights, vacation conveniences and services, club memberships, and any other intangible rights and benefits available to a timeshare unit owner. Nothing in this section shall be construed as requiring the assessment of any real property interest associated with a timeshare interest or timeshare estate at less than its fair market value. Notice of assessment, delinquency, sale, or any other purpose required by law is considered sufficient for all purposes if the notice is given to the management committee.

Amended by Chapter 166, 2012 General Session

57-8-28 Exemption from rules of property.

The rule of property known as the rule against perpetuities and the rule of property known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any of the provisions of this act, or of any declaration, bylaws or other document executed in accordance with this act.

Enacted by Chapter 111, 1963 General Session

57-8-30 Application of insurance proceeds to reconstruction.

In case of fire or any other disaster, the insurance proceeds, if sufficient to reconstruct the building, shall be applied to such reconstruction. Reconstruction of the building, as used in this section and Section 57-8-31, means restoring the building to substantially the same condition in which it existed prior to the fire or other disaster, with each unit and the common elements having the same vertical and horizontal boundaries as before.

Enacted by Chapter 111, 1963 General Session

57-8-31 Disposition of property where insurance proceeds are insufficient for reconstruction.

Unless otherwise provided in the declaration or bylaws, if the insurance proceeds are insufficient to reconstruct the building, damage to or destruction of the building shall be promptly repaired and restored by the manager or management committee, using proceeds of insurance, if any, on the building for that purpose, and the unit owners shall be liable for assessment for any deficiency. However, if three-fourths or more of the building is destroyed or substantially damaged and if the unit owners, by a vote of at least three-fourths of such unit owners, do not voluntarily, within 100 days after such destruction or damage, make provision for reconstruction, the manager or management committee shall record, with the county recorder, a notice setting forth such facts, and upon the recording of such notice:

(1) The property shall be deemed to be owned in common by the unit owners;
(2) The undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common elements;
(3) Any liens affecting any of the units shall be deemed to be transferred in accordance with
the existing priorities to the undivided interest of the unit owner in the property; and
(4) The property shall be subject to an action for partition at the suit of any unit owner, in
which event the net proceeds of sale, together with the net proceeds of the insurance on the
property, if any, shall be considered as one fund and shall be divided among all the unit
owners in a percentage equal to the percentage of undivided interest owned by each owner in
the property, after first paying out of the respective shares of the unit owners, to the extent
sufficient for the purposes, all liens on the undivided interest in the property owned by each
unit owner.

Enacted by Chapter 111, 1963 General Session

57-8-32 Sale of property.

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, by an affirmative vote of at
least three-fourths of such unit owners, at a meeting of unit owners duly called for such
purpose, elect to sell or otherwise dispose of the property. Such action shall be binding upon
all unit owners and it shall thereupon become the duty of every unit owner to execute and
deliver such instruments and to perform all acts as in manner and form may be necessary to
effect the sale.

Enacted by Chapter 111, 1963 General Session

57-8-32.5 Property taken by eminent domain -- Allocation of award -- Reallocation
of interests.

(1) If any portion of the common areas and facilities is taken by eminent domain, the award
for it shall be allocated to the unit owners in proportion to their respective undivided interests
in the common areas and facilities.

(2) If any units are taken by eminent domain, the undivided interest in the common areas
and facilities appertaining to these units shall thenceforth appertain to the remaining units, being
allocated to them in proportion to their respective undivided interests in the common areas
and facilities. The court shall enter a decree reflecting the reallocation of undivided interests
so produced, and the award shall include, without limitation, just compensation to the unit
owner of any unit taken for his undivided interest in the common areas and facilities as well as
for his unit.

(3) If portions of any unit are taken by eminent domain, the court shall determine the fair
market value of the portions of the unit not taken, and the undivided interest in the common
areas and facilities appertaining to any such units shall be reduced, in the case of each unit, in
proportion to the diminution in the fair market value of the unit resulting from the taking. The
portions of undivided interest in the common areas and facilities thus divested from the unit
owners of these units shall be reallocated among these units and the other units in the
condominium project in proportion to their respective undivided interests in the common
areas and facilities, with any units partially taken participating in the reallocation on the basis
of their undivided interests as reduced in accordance with the preceding sentence. The court
shall enter a decree reflecting the reallocation of undivided interests produced by this, and the
award shall include, without limitation, just compensation to the unit owner of any unit
partially taken for that portion of his undivided interest in the common areas and facilities
divested from him by operation of the first sentence of this Subsection (3), and not revested
in him by operation of the following sentence, as well as for that portion of his unit taken by
eminent domain.

(4) The court shall enter a decree reflecting the reallocation of undivided interests produced
by this, and the award shall include, without limitation, just compensation to the unit owner of
any unit partially taken for that portion of his undivided interest in the common areas and
facilities divested from him and also not revested in him under this Subsection (4), as well as
for that portion of his unit taken by eminent domain.

(5) If, however, the taking of a portion of any unit makes it impractical to use the remaining
portion of that unit for any lawful purpose permitted by the declaration, then the entire
undivided interest in the common areas and facilities appertaining to that unit shall
thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interest in the common areas and facilities, and the remaining portion of that unit shall thenceforth be a common area and facility. The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of the unit for his entire undivided interest in the common areas and facilities and for his entire unit.

Enacted by Chapter 173, 1975 General Session

57-8-33 Actions.

Without limiting the rights of any unit owner, actions may be brought by the manager or management committee, in either case in the discretion of the management committee, on behalf of two or more of the unit owners, as their respective interest may appear, with respect to any cause of action relating to the common areas and facilities or more than one unit. Service of process on two or more unit owners in any action relating to the common areas and facilities or more than one unit may be made on the person designated in the declaration to receive service of process.

Enacted by Chapter 111, 1963 General Session

57-8-34 Persons subject to provisions and agreements.

(1) All unit owners, tenants of such owners, employees of owners and tenants, or any other person who may in any manner use the property or any part thereof submitted to the provisions of this act shall be subject to this act and to the declaration and bylaws adopted pursuant to the provisions of this act.

(2) All agreements, decisions and determinations lawfully made by the manager, management committee or by the association of unit owners in accordance with this act, the declaration or bylaws, shall be deemed to be binding on all unit owners.

Enacted by Chapter 111, 1963 General Session

57-8-35 Effect of other laws -- Compliance with ordinances and codes -- Approval of projects by municipality or county.

(1) The provisions of this chapter shall be in addition and supplemental to all other provisions of law, statutory or judicially declared, provided that wherever the application of the provisions of this chapter conflict with the application of such other provisions, this chapter shall prevail: provided further, for purposes of Sections 10-9a-604, 10-9a-611, and 17-27a-603 and provisions of similar import and any law or ordinance adopted pursuant thereto, a condominium project shall be considered to be a subdivision, and a condominium plat or supplement thereto prepared pursuant to this chapter shall be considered to be a subdivision map or plat, only with respect to:

(a) such real property or improvements, if any, as are intended to be dedicated to the use of the public in connection with the creation of the condominium project or portion thereof concerned; and

(b) those units, if any, included in the condominium project or portion thereof concerned which are not contained in existing or proposed buildings.

(2) Nothing in this chapter shall be interpreted to state or imply that a condominium project, unit, association or unit owners, or management committee is exempt by this chapter from compliance with the zoning ordinance, building and sanitary codes, and similar development regulations which have been adopted by a municipality or county. No condominium project or any use within said project or any unit or parcel or parcel of land indicated as a separate unit or any structure within said project shall be permitted which is not in compliance with said ordinances and codes.

(3) From and after the time a municipality or county shall have established a planning commission, no condominium project or any condominium plat, declaration, or other material as required for recordation under this chapter shall be recorded in the office of the county recorder unless and until the following mentioned attributes of said condominium project shall have been approved by the municipality or county in which it is located. In order to more fully avail itself of this power, the legislative body of a municipality or county may provide by
ordinance for the approval of condominium projects proposed within its limits. This ordinance may include and shall be limited to a procedure for approval of condominium projects, the standards and the criteria for the geographical layout of a condominium project, facilities for utility lines and roads which shall be constructed, the percentage of the project which must be devoted to common or recreational use, and the content of the declaration with respect to the standards which must be adhered to concerning maintenance, upkeep, and operation of any roads, utility facilities, recreational areas, and open spaces included in the project.

(4) Any ordinance adopted by the legislative body of a municipality or county which outlines the procedures for approval of a condominium project shall provide for:
   (a) a preliminary approval, which, among other things, will then authorize the developer of the condominium project to proceed with the project; and
   (b) a final approval which will certify that all of the requirements set forth in the preliminary approval either have been accomplished or have been assured of accomplishment by bond or other appropriate means. No declaration or condominium plat shall be recorded in the office of the county recorder until a final approval has been granted.

Amended by Chapter 254, 2005 General Session

57-8-36 Existing projects -- Effect of statutory amendments.

Any condominium project established by instruments filed for record prior to the effective date of the foregoing amendments to the Condominium Ownership Act (hereinafter referred to as an “existing project”) and the rights and obligations of all parties interested in any such existing project shall, to the extent that the declaration, bylaws, and condominium plat concerning the existing project are inconsistent with the provisions of these amendments, be governed and controlled by the provisions of the Condominium Ownership Act as they existed prior to these amendments and by the terms of the existing project’s declaration, bylaws, and condominium plat to the extent that these terms are consistent with applicable law other than these amendments. Any existing project containing or purporting to contain time period units, convertible land, or convertible space, any existing project which is or purports to be a contractible, expandable, or leasehold condominium, the validity of any such project, and the validity and enforceability of any provisions concerning time period units, convertible land, convertible space, withdrawable land, additional land, or leased land which are set forth in an existing project’s declaration, bylaws, or condominium plat, shall be governed by applicable law in effect prior to these amendments, including principles relating to reasonableness, certainty, and constructive and actual notice, shall not necessarily be ineffective or defeated in whole or in part because the project or provision in question does not comply or substantially comply with those requirements of the foregoing amendments which would have been applicable had the instruments creating the project been recorded after the effective date of these amendments, but shall, in any event, be valid, effective, and enforceable if the project or provision in question either substantially complies with those requirements of the foregoing amendments which relate to the subject at issue or employs an arrangement which substantially achieves the same policy as underlies those requirements of the foregoing amendments which relate to the subject at issue.

Amended by Chapter 265, 2003 General Session

57-8-37 Fines.

(1) A management committee may assess a fine against a unit owner for a violation of the association of unit owners’ governing documents in accordance with the provisions of this section.

(2) (a) Before assessing a fine under Subsection (1), the management committee shall give the unit owner a written warning that:
   (i) describes the violation;
   (ii) states the rule or provision of the association of unit owners’ governing documents that the unit owner’s conduct violates;
   (iii) states that the management committee may, in accordance with the provisions of
this section, assess fines against the unit owner if a continuing violation is not cured or if
the unit owner commits similar violations within one year after the day on which the
management committee gives the unit owner the written warning or assesses a fine
against the unit owner under this section; and
(iv) if the violation is a continuing violation, states a time that is not less than 48 hours
after the day on which the management committee gives the unit owner the written
warning by which the unit owner shall cure the violation.
(b) A management committee may assess a fine against a unit owner if:
(i) within one year after the day on which the management committee gives the unit
owner a written warning described in Subsection (2)(a), the unit owner commits another
violation of the same rule or provision identified in the written warning; or
(ii) for a continuing violation, the unit owner does not cure the violation within the time
period that is stated in the written warning described in Subsection (2)(a).
(c) If permitted by the association of unit owners’ governing documents, after a
management committee assesses a fine against a unit owner under this section, the
management committee may, without further warning under this Subsection (2), assess an
additional fine against the unit owner each time the unit owner:
(i) commits a violation of the same rule or provision within one year after the day on
which the management committee assesses a fine for a violation of the same rule or
provision; or
(ii) allows a violation to continue for 10 days or longer after the day on which the
management committee assesses the fine.
(d) The aggregate amount of fines assessed against a unit owner for violations of the same
rule or provision of the governing documents may not exceed $500 in any one calendar
month.
(3) A fine assessed under Subsection (1) shall:
(a) be made only for a violation of a rule, covenant, condition, or restriction that is in the
association of unit owners’ governing documents;
(b) be in the amount provided for in the association of unit owners’ governing documents
and in accordance with Subsection (2)(d); and
(c) accrue interest and late fees as provided in the association of unit owners’ governing
documents.
(4)
(a) A unit owner who is assessed a fine under Subsection (1) may request an informal
hearing before the management committee to dispute the fine within 30 days after the day
on which the unit owner receives notice that the fine is assessed.
(b) At a hearing described in Subsection (4)(a), the management committee shall:
(i) provide the unit owner a reasonable opportunity to present the unit owner’s position
to the management committee; and
(ii) allow the unit owner, a committee member, or any other person involved in the
hearing to participate in the hearing by means of electronic communication.
(c) If a unit owner timely requests an informal hearing under Subsection (4)(a), no interest
or late fees may accrue until after the management committee conducts the hearing and
the unit owner receives a final decision.
(5) A unit owner may appeal a fine assessed under Subsection (1) by initiating a civil action
within 180 days after:
(a) if the unit owner timely requests an informal hearing under Subsection (4), the day on
which the unit owner receives a final decision from the management committee; or
(b) if the unit owner does not timely request an informal hearing under Subsection (4), the
day on which the time to request an informal hearing under Subsection (4) expires.
(6)
(a) Subject to Subsection (6)(b), a management committee may delegate the management
committee’s rights and responsibilities under this section to a managing agent.
(b) A management committee may not delegate the management committee's rights or responsibilities described in Subsection (4)(b).

(7) The provisions of this section apply to an association of unit owners regardless of when the association of unit owners is created.

Amended by Chapter 22, 2015 General Session

57-8-38 Arbitration.

The declaration, bylaws, or association rules may provide that disputes between the parties shall be submitted to arbitration pursuant to Title 78B, Chapter 11, Utah Uniform Arbitration Act.

Amended by Chapter 3, 2008 General Session

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 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) Nothing in this section affects any other rights reserved by the declarant.

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

Amended by Chapter 325, 2015 General Session

57-8-40 Organization of an association of unit owners under other law -- Reorganization.

(1) As used in this section, "organizational documents" means the documents related to the formation or operation of a nonprofit corporation or other legal entity formed by the management committee or the declarant.

(2) If permitted, required, or acknowledged by the declaration, the management committee may organize an association of unit owners as:

(a) a nonprofit corporation in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or

(b) any other entity organized under other law.

(3) Organizational documents for a nonprofit corporation or other entity formed in accordance
with Subsection (2) shall, to the extent possible, not conflict with the rights and obligations found in the declaration and any of the association’s bylaws recorded at the time of the formation of a nonprofit corporation or other entity.

(4) Notwithstanding any conflict with the declaration or any recorded bylaws, the organizational documents of a nonprofit corporation or other entity formed in accordance with Subsection (2) may include any additional indemnification and liability limitation provision for:
   (a) board members, directors, and officers; or
   (b) similar persons in a position of control.

(5) In the event of a conflict between this chapter’s provisions, a statute under which the association of unit owners is organized, documents concerning the organization of the association of unit owners as a nonprofit corporation or other entity, the declaration, the bylaws, and association rules, the following order prevails:
   (a) this chapter controls over a conflicting provision found in any of the sources listed in Subsections (5)(b) through (f);
   (b) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or any other law under which an entity is organized controls over a conflicting provision in any of the sources listed in Subsections (5)(c) through (f);
   (c) an organizational document filed in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or any other law under which an entity is organized controls over a conflicting provision in any of the sources listed in Subsections (5)(d) through (f);
   (d) the declaration controls over a conflicting provision in any of the sources listed in Subsections (5)(e) or (f);
   (e) the bylaws control over a conflicting provision in association rules; and
   (f) the association rules yield to a conflicting provision in any of the sources listed in Subsection (5)(a) through (e).

(6) Immediately upon the legal formation of an entity in compliance with this section, the association and unit owners are subject to any right, obligation, procedure, and remedy applicable to that entity.

(7)
   (a) A form "articles of incorporation" or similar organizational document attached to a declaration may be modified by the management committee for filing or re-filing if the modified version is otherwise consistent with this section’s provisions.
   (b) An organizational document attached to a declaration that is filed and concerns the organization of an entity may be amended in accordance with its own terms or any applicable law, notwithstanding the fact that the organizational document might be recorded.
   (c) Except for amended bylaws, an initial or amended organizational document properly filed with the state does not need to be recorded.

(8) This section applies to the reorganization of an association of unit owners previously organized if the entity’s status is terminated or dissolved without the possibility of reinstatement.

(9)
   (a) This section applies to all condominium projects, whether established before or after May 5, 2008.
   (b) This section does not validate or invalidate the organization of an association that occurred before May 5, 2008, whether or not the association was otherwise in compliance with this section.

Amended by Chapter 152, 2013 General Session

57-8-41 Lender approval -- Declaration amendments and association action.

(1) If a security holder’s consent is a condition for amending a declaration or bylaw, or for an action of the association of unit owners or management committee, then, subject to Subsection (4), the security holder’s consent is presumed if:
   (a) written notice of the proposed amendment or action is sent by certified or registered
mail to the security holder’s address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest;
(b) 60 days have passed after the day on which notice was mailed; and
(c) the person designated for receipt of the response in the notice has not received a written response from the security holder either consenting to or refusing to accept the amendment or action.

(2) The provisions of Subsection (1) shall apply to:
(a) an association of unit owners formed before and after May 12, 2009; and
(b) documents created and recorded before and after May 12, 2009.

(3) If, under Subsection (1), a security holder’s address for receiving notice is not provided in the recorded documents evidencing the security interest, the association of unit owners:
(a) shall use reasonable efforts to find a mailing address for the security holder; and
(b) may send the notice to any address obtained under Subsection (3)(a).

(4) If a security holder responds in writing within 60 days after the day on which the notice is mailed under Subsection (1), indicating that the security interest has been assigned or conveyed to another person, without any recorded document evidencing such a conveyance, the association of unit owners:
(a) may not presume the security holder’s consent under Subsection (1); and
(b) shall send a notice in accordance with Subsection (1) to the person assigned or conveyed the security interest.

(5) The association of unit owners shall:
(a) send a notice as described in Subsection (4)(b) to the person assigned or conveyed the interest at an address provided by the security holder under Subsection (4); or
(b) if no address is provided, shall use reasonable efforts to find a mailing address for, and send notice to, the person assigned or conveyed the interest.

Enacted by Chapter 178, 2009 General Session

57-8-42 Fair and reasonable notice.
(1) Notice that an association of unit owners provides by a method allowed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, constitutes fair and reasonable notice, whether or not the association of unit owners is a nonprofit corporation.
(2) Notice that an association of unit owners provides by a method not referred to in Subsection (1), including a method described in Subsection (3), constitutes fair and reasonable notice if:
(a) the method is authorized in the declaration, articles, bylaws, or rules; and
(b) considering all the circumstances, the notice is fair and reasonable.

(3)
(a) If provided in the declaration, articles, bylaws, or rules, an association of unit owners may provide notice by electronic means, including text message, email, or the website of the association of unit owners.
(b) Notwithstanding Subsection (3)(a), a unit owner may, by written demand, require an association of unit owners to provide notice to the unit owner by mail.

Enacted by Chapter 355, 2011 General Session

57-8-43 Insurance.
(1) As used in this section, “reasonably available” means available using typical insurance carriers and markets, irrespective of the ability of the association of unit owners to pay.
(2)
(a) This section applies to an insurance policy or combination of insurance policies:
(i) issued or renewed on or after July 1, 2011; and
(ii) issued to or renewed by:
(A) a unit owner; or
(B) an association of unit owners, regardless of when the association of unit owners is formed.
(b) Unless otherwise provided in the declaration, this section does not apply to a
commercial condominium project insured under a policy or combination of policies issued or renewed on or after July 1, 2014.

(3) Beginning not later than the day on which the first unit is conveyed to a person other than a declarant, an association of unit owners shall maintain, to the extent reasonably available:
   (a) subject to Subsection (9), blanket property insurance or guaranteed replacement cost insurance on the physical structures in the condominium project, including common areas and facilities, limited common areas and facilities, and units, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and
   (b) subject to Subsection (10), liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas and facilities.

(4) If an association of unit owners becomes aware that property insurance under Subsection (3)(a) or liability insurance under Subsection (3)(b) is not reasonably available, the association of unit owners shall, within seven calendar days after becoming aware, give all unit owners notice, as provided in Section 57-8-42, that the insurance is not reasonably available.

(5)
   (a) The declaration or bylaws may require the association of unit owners to carry other types of insurance in addition to those described in Subsection (3).
   (b) In addition to any type of insurance coverage or limit of coverage provided in the declaration or bylaws and subject to the requirements of this section, an association of unit owners, as the management committee considers appropriate, obtain:
      (i) an additional type of insurance than otherwise required; or
      (ii) a policy with greater coverage than otherwise required.

(6) Unless a unit owner is acting within the scope of the unit owner’s authority on behalf of an association of unit owners, a unit owner’s act or omission may not:
   (a) void a property insurance policy under Subsection (3)(a) or a liability insurance policy under Subsection (3)(b); or
   (b) be a condition to recovery under a policy.

(7) An insurer under a property insurance policy or liability insurance policy obtained by an association of unit owners under this section waives the insurer’s right to subrogation under the policy against:
   (a) any person residing with the unit owner, if the unit owner resides in the unit; and
   (b) the unit owner.

(8)
   (a) An insurance policy issued to an association of unit owners may not be inconsistent with any provision of this section.
   (b) A provision of a declaration, bylaw, rule, or other document governing the association of unit owners that is contrary to a provision of this section has no effect.
   (c) Neither the governing documents nor a property insurance or liability insurance policy issued to an association of unit owners may prevent a unit owner from obtaining insurance for the unit owner’s own benefit.

(9)
   (a) This Subsection (9) applies to property insurance required under Subsection (3)(a).
   (b) The total amount of coverage provided by blanket property insurance or guaranteed replacement cost insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding:
      (i) items normally excluded from property insurance policies; and
      (ii) unless otherwise provided in the declaration, any commercial condominium unit in a mixed-use condominium project, including any fixture, improvement, or betterment in a commercial condominium unit in a mixed-use condominium project.
(c) Property insurance shall include coverage for any fixture, improvement, or betterment installed at any time to a unit or to a limited common area associated with a unit, whether installed in the original construction or in any remodel or later alteration, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a unit or to a limited common element associated with a unit.

(d) Notwithstanding anything in this section and unless otherwise provided in the declaration, an association of unit owners is not required to obtain property insurance for a loss to a unit that is not physically attached to:
   (i) another unit; or
   (ii) a structure that is part of a common area or facility.

(e) Each unit owner is an insured person under a property insurance policy.

(f) If a loss occurs that is covered by a property insurance policy in the name of an association of unit owners and another property insurance policy in the name of a unit owner:
   (i) the association's policy provides primary insurance coverage; and
   (ii) notwithstanding Subsection (9)(f)(i) and subject to Subsection (9)(g):
      (A) the unit owner is responsible for the deductible of the association of unit owners; and
      (B) building property coverage, often referred to as coverage A, of the unit owner's policy applies to that portion of the loss attributable to the policy deductible of the association of unit owners.

(g)
   (i) As used in this Subsection (9)(g) and Subsection (9)(j):
      (A) "Covered loss" means a loss, resulting from a single event or occurrence, that is covered by a property insurance policy of an association of unit owners.
      (B) "Unit damage" means damage to a unit or to a limited common area or facility appurtenant to that unit, or both.
      (C) "Unit damage percentage" means the percentage of total damage resulting in a covered loss that is attributable to unit damage.
   (ii) A unit owner who owns a unit that has suffered unit damage as part of a covered loss is responsible for an amount calculated by applying the unit damage percentage for that unit to the amount of the deductible under the property insurance policy of the association of unit owners.
   (iii) If a unit owner does not pay the amount required under Subsection (9)(g)(ii) within 30 days after substantial completion of the repairs to the unit or limited common areas and facilities appurtenant to that unit, an association of unit owners may levy an assessment against the unit owner for that amount.

(h) An association of unit owners shall set aside an amount equal to the amount of the association's property insurance policy deductible or, if the policy deductible exceeds $10,000, an amount not less than $10,000.

(i)
   (i) An association of unit owners shall provide notice in accordance with Section 57-8-42 to each unit owner of the unit owner's obligation under Subsection (9)(g) for the association's policy deductible and of any change in the amount of the deductible.
   (ii)
      (A) An association of unit owners that fails to provide notice as provided in Subsection (9)(i)(i) is responsible for the portion of the deductible that the association of unit owners could have assessed to a unit owner under Subsection (9)(g), but only to the extent that the unit owner does not have insurance coverage that would otherwise apply under this Subsection (9).
      (B) Notwithstanding Subsection (9)(i)(ii), an association of unit owners that provides notice of the association's policy deductible, as required under Subsection (9)(i)(i), but
fails to provide notice of a later increase in the amount of the deductible is responsible only for the amount of the increase for which notice was not provided.

(iii) The failure of an association of unit owners to provide notice as provided in Subsection (9)(i)(i) may not be construed to invalidate any other provision of this section.

(j) If, in the exercise of the business judgment rule, the management committee determines that a covered loss is likely not to exceed the property insurance policy deductible of the association of unit owners and until it becomes apparent the covered loss exceeds the deductible of the property insurance of the association of unit owners and a claim is submitted to the property insurance insurer of the association of unit owners:

(i) a unit owner’s policy is considered the policy for primary coverage for a loss occurring to the unit owner’s unit or to a limited common area or facility appurtenant to the unit;

(ii) the association of unit owners is responsible for any covered loss to any common areas and facilities;

(iii) a unit owner who does not have a policy to cover the damage to that unit owner’s unit and appurtenant limited common areas and facilities is responsible for that damage,

and the association of unit owners may, as provided in Subsection (9)(g)(iii), recover any payments the association of unit owners makes to remediate that unit and appurtenant limited common areas and facilities; and

(iv) the association of unit owners need not tender the claim to the association’s insurer.

(k)

(i) An insurer under a property insurance policy issued to an association of unit owners shall adjust with the association of unit owners a loss covered under the association’s policy.

(ii) Notwithstanding Subsection (9)(k)(i), the insurance proceeds for a loss under a property insurance policy of an association of unit owners:

(A) are payable to an insurance trustee that the association of unit owners designates or, if no trustee is designated, to the association of unit owners; and

(B) may not be payable to a holder of a security interest.

(iii) An insurance trustee or an association of unit owners shall hold any insurance proceeds in trust for the association of unit owners, unit owners, and lien holders.

(iv)

(A) If damaged property is to be repaired or restored, insurance proceeds shall be disbursed first for the repair or restoration of the damaged property.

(B) After the disbursements described in Subsection (9)(k)(iv)(A) are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the association of unit owners, unit owners, and lien holders, as provided in the declaration.

(l) An insurer that issues a property insurance policy under this section, or the insurer’s authorized agent, shall issue a certificate or memorandum of insurance to:

(i) the association of unit owners;

(ii) a unit owner, upon the unit owner’s written request; and

(iii) a holder of a security interest, upon the holder’s written request.

(m) A cancellation or nonrenewal of a property insurance policy under this section is subject to the procedures stated in Section 31A-21-303.

(n) A management committee that acquires from an insurer the property insurance required in this section is not liable to unit owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

(o)

(i) Unless required in the declaration, property insurance coverage is not required for fixtures, improvements, or betterments in a commercial unit or limited common areas and facilities appurtenant to a commercial unit in a mixed-use condominium project.

(ii) Notwithstanding any other provision of this section, an association of unit owners may
obtain property insurance for fixtures, improvements, or betterments in a commercial unit in a mixed-use condominium project if allowed or required in the declaration.

(p)
(i) This Subsection (9) does not prevent a person suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a person at fault for the loss.
(ii) Subsection (9)(p)(i) does not affect Subsection (7).

(10)
(a) This Subsection (10) applies to a liability insurance policy required under Subsection (3)(b).
(b) A liability insurance policy shall be in an amount determined by the management committee but not less than an amount specified in the declaration or bylaws.
(c) Each unit owner is an insured person under a liability insurance policy that an association of unit owners obtains, but only for liability arising from:
   (i) the unit owner’s ownership interest in the common areas and facilities;
   (ii) maintenance, repair, or replacement of common areas and facilities; and
   (iii) the unit owner’s membership in the association of unit owners.

Amended by Chapter 189, 2014 General Session

57-8-44 Lien in favor of association of unit owners for assessments and costs of collection.

(1)
(a) Except as provided in Section 57-8-13.1, an association of unit owners has a lien on a unit for:
   (i) an assessment;
   (ii) except as provided in the declaration, fees, charges, and costs associated with collecting an unpaid assessment, including:
      (A) court costs and reasonable attorney fees;
      (B) late charges;
      (C) interest; and
      (D) any other amount that the association of unit owners is entitled to recover under the declaration, this chapter, or an administrative or judicial decision; and
   (iii) a fine that the association of unit owners imposes against a unit owner in accordance with Section 57-8-37, if:
      (A) the time for appeal described in Subsection 57-8-37(5) has expired and the unit owner did not file an appeal; or
      (B) the unit owner timely filed an appeal under Subsection 57-8-37(5) and the district court issued a final order upholding a fine imposed under Subsection 57-8-37(1).
(b) The recording of a declaration constitutes record notice and perfection of a lien described in Subsection (1)(a).

(2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i) is for the full amount of the assessment from the time the first installment is due, unless the association of unit owners otherwise provides in a notice of assessment.

(3) An unpaid assessment or fine accrues interest at the rate provided:
   (a) in Subsection 15-1-1(2); or
   (b) in the governing documents, if the governing documents provide for a different interest rate.

(4) A lien under this section has priority over each other lien and encumbrance on a unit except:
   (a) a lien or encumbrance recorded before the declaration is recorded;
   (b) a first or second security interest on the unit secured by a mortgage or deed of trust that is recorded before a recorded notice of lien by or on behalf of the association of unit owners; or
   (c) a lien for real estate taxes or other governmental assessments or charges against the
unit.
(5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.
(6) Unless the declaration provides otherwise, if two or more associations of unit owners have liens for assessments on the same unit, the liens have equal priority, regardless of when the liens are created.
Amended by Chapter 116, 2014 General Session
57-8-45 Enforcement of a lien.
(1) Except as provided in Section 57-8-13.1, to enforce a lien established under Section 57-8-44, an association of unit owners may:
   (i) cause a unit to be sold through nonjudicial foreclosure as though the lien were a deed of trust, in the manner provided by:
      (A) Sections 57-1-24, 57-1-25, 57-1-26, and 57-1-27; and
      (B) this chapter; or
   (ii) foreclose the lien through a judicial foreclosure in the manner provided by:
      (A) law for the foreclosure of a mortgage; and
      (B) this chapter.
(b) For purposes of a nonjudicial or judicial foreclosure as provided in Subsection (1)(a):
   (i) the association of unit owners is considered to be the beneficiary under a trust deed; and
   (ii) the unit owner is considered to be the trustor under a trust deed.
(2) A unit owner’s acceptance of the owner’s interest in a unit constitutes a simultaneous conveyance of the unit in trust, with power of sale, to the trustee designated as provided in this section for the purpose of securing payment of all amounts due under the declaration and this chapter.
(3) A power of sale and other powers of a trustee under this part and under Sections 57-1-19 through 57-1-34 may not be exercised unless the association of unit owners appoints a qualified trustee.
   (b) An association of unit owners’ execution of a substitution of trustee form authorized in Section 57-1-22 is sufficient for appointment of a trustee under Subsection (3)(a).
   (c) A person may not be a trustee under this part unless the person qualifies as a trustee under Subsection 57-1-21(1)(a)(i) or (iv).
   (d) A trustee under this part is subject to all duties imposed on a trustee under Sections 57-1-19 through 57-1-34.
(4) This chapter does not prohibit an association of unit owners from bringing an action against a unit owner to recover an amount for which a lien is created under Section 57-8-44 or from taking a deed in lieu of foreclosure, if the action is brought or deed taken before the sale or foreclosure of the unit owner’s unit under this chapter.
Amended by Chapter 95, 2013 General Session
57-8-46 Notice of nonjudicial foreclosure -- Nonjudicial foreclosure prohibited if unit owner demands judicial foreclosure.
(1) At least 30 calendar days before initiating a nonjudicial foreclosure, an association of unit owners shall provide notice to the owner of the unit that is the intended subject of the nonjudicial foreclosure.
(2) The notice under Subsection (1):
   (a) shall:
      (i) notify the unit owner that the association of unit owners intends to pursue nonjudicial foreclosure with respect to the owner’s unit to enforce the association of unit owners’ lien for an unpaid assessment;
      (ii) notify the unit owner of the owner’s right to demand judicial foreclosure in the place of nonjudicial foreclosure;
(iii) be in substantially the following form:

"NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The (insert the name of the association of unit owners), the association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association’s lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that ‘I demand a judicial foreclosure proceeding upon my unit,’ or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is (insert the address of the association of unit owners for receipt of a demand)."; and

(iv) be sent to the unit owner by certified mail, return receipt requested; and

(b) may be included with other association correspondence to the unit owner.

(3) An association of unit owners may not use a nonjudicial foreclosure to enforce a lien if the unit owner mails the association of unit owners a written demand for judicial foreclosure:

(a) by U.S. mail, certified with a return receipt requested;

(b) to the address stated in the association of unit owners’ notice under Subsection (1); and

(c) within 15 days after the date of the postmark on the envelope of the association of unit owners’ notice under Subsection (1).

Enacted by Chapter 355, 2011 General Session

57-8-47 Provisions applicable to nonjudicial foreclosure.

(1) An association of unit owners’ nonjudicial foreclosure of a unit is governed by:

(a) Sections 57-1-19 through 57-1-34, to the same extent as though the association of unit owners’ lien were a trust deed; and

(b) this chapter.

(2) If there is a conflict between a provision of this chapter and a provision of Sections 57-1-19 through 57-1-34 with respect to an association of unit owners’ nonjudicial foreclosure of a unit, the provision of this chapter controls.

Enacted by Chapter 355, 2011 General Session

57-8-48 One-action rule not applicable -- Abandonment of enforcement proceedings.

(1) Subsection 78B-6-901(1) does not apply to an association of unit owners’ judicial or nonjudicial foreclosure of a unit under this part.

(2) An association of unit owners may abandon a judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale and initiate a separate action or another judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale if the initial judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale is not complete.

Enacted by Chapter 355, 2011 General Session

57-8-49 Costs and attorney fees in lien enforcement action.

(1) A court entering a judgment or decree in a judicial action brought under Sections 57-8-44 through 57-8-53 shall award the prevailing party its costs and reasonable attorney fees incurred before the judgment or decree and, if the association of unit owners is the prevailing party, any costs and reasonable attorney fees that the association of unit owners incurs collecting the judgment.

(2) In a nonjudicial foreclosure, an association of unit owners may include in the amount due,
and may collect, all costs and reasonable attorney fees incurred in collecting the amount due, including the costs of preparing, recording, and foreclosing a lien.

Enacted by Chapter 355, 2011 General Session

57-8-50 Action to recover unpaid assessment.

An association of unit owners need not pursue a judicial foreclosure or nonjudicial foreclosure to collect an unpaid assessment but may file an action to recover a money judgment for the unpaid assessment without waiving the lien under Section 57-8-44.

Enacted by Chapter 355, 2011 General Session

57-8-51 Appointment of receiver.

In an action by an association of unit owners to collect an assessment or to foreclose a lien for an unpaid assessment, a court may:

(1) appoint a receiver, in accordance with Section 7-2-9, to collect and hold money alleged to be due and owing to a unit owner:
   (a) before commencement of the action; or
   (b) during the pendency of the action; and

(2) order the receiver to pay the association of unit owners, to the extent of the association’s common expense assessment, money the receiver holds under Subsection (1).

Enacted by Chapter 355, 2011 General Session

57-8-52 Termination of a delinquent owner’s rights -- Notice -- Informal hearing.

(1) As used in this section, “delinquent unit owner” means a unit owner who fails to pay an assessment when due.

(2) A management committee may, if authorized in the declaration, bylaws, or rules and as provided in this section, terminate a delinquent unit owner’s right:
   (a) to receive a utility service for which the unit owner pays as a common expense; or
   (b) of access to and use of recreational facilities.

(3) (a) Before terminating a utility service or right of access to and use of recreational facilities under Subsection (2), the manager or management committee shall give the delinquent unit owner notice in a manner provided in the declaration, bylaws, or association of unit owners rules.

(4) (a) A delinquent unit owner may submit a written request to the management committee for an informal hearing to dispute the assessment.

(b) A request under Subsection (4)(a) shall be submitted within 14 days after the date the delinquent unit owner receives the notice under Subsection (3).

(5) A management committee shall conduct an informal hearing requested under Subsection (4) in accordance with the standards provided in the declaration, bylaws, or association of unit owners rules.

(6) If a delinquent unit owner requests a hearing, the association of unit owners may not terminate a utility service or right of access to and use of recreational facilities until after the management committee:
(a) conducts the hearing; and
(b) enters a final decision.

(7) If an association of unit owners terminates a utility service or a right of access to and use of recreational facilities, the association of unit owners shall take immediate action to reinstate the service or right following the unit owner’s payment of the assessment, including any interest and late payment fee.

(8) An association of unit owners may:
(a) assess a unit owner for the cost associated with reinstating a utility service that the association of unit owners terminates as provided in this section; and
(b) demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in a notice under Subsection (3).

Enacted by Chapter 355, 2011 General Session

57-8-53 Requiring tenant in residential condominium unit to pay rent to association of unit owners if owner fails to pay assessment.

(1) As used in this section:
(a) “Amount owing” means the total of:
   (i) any assessment or obligation under Subsection 57-8-44(1)(a) that is due and owing; and
   (ii) any applicable interest, late fee, and cost of collection that accrues after an association of unit owners gives notice under Subsection (3).
(b) “Lease” means an arrangement under which a tenant occupies a unit owner’s residential condominium unit in exchange for the unit owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument.
(c) “Tenant” means a person, other than the unit owner, who has regular, exclusive occupancy of the unit owner’s residential condominium unit.

(2) Subject to Subsections (3) and (4), the management committee may require a tenant under a lease with a unit owner to pay the association of unit owners all future lease payments due to the unit owner:
(a) if:
   (i) the unit owner fails to pay an assessment for a period of more than 60 days after the assessment is due and payable; and
   (ii) authorized in the declaration, bylaws, or rules;
(b) beginning with the next monthly or periodic payment due from the tenant; and
(c) until the association of unit owners is paid the amount owing.

(3)
(a) Before requiring a tenant to pay lease payments to the association of unit owners under Subsection (2), the manager or management committee shall give the unit owner notice, in accordance with the declaration, bylaws, or association rules.
(b) The notice required under Subsection (3)(a) shall state:
   (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees;
   (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and to be paid through the collection of lease payments; and
   (iii) that the association intends to demand payment of future lease payments from the unit owner’s tenant if the unit owner does not pay the amount owing within 15 days.

(4)
(a) If a unit owner fails to pay the amount owing within 15 days after the manager or management committee gives the unit owner notice under Subsection (3), the manager or management committee may exercise the rights of the association of unit owners under Subsection (2) by delivering a written notice to the tenant.
(b) A notice under Subsection (4)(a) shall state that:
   (i) due to the unit owner’s failure to pay an assessment within the required time, the
manager or management committee has notified the unit owner of the manager or management committee’s intent to collect all lease payments until the amount owing is paid;
(ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the association of unit owners, until the amount owing is paid; and
(iii) the tenant’s payment of lease payments to the association of unit owners does not constitute a default under the terms of the lease with the unit owner.
(c) The manager or management committee shall mail a copy of the notice to the unit owner.

(5)
(a) A tenant to whom notice under Subsection (4) is given shall pay to the association of unit owners all future lease payments as they become due and owing to the unit owner:
(i) beginning with the next monthly or other periodic payment after the notice under Subsection (4) is delivered to the tenant; and
(ii) until the association of unit owners notifies the tenant under Subsection (6) that the amount owing is paid.
(b) A unit owner:
(i) shall credit each payment that the tenant makes to the association of unit owners under this section against any obligation that the tenant owes to the owner as though the tenant made the payment to the owner; and
(ii) may not initiate a suit or other action against a tenant for failure to make a lease payment that the tenant pays to an association of unit owners as required under this section.

(6)
(a) Within five business days after the amount owing is paid, the manager or management committee shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the association of unit owners.
(b) The manager or management committee shall mail a copy of the notification described in Subsection (6)(a) to the unit owner.

(7)
(a) An association of unit owners shall deposit money paid to the association of unit owners under this section in a separate account and disburse that money to the association of unit owners until:
(i) the amount owing is paid; and
(ii) any cost of administration, not to exceed $25, is paid.
(b) The association of unit owners shall, within five business days after the amount owing is paid, pay to the unit owner any remaining balance.

Enacted by Chapter 355, 2011 General Session

57-8-54 Statement from manager or management committee of unpaid assessment.
(1) A manager or management committee shall issue a written statement indicating any unpaid assessment with respect to a unit owner’s unit upon:
(a) a written request by the unit owner; and
(b) payment of a reasonable fee not to exceed $25.
(2) A written statement under Subsection (1) is conclusive in favor of a person who relies on the written statement in good faith.

Enacted by Chapter 355, 2011 General Session

57-8-55 Consolidation of multiple associations of unit owners.
(1) Two or more associations of unit owners may be consolidated into a single association of unit owners as provided in Title 16, Chapter 6a, Part 11, Merger, and this section.
(2) Unless the declaration, articles, or bylaws otherwise provide, a declaration of consolidation between two or more associations of unit owners to consolidate into a single association of unit owners is not effective unless it is approved by the unit owners of each of the
consolidating associations of unit owners, by the highest percentage of allocated voting interests of the unit owners required by each association of unit owners to amend its respective declaration, articles, or bylaws.

(3) A declaration of consolidation under Subsection (2) shall:
   (a) be prepared, executed, and certified by the president of the association of each of the consolidating associations of unit owners; and
   (b) provide for the reallocation of the allocated interests in the consolidated association by stating:
      (i) the reallocations of the allocated interests in the consolidated association of unit owners or the formulas used to reallocate the allocated interests; or
      (ii) (A) the percentage of overall allocated interests of the consolidated association of unit owners that are allocated to all of the units comprising each of the consolidating associations of unit owners; and
           (B) that the portion of the percentages allocated to each unit formerly comprising a part of a consolidating association of unit owners is equal to the percentages of allocated interests allocated to the unit by the declaration of the consolidating association of unit owners.

(4) A declaration of consolidation under Subsection (2) is not effective until it is recorded in the office of each applicable county recorder.

(5) Unless otherwise provided in the declaration of consolidation, the consolidated association of unit owners resulting from a consolidation under this section:
   (a) is the legal successor for all purposes of all of the consolidating associations of unit owners;
   (b) the operations and activities of all of the consolidating associations of unit owners shall be consolidated into the consolidated association of unit owners; and
   (c) the consolidated association of unit owners holds all powers, rights, obligations, assets, and liabilities of all consolidating associations of unit owners.

Enacted by Chapter 152, 2013 General Session

57-8-56 Association of unit owners' right to pay delinquent utilities.

(1) Upon request in accordance with Subsection (2), at least 10 days before the day on which an electrical corporation or a gas corporation discontinues service to a unit, the electrical corporation or gas corporation shall give the association of unit owners:
   (a) written notice that the electrical corporation or gas corporation will discontinue service to the unit; and
   (b) an opportunity to pay any delinquent charges and maintain service to the unit.

(2) An association of unit owners may request the notice and opportunity to pay described in Subsection (1) by sending a written request to the electrical corporation or gas corporation that includes:
   (a) the address of each unit in the association of unit owners;
   (b) the association of unit owners’ name, mailing address, phone number, and email address; and
   (c) the address where the electrical corporation or gas corporation may send notices.

(3) If, after an electrical corporation or a gas corporation sends a written notice described in Subsection (1) to an association of unit owners and the association of unit owners does not pay the delinquent charges within 10 days after the day on which the electrical corporation or gas corporation sends the notice, the electrical corporation or gas corporation may discontinue service to the unit.

(4) An association of unit owners may collect any payment to an electrical corporation or a gas corporation under this section as an assessment in accordance with Section 57-8-44.

(5) (a) If, after an association of unit owners receives a written notice described in Subsection (1), the association of unit owners decides not to pay the delinquent charges, the
association of unit owners may, if permitted by the association of unit owners’ governing
documents, and after reasonable notice to the unit owner:
   (i) enter the unit; and
   (ii) winterize the unit.
(b) A person who enters a unit in accordance with Subsection (5)(a) is not liable for
trespass.
(c) An association of unit owners may charge a unit owner an assessment for the actual and
reasonable costs of winterizing a unit in accordance with this Subsection (5).

Enacted by Chapter 213, 2015 General Session    Amended by Chapter 325, 2015 General
Session, (Coordination Clause)

57-8-57 Management committee meetings -- Open meetings.
(1)  
(a) At least 48 hours before a meeting, the association of unit owners shall give written
notice of the meeting via email to each unit owner who requests notice of a meeting,
unless:
   (i) notice of the meeting is included in a meeting schedule that was previously provided
to the unit owner; or
   (ii)
      (A) the meeting is to address an emergency; and
      (B) each management committee member receives notice of the meeting less than 48
         hours before the meeting.
(b) A notice described in Subsection (1)(a) shall:
   (i) be delivered to the unit owner by email, to the email address that the unit owner
      provides to the management committee or the association of unit owners;
   (ii) state the time and date of the meeting;
   (iii) state the location of the meeting; and
   (iv) if a management committee member may participate by means of electronic
      communication, provide the information necessary to allow the unit owner to participate
      by the available means of electronic communication.

(2)  
(a) Except as provided in Subsection (2)(b), a meeting shall be open to each unit owner or
the unit owner’s representative if the representative is designated in writing.
(b) A management committee may close a meeting to:
   (i) consult with an attorney for the purpose of obtaining legal advice;
   (ii) discuss ongoing or potential litigation, mediation, arbitration, or administrative
      proceedings;
   (iii) discuss a personnel matter;
   (iv) discuss a matter relating to contract negotiations, including review of a bid or
      proposal;
   (v) discuss a matter that involves an individual if the discussion is likely to cause the
      individual undue embarrassment or violate the individual’s reasonable expectation of
      privacy; or
   (vi) discuss a delinquent assessment or fine.

(3)  
(a) At each meeting, the management committee shall provide each unit owner a
reasonable opportunity to offer comments.
(b) The management committee may limit the comments described in Subsection (3)(a) to
one specific time period during the meeting.

(4) A management committee member may not avoid or obstruct the requirements of this
section.
(5) Nothing in this section shall affect the validity or enforceability of an action of a
management committee.
(6) The provisions of this section do not apply during the period of administrative control.
The provisions of this section apply regardless of when the condominium project’s initial declaration was recorded.

(a) Subject to Subsection (8)(d), if an association of unit owners fails to comply with a provision of Subsections (1) through (4) and fails to remedy the noncompliance during the 90-day period described in Subsection (8)(d), a unit owner may file an action in court for:
   (i) injunctive relief requiring the association of unit owners to comply with the provisions of Subsections (1) through (4);
   (ii) $500 or actual damages, whichever is greater; or
   (iii) any other relief provided by law.

(b) In an action described in Subsection (8)(a), the court may award costs and reasonable attorney fees to the prevailing party.

(c) Upon motion from the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners has failed to comply with a provision of Subsections (1) through (4), the court may order the association of unit owners to immediately comply with the provisions of Subsections (1) through (4).

(d) At least 90 days before the day on which a unit owner files an action described in Subsection (8)(a), the unit owner shall deliver a written notice to the association of unit owners that states:
   (i) the unit owner’s name, address, telephone number, and email address;
   (ii) each requirement of Subsections (1) through (4) with which the association of unit owners has failed to comply;
   (iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and
   (iv) a date by which the association of unit owners shall remedy the association of unit owners’ noncompliance that is at least 90 days after the day on which the unit owner delivers the notice to the association of unit owners.

Enacted by Chapter 387, 2015 General Session

Chapter 8a Community Association Act

Part 1 General Provisions

57-8a-101 Title.

This chapter is known as the “Community Association Act.”

Enacted by Chapter 153, 2004 General Session

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).

(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 Title 57, Chapter 8, Condominium Ownership Act.

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

(4) “Common areas” means property that the association:
   (a) owns;
   (b) maintains;
   (c) repairs; or
   (d) administers.

(5) “Common expense” means costs incurred by the association to exercise any of the powers provided for in the association’s governing documents.

(6) “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.

(7) “Electrical corporation” means the same as that term is defined in Section 54-2-1.

(8) “Gas corporation” means the same as that term is defined in Section 54-2-1.

(9)
   (a) “Governing documents” means a written instrument by which the association 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.

(10) “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.

(11) “Judicial foreclosure” means a foreclosure of a lot:
   (a) for the nonpayment of an assessment; and
   (b)
      (i) in the manner provided by law for the foreclosure of a mortgage on real property; and
      (ii) as provided in Part 3, Collection of Assessments.

(12) “Lease” or “leasing” means regular, exclusive occupancy of a lot:
   (a) by a person or persons other than the owner; and
   (b)
      (i) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

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

(14) “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

   (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.

(15)  
(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.

(16) “Meeting” means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

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

(18) “Nonjudicial foreclosure” means the sale of a lot:
   (a) for the nonpayment of an assessment; and
   (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
   (ii) as provided in Part 3, Collection of Assessments.

(19) “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.

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

Amended by Chapter 22, 2015 General Session  Amended by Chapter 34, 2015 General Session  Amended by Chapter 213, 2015 General Session  Amended by Chapter 325, 2015 General Session  Amended by Chapter 387, 2015 General Session

57-8a-103 Scope of chapter.
Remedies provided in this chapter, by law, or in equity are not mutually exclusive.
Enacted by Chapter 153, 2004 General Session

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

(1)  
(a) 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
   (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) 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.

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

Amended by Chapter 34, 2015 General Session  Amended by Chapter 325, 2015 General Session  Amended by Chapter 387, 2015 General Session

57-8a-105 Registration with Department of Commerce.
(1) As used in this section, “department” means the Department of Commerce created in Section 13-1-2.

(2) 
(a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions establishing an association, the association shall register with the department in the manner established by the department.
(b) An association existing under a declaration of covenants, conditions, and restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.

(3) The department shall require an association registering as required in this section to provide with each registration:
(a) the name and address of the association;
(b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;
(c) contact information for the manager;
(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a lot owner’s financing, refinancing, or sale of the owner’s lot; and
(e) a registration fee not to exceed $37.

(4) An association that has registered under Subsection (2) shall submit to the department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5) 
(a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection (4):
   (i) a lien may not arise under Section 57-8a-301; and
   (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.
(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection (4) does not begin until after the expiration of the 90-day period specified in Subsection (2) or (4), respectively.
(c) An association that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).
(d) An association that is not in compliance with the updated registration requirement described in Subsection (4) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection (4).
(e) Except as described in Subsection (5)(f), beginning on the date an association ends a period of noncompliance:
(i) a lien may arise under Section 57-8a-301 for any event that:
   (A) occurred during the period of noncompliance; and
   (B) would have given rise to a lien under Section 57-8a-301 had the association been
   in compliance with the registration requirements described in this section; and
(ii) an association may enforce a lien described in Subsection (5)(e) or a lien that existed
   before the period of noncompliance.
(f) If an owner's residential lot is conveyed to an independent third party during a period of
   noncompliance described in this Subsection (5):
   (i) a lien that arose
   under Section 57-8a-301 before the conveyance of the residential lot
   became final is extinguished when the conveyance of the residential lot becomes final;
   and
   (ii) an event that occurred before the conveyance of the residential lot became final, and
   that would have given rise to a lien under Section 57-8a-301 had the association been in
   compliance with the registration requirements of this section, may not give rise to a lien
   under Section 57-8a-301 if the conveyance of the residential lot becomes final before the
   association ends the period of noncompliance.
Amended by Chapter 95, 2013 General Session

57-8a-106 Fee for providing payoff information needed at closing.
(1) Unless specifically authorized in the declaration of covenants, conditions, and restrictions,
the bylaws, or the rules, an association may not charge a fee for providing association payoff
information needed in connection with the financing, refinancing, or closing of a lot owner's
sale of the owner's lot.
(2) An association may not:
   (a) require a fee described in Subsection (1) that is authorized in the declaration of
   covenants, conditions, and restrictions, the bylaws, or the rules to be paid before closing; or
   (b) charge the fee if it exceeds $50.
(3) An association that fails to provide information described in Subsection (1) within five
business days after the closing agent requests the information may not enforce a lien
against that unit for money due to the association at closing.
   (a) An association that fails to provide information described in Subsection (1) within five
business days after the closing agent requests the information may not enforce a lien
against that unit for money due to the association at closing.
   (b) A request under Subsection (3)(a) is not effective unless the request:
       (i) is conveyed in writing to the primary contact person designated under Subsection 57-
6a-105(3)(d);
       (ii) contains:
           (A) the name, telephone number, and address of the person making the request; and
           (B) the facsimile number or email address for delivery of the payoff information; and
       (iii) is accompanied by a written consent for the release of the payoff information:
           (A) identifying the person requesting the information as a person to whom the payoff
           information may be released; and
           (B) signed and dated by an owner of the lot for which the payoff information is
           requested.
(4) This section applies to each association, regardless of when the association is formed.
Amended by Chapter 369, 2012 General Session

57-8a-107 Amending the declaration to make provisions of this chapter applicable.
(1) An association may amend the declaration to make applicable to the association a
provision of this chapter that is enacted after the creation of the association, by complying
with:
   (a) the amendment procedures and requirements specified in the declaration and applicable
provisions of this chapter; or
   (b) the amendment procedures and requirements of this chapter, if the declaration being
amended does not contain amendment procedures and requirements.
(2) If an amendment under Subsection (1) adopts a specific section of this chapter:
   (a) the amendment grants a right, power, or privilege permitted by that specific section;
and
(b) all correlative obligations, liabilities, and restrictions in that section also apply.
Enacted by Chapter 152, 2013 General Session

57-8a-108 Rules against perpetuities and unreasonable restraints -- Insubstantial failure to comply.
(1) The rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat a provision of a governing document.
(2)
(a) A declaration that fails to comply with this chapter does not render a title to a lot and common areas unmarketable or otherwise affect the title if the failure is insubstantial.
(b) This chapter does not affect whether a substantial failure impairs marketability.
Enacted by Chapter 152, 2013 General Session

57-8a-109 Limit on fee for approval of plans.
(1) As used in this section:
(a) "Lot plans" means plans:
(i) for the construction or improvement of a lot; and
(ii) that are required to be approved by the association before the lot construction or improvement may occur.
(b) "Plan fee" means a fee that an association charges for review and approval of lot plans.
(2) An association may not charge a plan fee that exceeds the actual cost of reviewing and approving the lot plans.
Enacted by Chapter 152, 2013 General Session

Part 2 Administrative Provisions

57-8a-201 Payment of a common expense or assessment.
(1) An owner shall pay the owner’s proportionate share of:
(a) the common expenses; and
(b) any other assessments levied by the association.
(2) A payment described in Subsection (1) shall be in the amount and at the time determined by the board of directors in accordance with the terms of the:
(a) declaration; or
(b) bylaws.
(3) An assessment levied against a lot is:
(a) a debt of the owner at the time the assessment is made; and
(b) collectible as a debt described in Subsection (3)(a).
Enacted by Chapter 153, 2004 General Session

57-8a-206 Written statement of unpaid assessment.
(1)
(a) The manager or board of directors shall issue a written statement indicating any unpaid assessment with respect to a lot covered by the request, upon:
(i) the written request of any unit owner; and
(ii) payment of a reasonable fee not to exceed $10.
(b) The written statement described in Subsection (1)(a) is binding in favor of any person who relies in good faith on the written statement upon the:
(i) remaining owners;
(ii) manager; and
(iii) board of directors.
(2) Unless the manager or board of directors complies with a request described in Subsection (1)(a) within 10 days, any unpaid assessment that became due prior to the date the request described in Subsection (1)(a) was made is subordinate to a lien held by the person requesting the statement pursuant to Subsection (1)(a).
Enacted by Chapter 153, 2004 General Session

57-8a-208 Fines.
(1) A board may assess a fine against a lot owner for a violation of the association’s governing
documents in accordance with the provisions of this section.

(2)
(a) Before assessing a fine under Subsection (1), the board shall give the lot owner a written warning that:
   (i) describes the violation;
   (ii) states the rule or provision of the association’s governing documents that the lot owner’s conduct violates;
   (iii) states that the board may, in accordance with the provisions of this section, assess fines against the lot owner if a continuing violation is not cured or if the lot owner commits similar violations within one year after the day on which the board gives the lot owner the written warning or assesses a fine against the lot owner under this section; and
   (iv) if the violation is a continuing violation, states a time that is not less than 48 hours after the day on which the board gives the lot owner the written warning by which the lot owner shall cure the violation.

(b) A board may assess a fine against a lot owner if:
   (i) within one year after the day on which the board gives the lot owner a written warning described in Subsection (2)(a), the lot owner commits another violation of the same rule or provision identified in the written warning; or
   (ii) for a continuing violation, the lot owner does not cure the violation within the time period that is stated in the written warning described in Subsection (2)(a).

(c) If permitted by the association’s governing documents, after the board assesses a fine against a lot owner under this section, the board may, without further warning under this Subsection (2), assess an additional fine against the lot owner each time the lot owner:
   (i) commits a violation of the same rule or provision within one year after the day on which the board assesses a fine for a violation of the same rule or provision; or
   (ii) allows a violation to continue for 10 days or longer after the day on which the board assesses the fine.

(3) A fine assessed under Subsection (1) shall:
   (a) be made only for a violation of a rule, covenant, condition, or restriction that is in the association’s governing documents;
   (b) be in the amount provided for in the association’s governing documents; and
   (c) accrue interest and late fees as provided in the association’s governing documents.

(4)
(a) A lot owner who is assessed a fine under Subsection (1) may request an informal hearing before the board to dispute the fine within 30 days after the day on which the lot owner receives notice that the fine is assessed.

(b) At a hearing described in Subsection (4)(a), the board shall:
   (i) provide the lot owner a reasonable opportunity to present the lot owner’s position to the board; and
   (ii) allow the lot owner, a board member, or any other person involved in the hearing to participate in the hearing by means of electronic communication.

(c) If a lot owner timely requests an informal hearing under Subsection (4)(a), no interest or late fees may accrue until after the board conducts the hearing and the lot owner receives a final decision.

(5) A lot owner may appeal a fine assessed under Subsection (1) by initiating a civil action within 180 days after:
   (a) if the lot owner timely requests an informal hearing under Subsection (4), the day on which the lot owner receives a final decision from the board; or
   (b) if the lot owner does not timely request an informal hearing under Subsection (4), the day on which the time to request an informal hearing under Subsection (4) expires.

(6)
(a) Subject to Subsection (6)(b), a board may delegate the board’s rights and
responsibilities under this section to a managing agent.
(b) A board may not delegate the board’s rights or responsibilities described in Subsection (4)(b).

(7) The provisions of this section apply to an association regardless of when the association is created.

Amended by Chapter 22, 2015 General Session

57-8a-209 Rental restrictions.

(1) Subject to Subsections (1)(b), (5), and (6), an association may:
   (a) create restrictions on the number and term of rentals in an association; or
   (b) 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 no less than two years;
      or
      (iv) 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; or
      (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 lot, occupies the lot; 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), 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)(a).

(6) Subsections (1) through (5) do not apply to:
   (a) an association that contains a time period unit as defined in Section 57-8-3;
(b) any other form of timeshare interest as defined in Section 57-19-2; or
(c) an association in which the initial declaration of covenants, conditions, and restrictions is
recorded before May 12, 2009, unless, on or after May 12, 2015, the association:
   (i) adopts a rental restriction or prohibition; or
   (ii) amends an existing rental restriction or prohibition.
(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.
(9) 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
the lot complies with the association’s declaration of covenants, conditions, and
restrictions.
(10) The provisions of Subsections (8) and (9) apply to an association regardless of when the
association is created.

Amended by Chapter 22, 2015 General Session
Amended by Chapter 258, 2015 General Session

57-8a-210 Lender approval -- Declaration amendments and association action.
(1) If a security holder’s consent is a condition for amending a declaration or bylaw, or for an
action of the association, then, subject to Subsection (4), the security holder’s consent is
presumed if:
   (a) written notice of the proposed amendment or action is sent by certified or registered
mail to the security holder’s address listed for receiving notice in the recorded trust deed or
other recorded document evidencing the security interest;
   (b) 60 days have passed after the day on which notice was mailed; and
   (c) the person designated for receipt of the response in the notice has not received a
written response from the security holder either consenting to or refusing to accept the
amendment or action.
(2) The provisions of Subsection (1) shall apply to:
   (a) an association formed before and after May 12, 2009; and
   (b) documents created and recorded before and after May 12, 2009.
(3) If, under Subsection (1), a security holder's address for receiving notice is not provided in the recorded documents evidencing the security interest, the association:
   (a) shall use reasonable efforts to find a mailing address for the security holder; and
   (b) may send the notice to any address obtained under Subsection (3)(a).

(4) If a security holder responds in writing within 60 days after the day on which a notice is mailed under Subsection (1), indicating that the security interest has been assigned or conveyed to another person, without any recorded document evidencing such a conveyance, the association:
   (a) may not presume the security holder's consent under Subsection (1); and
   (b) shall send a notice in accordance with Subsection (1) to the person assigned or conveyed the security interest.

(5) The association shall:
   (a) send a notice as described in Subsection (4)(b) to the person assigned or conveyed the interest at an address provided by the security holder under Subsection (4); or
   (b) if no address is provided, shall use reasonable efforts to find a mailing address for, and send notice to, the person assigned or conveyed the interest.

Enacted by Chapter 178, 2009 General Session

57-8a-211 Reserve analysis -- Reserve fund.

(1) As used in this section:
   (a) “Reserve analysis” means an analysis to determine:
       (i) the need for a reserve fund to accumulate reserve funds; and
       (ii) the appropriate amount of any reserve fund.
   (b) “Reserve fund line item” means the line item in an association’s annual budget that identifies the amount to be placed into a reserve fund.
   (c) “Reserve funds” means money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association.

(2) Except as otherwise provided in the governing documents, a board shall:
   (a) cause a reserve analysis to be conducted no less frequently than every six years; and
   (b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the board, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:
   (a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;
   (b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;
   (c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;
   (d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and
   (e) a reserve funding plan that recommends how the association may fund the annual contribution described in Subsection (4)(d).

(5) An association shall:
   (a) annually provide lot owners a summary of the most recent reserve analysis or update; and
   (b) provide a copy of the complete reserve analysis or update to a lot owner who requests a copy.

(6) In formulating its budget each year, an association shall include a reserve fund line item in:
(a) an amount the board determines, based on the reserve analysis, to be prudent; or
(b) an amount required by the governing documents, if the governing documents require an
amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association adopts its annual budget, the lot
owners may veto the reserve fund line item by a 51% vote of the allocated voting interests
in the association at a special meeting called by the lot owners for the purpose of voting
whether to veto a reserve fund line item.
(b) If the lot owners veto a reserve fund line item under Subsection (7)(a) and a reserve
fund line item exists in a previously approved annual budget of the association that was not
vetoed, the association shall fund the reserve account in accordance with that prior reserve
fund line item.

(8) (a) Subject to Subsection (8)(b), if an association does not comply with the requirements
described in Subsection (5), (6), or (7) and fails to remedy the noncompliance within the
time specified in Subsection (8)(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 (5), (6), or (7);
(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 (8)(a), the lot owner shall deliver written notice described in Subsection (8)(c)
to the association.
(c) A notice under Subsection (8)(b) shall state:
(i) the requirement in Subsection (5), (6), or (7) 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 shall remedy its noncompliance.
(d) In a case filed under Subsection (8)(a), a court may order an association to produce the
summary of the reserve analysis or the complete reserve analysis on an expedited basis
and at the association’s expense.

(9) (a) A board may not use money in a reserve fund:
(i) for daily maintenance expenses, unless a majority of association members vote to
approve the use of reserve fund money for that purpose; or
(ii) for any purpose other than the purpose for which the reserve fund was established.
(b) A board shall maintain a reserve fund separate from other association funds.
(c) This Subsection (9) may not be construed to limit a board from prudently investing
money in a reserve fund, subject to any investment constraints imposed by the governing
documents.

(10) Subsections (2) through (9) do not apply to an association during the period of
administrative control.
(11) For a project whose initial declaration of covenants, conditions, and restrictions is
recorded on or after May 12, 2015, during the period of administrative control, for any
property that the declarant sells to a third party, the declarant shall give the third party:
(a) a copy of the association’s governing documents; and
(b) a copy of the association’s most recent financial statement that includes any reserve
funds held by the association or by a subsidiary of the association.
(12) Except as otherwise provided in this section, this section applies to each association,
regardless of when the association was created.
Amended by Chapter 34, 2015 General Session
57-8a-212 Content of a declaration.
(1) An initial declaration recorded on or after May 10, 2011 shall contain:
   (a) the name of the project;
   (b) the name of the association;
   (c) a statement that the project is not a cooperative;
   (d) a statement indicating any portions of the project that contain condominiums governed by Chapter 8, Condominium Ownership Act;
   (e) if the declarant desires to reserve the option to expand the project, a statement reserving the option to expand the project;
   (f) the name of each county in which any part of the project is located;
   (g) a legally sufficient description of the real estate included in the project;
   (h) a description of any limited common areas and any real estate that is or is required to become common areas;
   (i) any restriction on the alienation of a lot, including a restriction on leasing; and
   (j)
      (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
      and
      (ii) the following statement: “The declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to (name of trustee), with power of sale, the lot and all improvements to the lot for the purpose of securing payment of assessments under the terms of the declaration.”
(2) A declaration may contain any other information the declarant considers appropriate, including any restriction on the use of a lot, the number of persons who may occupy a lot, or other qualifications of a person who may occupy a lot.
(3) The location of a limited common area or real estate described in Subsection (1)(g) may be shown on a subdivision plat.
Amended by Chapter 152, 2013 General Session

57-8a-213 Board action to enforce governing documents -- Parameters.
(1) The board shall use its reasonable judgment to determine whether to exercise the association’s powers to impose sanctions or pursue legal action for a violation of the governing documents, including:
   (i) whether to compromise a claim made by or against the board or the association; and
   (ii) whether to pursue a claim for an unpaid assessment.
(b) The association may not be required to take enforcement action if the board determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances:
   (i) the association’s legal position does not justify taking any or further enforcement action;
   (ii) the covenant, restriction, or rule in the governing documents is likely to be construed as inconsistent with current law;
   (iii)
      (A) a technical violation has or may have occurred; and
      (B) the violation is not material as to a reasonable person or does not justify expending the association’s resources; or
   (iv) it is not in the association’s best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.
(2) Subject to Subsection (3), if the board decides under Subsection (1)(b) to forego enforcement, the association is not prevented from later taking enforcement action.
(3) The board may not be arbitrary, capricious, or against public policy in taking or not taking enforcement action.
(4) This section does not govern whether the association’s action in enforcing a provision of the governing documents constitutes a waiver or modification of that provision.
57-8a-214 Fair and reasonable notice.
(1) Notice that an association provides by a method allowed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, constitutes fair and reasonable notice, regardless of whether or not the association is a nonprofit corporation.
(2) Notice that an association provides by a method not referred to in Subsection (1) constitutes fair and reasonable notice if:
   (a) the method is authorized in the declaration, articles, bylaws, or rules; and
   (b) considering all the circumstances, the notice is fair and reasonable.
(3)
   (a) If provided in the declaration, articles, bylaws, or rules, an association may provide notice by electronic means, including text message, email, or the association’s website.
   (b) Notwithstanding Subsection (3)(a), a lot owner may, by written demand, require an association to provide notice to the lot owner by mail.

57-8a-215 Budget.
(1) At least annually the board shall prepare and adopt a budget for the association.
(2) The board shall present the adopted budget to association members at a meeting of the members.
(3) A budget is disapproved if within 45 days after the date of the meeting under Subsection (2) at which the board presents the adopted budget:
   (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and
   (b) the vote is taken at a special meeting called for that purpose by lot owners under the declaration, articles, or bylaws.
(4) If a budget is disapproved under Subsection (3), the budget that the board last adopted that was not disapproved by members continues as the budget until and unless the board presents another budget to members and that budget is not disapproved.
(5) During the period of administrative control, association members may not disapprove a budget.

57-8a-216 Association bylaws -- Recording required -- Bylaw requirements.
(1)
   (a) No later than the date of the first lot sale, an association shall file its bylaws for recording in the office of the recorder of each county in which any part of the real estate included within the association is located.
   (b) If an association fails to file bylaws for recording within the time specified in Subsection (1)(a), the board may file the bylaws for recording as provided in Subsection (1)(a).
(2) Unless otherwise provided in the declaration, an association’s bylaws shall state:
   (a) the number of board members;
   (b) the title of each of the association’s officers;
   (c) the manner and method of officer election by the board or, if the declaration requires, by the lot owners;
   (d)
      (i) the board member’s and officer’s:
         (A) qualifications;
         (B) powers and duties; and
         (C) terms of office;
      (ii) the method for removing a board member or officer; and
      (iii) the method for filling a board member or officer vacancy;
   (e) the powers that the board or officers may delegate to other persons or to a managing agent;
   (f) the officers who may prepare, execute, certify, and record amendments to the
declaration on behalf of the association;
(g) a method for the board or lot owners to amend the bylaws, consistent with Section 16-6a-1010; and
(h) subject to the provisions of the declaration and unless the declaration or this chapter requires that a provision appear in a declaration, any other matter that is necessary or appropriate for conducting the affairs of the association, including:
   (i) meetings;
   (ii) voting requirements; and
   (iii) quorum requirements.

(3) An association shall file any amended bylaws for recording in the same manner as the association is required to file the initial bylaws for recording under Subsection (1).

Enacted by Chapter 355, 2011 General Session

57-8a-217 Association rules, including design criteria -- Requirements and limitations relating to board’s action on rules and design criteria -- Vote of disapproval.

(1)
(a) Subject to Subsection (1)(b), a board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the rules and design criteria of the association.
(b) A board’s action under Subsection (1)(a) is subject to:
   (i) this section;
   (ii) any limitation that the declaration imposes on the authority stated in Subsection (1)(a);
   (iii) the limitation on rules in Sections 57-8a-218 and 57-8a-219;
   (iv) the board’s duty to exercise business judgment on behalf of:
      (A) the association; and
      (B) the lot owners in the association; and
   (v) the right of the lot owners or declarant to disapprove the action under Subsection (4).

(2) Except as provided in Subsection (3), before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules and design criteria of the association, the board shall:
   (a) at least 15 days before the board will meet to consider a change to a rule or design criterion, deliver notice to lot owners, as provided in Section 57-8a-214, that the board is considering a change to a rule or design criterion;
   (b) provide an open forum at the board meeting giving lot owners an opportunity to be heard at the board meeting before the board takes action under Subsection (1)(a); and
   (c) deliver a copy of the change in the rules or design criteria approved by the board to the lot owners as provided in Section 57-8a-214 within 15 days after the date of the board meeting.

(3)
(a) Subject to Subsection (3)(b), a board may adopt a rule without first giving notice to the lot owners under Subsection (2) if there is an imminent risk of harm to a common area, a limited common area, a lot owner, an occupant of a lot, a lot, or a dwelling.
(b) The board shall provide notice under Subsection (2) to the lot owners of a rule adopted under Subsection (3)(a).

(4) A board action in accordance with Subsections (1), (2), and (3) is disapproved if within 60 days after the date of the board meeting where the action was taken:
   (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and
   (ii) the vote is taken at a special meeting called for that purpose by the lot owners under the declaration, articles, or bylaws; or
   (b) the declarant delivers to the board a writing of disapproval; and
(ii)  
(A) the declarant is within the period of administrative control; or  
(B) for an expandable project, the declarant has the right to add real estate to the project.

(5)  
(a) The board has no obligation to call a meeting of the lot owners to consider disapproval, unless lot owners submit a petition, in the same manner as the declaration, articles, or bylaws provide for a special meeting, for the meeting to be held.  
(b) Upon the board receiving a petition under Subsection (5)(a), the effect of the board’s action is:  
   (i) stayed until after the meeting is held; and  
   (ii) subject to the outcome of the meeting.

(6) During the period of administrative control, a declarant may exempt the declarant from association rules and the rulemaking procedure under this section if the declaration reserves to the declarant the right to exempt the declarant.

Amended by Chapter 325, 2015 General Session

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

(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:  
   (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, charge a rental lot owner a fee to use the common areas; 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 religious and holiday signs, symbols, and decorations inside a dwelling on a lot.  
(b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

(4)  
(a) A rule may not regulate the content of political signs.  
(b) Notwithstanding Subsection (4)(a):  
   (i) a rule may regulate the time, place, and manner of posting a political sign; and  
   (ii) an association design provision may establish design criteria for political signs.

(5)  
(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 (5)(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.

(6)
(a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.
(b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot 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 (6)(b) that affect the use of or behavior inside the dwelling.

(7)
(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 (7)(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 (7) 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.

(8)
(a) Subject to Subsection (8)(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.

(9)
(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 (9)(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 (9)(a).

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) A rule shall be reasonable.

(15) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

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

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

Amended by Chapter 22, 2015 General Session

57-8a-219 Display of the flag.

(1) An association may not prohibit a lot owner from displaying a United States flag inside a dwelling or limited common area or on a lot, if the display complies with United States Code, Title 4, Chapter 1, The Flag.

(2) An association may restrict the display of a flag on the common areas.

Enacted by Chapter 355, 2011 General Session

57-8a-220 Creditor approval may be required for lot owner or association action under declaration -- Creditor approval presumed in certain circumstances -- Notice to creditor or creditor’s successor.

(1)
(a) Subject to Subsection (1)(b), a declaration may:
   (i) condition the effectiveness of lot owners’ actions specified in the declaration on the approval of a specified number or percentage of lenders holding a security interest in the lots; or
   (ii) condition the effectiveness of association actions specified in the declaration on the approval of a specified number or percentage of lenders that have extended credit to the association.

(b) A condition under Subsection (1)(a) may not:
   (i) deny or delegate the lot owners’ or board’s control over the association’s general administrative affairs;
   (ii) prevent the association or board from commencing, intervening in, or settling any litigation or proceeding; or
   (iii) prevent an insurance trustee or the association from receiving or distributing insurance proceeds under Subsection 57-8a-405(11).

(c) A condition under Subsection (1)(a) does not violate a prohibition under Subsection (1)(b) by:
   (i) requiring the association to deposit the association’s assessments before default with the lender assigned the income; or
   (ii) requiring the association to increase an assessment at the lender’s direction by an amount reasonably necessary to pay the loan in accordance with the loan terms.

(d) This Subsection (1) applies to:
   (i) an association formed before, on, or after May 10, 2011; and
documents created and recorded before, on, or after May 10, 2011.

(2) Subject to this chapter and applicable law, a lender who has extended credit to an association secured by an assignment of income or an encumbrance of the common areas may enforce the lender’s security agreement as provided in the agreement.

(3)
(a) Subject to Subsection (4), a security holder’s consent that is required under Subsection (1) to amend a declaration or bylaw or for another association action is presumed if:
(i) the association sends written notice of the proposed amendment or action by certified or registered mail to the security holder’s address stated in a recorded document evidencing the security interest; and
(ii) the person designated in a notice under Subsection (3)(a)(i) to receive the security holder’s response does not receive a response within 60 days after the association sends notice under Subsection (3)(a)(i).

(b) If a security holder’s address for receiving notice is not stated in a recorded document evidencing the security interest, an association:
(i) shall use reasonable efforts to find a mailing address for the security holder; and
(ii) may send the notice to any address obtained under Subsection (3)(b)(i).

(4) If a security holder responds in writing within 60 days after the association sends notice under Subsection (3)(a)(i) that the security interest has been assigned or conveyed to another person, the association:
(a) shall:
(i) send a notice under Subsection (3)(a)(i) to the person assigned or conveyed the security interest at the address provided by the security holder in the security holder’s response; or
(ii) if no address is provided:
(A) use reasonable efforts to find a mailing address for the person assigned or conveyed the security interest; and
(B) send notice by certified or registered mail to the person at the address that the association finds under Subsection (4)(a)(ii)(A); and
(b) may not presume the security holder’s consent under Subsection (3)(a) unless the person designated in a notice under Subsection (4)(a) to receive the response from the person assigned or conveyed the security interest does not receive a response within 60 days after the association sends the notice.

Amended by Chapter 152, 2013 General Session

57-8a-221 Reincorporation of terminated or dissolved association.
(1) An association that is terminated or dissolved without possibility of reinstatement under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, may be reincorporated by the acting directors of the association refiling articles of incorporation that are substantially similar to the articles of incorporation, as amended, in existence at the time of termination or dissolution.

(2) Upon the association’s reincorporation under Subsection (1):
(a) the board of directors shall readopt bylaws for the association that are the same as the bylaws that were in existence at the time of termination or dissolution; and
(b) all lot owners within the project are members of the reincorporated association.

Enacted by Chapter 355, 2011 General Session

57-8a-222 Removing or altering partition or creating aperture between dwelling units on adjoining lots.
(1) Subject to the declaration, a lot owner may, after acquiring an adjoining lot with a dwelling unit that shares a common wall with a dwelling unit on the lot owner’s lot:
(a) remove or alter a partition between the lot owner’s lot and the acquired lot, even if the partition is entirely or partly common areas; or
(b) create an aperture to the adjoining lot or portion.

(2) A lot owner may not take an action under Subsection (1) if the action would:
(a) impair the structural integrity or mechanical systems of the building or either lot;
(b) reduce the support of any portion of the common areas or another lot; or
(c) constitute a violation of Section 10-9a-608 or 17-27a-608, as applicable, a local
government land use ordinance, or a building code.
(3) The board may require a lot owner to submit, at the lot owner’s expense, a registered
professional engineer’s or registered architect’s opinion stating that a proposed change to the
lot owner’s lot will not:
(a) impair the structural integrity or mechanical systems of the building or either lot;
(b) reduce the support or integrity of common areas; or
(c) compromise structural components.
(4) The board may require a lot owner to pay all of the association’s legal and other expenses
related to a proposed alteration to the lot or building under this section.
(5) An action under Subsection (1) does not change an assessment or voting right attributable
to the lot owner’s lot or the acquired lot, unless the declaration provides otherwise.
Enacted by Chapter 152, 2013 General Session

57-8a-223 Eminent domain -- Common area.

Unless the declaration provides otherwise:
(1) if part of the common area is taken by eminent domain:
(a) the entity taking part of the common area shall pay to the association the portion of the
compensation awarded for the taking that is attributable to the common area; and
(b) the association shall equally divide any portion of the award attributable to the taking of
a limited common area among the owners of the lots to which the limited common area was
allocated at the time of the taking; and
(2) an association shall submit for recording to each applicable county recorder the court
judgment or order in an eminent domain action that results in the taking of some or all of the
common area.
Enacted by Chapter 152, 2013 General Session

57-8a-224 Responsibility for the maintenance, repair, and replacement of common
areas and lots.

(1) As used in this section:
(a) “Emergency repair” means a repair that, if not made in a timely manner, will likely
result in immediate and substantial damage to a common area or to another lot.
(b) “Reasonable notice” means:
   (i) written notice that is hand delivered to the lot at least 24 hours before the proposed
       entry; or
   (ii) in the case of an emergency repair, notice that is reasonable under the
circumstances.
(2) Except as otherwise provided in the declaration or Part 4, Insurance:
(a) an association is responsible for the maintenance, repair, and replacement of common
areas; and
(b) a lot owner is responsible for the maintenance, repair, and replacement of the lot
owner’s lot.
(3) After reasonable notice to the occupant of the lot being entered, the board may access a
lot:
(a) from time to time during reasonable hours, as necessary for the maintenance, repair, or
replacement of any of the common areas; or
(b) for making an emergency repair.
(4)
(a) An association is liable to repair damage it causes to the common areas or to a lot the
association uses to access the common areas.
(b) An association shall repair damage described in Subsection (4)(a) within a time that is
reasonable under the circumstances.
(5) Subsections (2), (3), and (4) do not apply during the period of administrative control.
57-8a-225 Association’s right to pay delinquent utilities.
(1) Upon request in accordance with Subsection (2), at least 10 days before the day on which an electrical corporation or a gas corporation discontinues service to a lot, the electrical corporation or gas corporation shall give the association:
   (a) written notice that the electrical corporation or gas corporation will discontinue service to the lot; and
   (b) an opportunity to pay any delinquent charges and maintain service to the lot.
(2) An association may request the notice and opportunity to pay described in Subsection (1) by sending a written request to the electrical corporation or gas corporation that includes:
   (a) the address of each lot in the association;
   (b) the association’s name, mailing address, phone number, and email address; and
   (c) the address where the electrical corporation or gas corporation may send notices.
(3) If, after an electrical corporation or a gas corporation sends a written notice described in Subsection (1) to an association and the association does not pay the delinquent charges within 10 days after the day on which the electrical corporation or gas corporation sends the notice, the electrical corporation or gas corporation may discontinue service to the lot.
(4) An association may collect any payment to an electrical corporation or a gas corporation under this section as an assessment in accordance with Section 57-8a-301.
(5)
   (a) If, after an association receives a written notice described in Subsection (1), the association decides not to pay the delinquent charges, the association may, if permitted by the association’s governing documents, and after reasonable notice to the lot owner:
      (i) enter the lot; and
      (ii) winterize the lot.
   (b) A person who enters a lot in accordance with Subsection (5)(a) is not liable for trespass.
   (c) An association may charge a lot owner an assessment for the actual and reasonable costs of winterizing a lot in accordance with this Subsection (5).

57-8a-226 Board meetings -- Open meetings.
(1)
   (a) At least 48 hours before a meeting, the association shall give written notice of the meeting via email to each lot owner who requests notice of a meeting, unless:
      (i) notice of the meeting is included in a meeting schedule that was previously provided to the lot owner; or
      (ii) (A) the meeting is to address an emergency; and
           (B) each board member receives notice of the meeting less than 48 hours before the meeting.
   (b) A notice described in Subsection (1)(a) shall:
      (i) be delivered to the lot owner by email, to the email address that the lot owner provides to the board or the association;
      (ii) state the time and date of the meeting;
      (iii) state the location of the meeting; and
      (iv) if a board member may participate by means of electronic communication, provide the information necessary to allow the lot owner to participate by the available means of electronic communication.
(2)
   (a) Except as provided in Subsection (2)(b), a meeting shall be open to each lot owner or the lot owner’s representative if the representative is designated in writing.
   (b) A board may close a meeting to:
(i) consult with an attorney for the purpose of obtaining legal advice;
(ii) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings;
(iii) discuss a personnel matter;
(iv) discuss a matter relating to contract negotiations, including review of a bid or proposal;
(v) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual’s reasonable expectation of privacy; or
(vi) discuss a delinquent assessment or fine.

(3)
(a) At each meeting, the board shall provide each lot owner a reasonable opportunity to offer comments.
(b) The board may limit the comments described in Subsection (3)(a) to one specific time period during the meeting.

(4) A board member may not avoid or obstruct the requirements of this section.

(5) Nothing in this section shall affect the validity or enforceability of an action of a board.

(6) The provisions of this section do not apply during the period of administrative control.

(7) The provisions of this section apply regardless of when the association’s first governing document was recorded.

(8)
(a) Subject to Subsection (8)(d), if an association fails to comply with a provision of Subsections (1) through (4) and fails to remedy the noncompliance during the 90-day period described in Subsection (8)(d), a lot owner may file an action in court for:
   (i) injunctive relief requiring the association to comply with the provisions of Subsections (1) through (4);
   (ii) $500 or actual damages, whichever is greater; or
   (iii) any other relief provided by law.
(b) In an action described in Subsection (8)(a), the court may award costs and reasonable attorney fees to the prevailing party.
(c) Upon motion from the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association has failed to comply with a provision of Subsections (1) through (4), the court may order the association to immediately comply with the provisions of Subsections (1) through (4).
(d) At least 90 days before the day on which a lot owner files an action described in Subsection (8)(a), the lot owner shall deliver a written notice to the association that states:
   (i) the lot owner’s name, address, telephone number, and email address;
   (ii) each requirement of Subsections (1) through (4) with which the association has failed to comply;
   (iii) a demand that the association comply with each requirement with which the association has failed to comply; and
   (iv) a date by which the association shall remedy the association’s noncompliance that is at least 90 days after the day on which the lot owner delivers the notice to the association.

Enacted by Chapter 387, 2015 General Session

57-8a-227 Records -- Availability for examination.

(1)
(a) Subject to Subsection (1)(b), an association shall keep and make documents available to lot owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610, regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
(b) An association may redact the following information from any document the association produces for inspection or copying:
(i) a Social Security number;
(ii) a bank account number; or
(iii) any communication subject to attorney-client privilege.

(2)
(a) In addition to the requirements described in Subsection (1), an association shall make documents available to lot owners in accordance with the association’s governing documents.
(b) If a provision of an association’s governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a request to inspect or copy documents, a lot owner may:
(a) elect whether to inspect or copy the documents;
(b) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or
(c) subject to Subsection (4), request that:
   (i) the association make the copies or electronic scans of the requested documents;
   (ii) a recognized third party duplicating service make the copies or electronic scans of the requested documents; or
   (iii) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents.

(4)
(a) An association shall comply with a request described in Subsection (3).
(b) If an association produces the copies or electronic scans:
   (i) the copies or electronic scans shall be legible and accurate; and
   (ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans, which may not exceed:
      (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
      (B) if an employee, manager, or other agent of the association makes the copies or electronic scans, 10 cents per page and $15 per hour for the employee’s, manager’s, or other agent’s time making the copies or electronic scans.
(c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
   (i) the association shall arrange for the delivery and pick up of the original documents; and
   (ii) the lot owner shall pay the duplicating service directly.
(d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a lot owner’s request to inspect or copy documents, an association fails to comply with a provision of this section, the association shall pay:
(a) the reasonable costs of inspecting and copying the requested documents; and
(b) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.

(6)
(a) In addition to any remedy in the association’s governing documents or otherwise provided by law, a lot owner may file an action in court under this section if:
   (i) an association fails to make documents available to the lot owner in accordance with this section, the association’s governing documents, or as otherwise provided by law; and
   (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
(b) In an action described in Subsection (6)(a):
   (i) the lot owner may request:
      (A) injunctive relief requiring the association to comply with the provisions of this section;
(B) $500 or actual damage, whichever is greater; or
(C) any other relief provided by law; and
(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c)
(i) In an action described in Subsection (6)(a), upon motion by the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.
(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.

(d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:
   (i) the lot owner’s name, address, telephone number, and email address;
   (ii) each requirement of this section with which the association has failed to comply;
   (iii) a demand that the association comply with each requirement with which the association has failed to comply; and
   (iv) a date by which the association shall remedy the association’s noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.

(7)
(a) The provisions of Section 16-6a-1604 do not apply to an association.
(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
(8) A lot owner’s agent may, on the lot owner’s behalf, exercise or assert any right that the lot owner has under this section.

Enacted by Chapter 325, 2015 General Session

Part 3  Collection of Assessments

57-8a-301 Lien in favor of association for assessments and costs of collection.

(1)
(a) Except as provided in Section 57-8a-105, an association has a lien on a lot for:
   (i) an assessment;
   (ii) except as provided in the declaration, fees, charges, and costs associated with collecting an unpaid assessment, including:
      (A) court costs and reasonable attorney fees;
      (B) late charges;
      (C) interest; and
      (D) any other amount that the association is entitled to recover under the declaration, this chapter, or an administrative or judicial decision; and
   (iii) a fine that the association imposes against a lot owner in accordance with Section 57-8a-208, if:
      (A) the time for appeal described in Subsection 57-8a-208(5) has expired and the lot owner did not file an appeal; or
      (B) the lot owner timely filed an appeal under Subsection 57-8a-208(5) and the district court issued a final order upholding a fine imposed under Subsection 57-8a-208(1).

(b) The recording of a declaration constitutes record notice and perfection of a lien described in Subsection (1)(a).
(2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i) is for the full amount of the assessment from the time the first installment is due, unless the association otherwise provides in a notice of assessment.
(3) An unpaid assessment or fine accrues interest at the rate provided:
   (a) in Subsection 15-1-1(2); or
(b) in the declaration, if the declaration provides for a different interest rate.

(4) A lien under this section has priority over each other lien and encumbrance on a lot except:
   (a) a lien or encumbrance recorded before the declaration is recorded;
   (b) a first or second security interest on the lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the association; or
   (c) a lien for real estate taxes or other governmental assessments or charges against the lot.

(5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

(6) Unless the declaration provides otherwise, if two or more associations have liens for assessments on the same lot, the liens have equal priority, regardless of when the liens are created.

Amended by Chapter 116, 2014 General Session

57-8a-302 Enforcement of a lien.

(1)
   (a) Except as provided in Section 57-8a-105, to enforce a lien established under Section 57-8a-301, an association may:
      (i) cause a lot to be sold through nonjudicial foreclosure as though the lien were a deed of trust, in the manner provided by:
         (A) Sections 57-1-24, 57-1-25, 57-1-26, and 57-1-27; and
         (B) this part; or
      (ii) foreclose the lien through a judicial foreclosure in the manner provided by:
         (A) law for the foreclosure of a mortgage; and
         (B) this part.
   (b) For purposes of a nonjudicial or judicial foreclosure as provided in Subsection (1)(a):
      (i) the association is considered to be the beneficiary under a trust deed; and
      (ii) the lot owner is considered to be the trustor under a trust deed.

(2) A lot owner's acceptance of the owner's interest in a lot constitutes a simultaneous conveyance of the lot in trust, with power of sale, to the trustee designated as provided in this section for the purpose of securing payment of all amounts due under the declaration and this chapter.

(3)
   (a) A power of sale and other powers of a trustee under this part and under Sections 57-1-19 through 57-1-34 may not be exercised unless the association appoints a qualified trustee.
   (b) An association's execution of a substitution of trustee form authorized in Section 57-1-22 is sufficient for appointment of a trustee under Subsection (3)(a).
   (c) A person may not be a trustee under this part unless the person qualifies as a trustee under Subsection 57-1-21(1)(a)(i) or (iv).
   (d) A trustee under this part is subject to all duties imposed on a trustee under Sections 57-1-19 through 57-1-34.

(4) This part does not prohibit an association from bringing an action against a lot owner to recover an amount for which a lien is created under Section 57-8a-301 or from taking a deed in lieu of foreclosure, if the action is brought or deed taken before the sale or foreclosure of the lot owner's lot under this part.

Amended by Chapter 95, 2013 General Session

57-8a-303 Notice of nonjudicial foreclosure -- Nonjudicial foreclosure prohibited if unit owner demands judicial foreclosure.

(1) At least 30 calendar days before initiating a nonjudicial foreclosure, an association shall provide notice to the owner of the lot that is the intended subject of the nonjudicial foreclosure.

(2) The notice under Subsection (1):
(a) shall:
(i) notify the lot owner that the association intends to pursue nonjudicial foreclosure with respect to the owner’s lot to enforce the association’s lien for an unpaid assessment;
(ii) notify the lot owner of the owner’s right to demand judicial foreclosure in the place of nonjudicial foreclosure;
(iii) be in substantially the following form:

“NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The (insert the name of the association), the association for the project in which your lot is located, intends to foreclose upon your lot and allocated interest in the common areas using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association’s lien against your lot and to collect the amount of an unpaid assessment against your lot, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that ‘I demand a judicial foreclosure proceeding upon my lot,’ or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is (insert the association’s address for receipt of a demand).”; and
(iv) be sent to the lot owner by certified mail, return receipt requested; and
(b) may be included with other association correspondence to the lot owner.

(3) An association may not use a nonjudicial foreclosure to enforce a lien if the lot owner mails the association a written demand for judicial foreclosure:
(a) by U.S. mail, certified with a return receipt requested;
(b) to the address stated in the association’s notice under Subsection (1); and
(c) within 15 days after the date of the postmark on the envelope of the association’s notice under Subsection (1).

Enacted by Chapter 355, 2011 General Session

57-8a-304 Provisions applicable to nonjudicial foreclosure.

(1) An association’s nonjudicial foreclosure of a lot is governed by:
(a) Sections 57-1-19 through 57-1-34, to the same extent as though the association’s lien were a trust deed; and
(b) this part.

(2) If there is a conflict between a provision of this part and a provision of Sections 57-1-19 through 57-1-34 with respect to an association’s nonjudicial foreclosure of a lot, the provision of this part controls.

Enacted by Chapter 355, 2011 General Session

57-8a-305 One-action rule not applicable -- Abandonment of enforcement proceeding.

(1) Subsection 78B-6-901(1) does not apply to an association’s judicial or nonjudicial foreclosure of a lot under this part.

(2) An association may abandon a judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale and initiate a separate action or another judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale if the initial judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale is not complete.

Enacted by Chapter 355, 2011 General Session

57-8a-306 Costs and attorney fees in lien enforcement action.
(1) A court entering a judgment or decree in a judicial action brought under this part shall award the prevailing party its costs and reasonable attorney fees incurred before the judgment or decree and, if the association is the prevailing party, any costs and reasonable attorney fees that the association incurs collecting the judgment.
(2) In a nonjudicial foreclosure, an association may include in the amount due, and may collect, all costs and reasonable attorney fees incurred in collecting the amount due, including the costs of preparing, recording, and foreclosing a lien.

Enacted by Chapter 355, 2011 General Session

**57-8a-307 Action to recover unpaid assessment.**

An association need not pursue a judicial foreclosure or nonjudicial foreclosure to collect an unpaid assessment but may file an action to recover a money judgment for the unpaid assessment without waiving the lien under Section 57-8a-301.

Enacted by Chapter 355, 2011 General Session

**57-8a-308 Appointment of receiver.**

In an action by an association to collect an assessment or to foreclose a lien for an unpaid assessment, a court may:
(1) appoint a receiver, in accordance with Section 7-2-9, to collect and hold money alleged to be due and owing to a lot owner:
   (a) before commencement of the action; or
   (b) during the pendency of the action; and
(2) order the receiver to pay the association, to the extent of the association’s common expense assessment, money the receiver holds under Subsection (1).

Enacted by Chapter 355, 2011 General Session

**57-8a-309 Termination of a delinquent owner’s rights -- Notice -- Informal hearing.**

(1) As used in this section, “delinquent lot owner” means a lot owner who fails to pay an assessment when due.
(2) A board may, if authorized in the declaration, bylaws, or rules and as provided in this section, terminate a delinquent lot owner’s right:
   (a) to receive a utility service for which the lot owner pays as a common expense; or
   (b) of access to and use of recreational facilities.
(3) Before terminating a utility service or right of access to and use of recreational facilities under Subsection (2), the manager or board shall give the delinquent lot owner notice in a manner provided in the declaration, bylaws, or association rules.
(4) A notice under Subsection (3)(a) shall state:
   (i) A notice under Subsection (3)(a) shall state:
      (A) that the association will terminate the lot owner’s utility service or right of access to and use of recreational facilities, or both, if the association does not receive payment of the assessment within the time provided in the declaration, bylaws, or association rules, subject to Subsection (3)(b)(ii);
      (B) the amount of the assessment due, including any interest or late payment fee; and
      (C) the lot owner’s right to request a hearing under Subsection (4).
   (ii) The time provided under Subsection (3)(b)(i)(A) may not be less than 14 days.
   (iii) A notice under Subsection (3)(a) may include the estimated cost to reinstate a utility service if service is terminated.
(4) A delinquent lot owner may submit a written request to the board for an informal hearing to dispute the assessment.
(5) A request under Subsection (4)(a) shall be submitted within 14 days after the date the delinquent lot owner receives the notice under Subsection (3).
(6) A board shall conduct an informal hearing requested under Subsection (4) in accordance with the standards provided in the declaration, bylaws, or association rules.
(6) If a delinquent lot owner requests a hearing, the association may not terminate a utility
service or right of access to and use of recreational facilities until after the board:
(a) conducts the hearing; and
(b) enters a final decision.

(7) If an association terminates a utility service or a right of access to and use of recreational facilities, the association shall take immediate action to reinstate the service or right following the lot owner’s payment of the assessment, including any interest and late payment fee.

(8) An association may:
(a) assess a lot owner for the cost associated with reinstating a utility service that the association terminates as provided in this section; and
(b) demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in a notice under Subsection (3).

Enacted by Chapter 355, 2011 General Session

57-8a-310 Requiring tenant in residential lot to pay rent to association if owner fails to pay assessment.

(1) As used in this section:
(a) "Amount owing" means the total of:

(i) any assessment or obligation under Section 57-8a-301 that is due and owing; and

(ii) any applicable interest, late fee, and cost of collection.

(b) "Lease" means an arrangement under which a tenant occupies a lot owner’s lot in exchange for the lot owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument.

(c) "Tenant" means a person, other than the lot owner, who has regular, exclusive occupancy of the lot owner’s lot.

(2) Subject to Subsections (3) and (4), the board may require a tenant under a lease with a lot owner to pay the association all future lease payments due to the lot owner:
(a) if:

(i) the lot owner fails to pay an assessment for a period of more than 60 days after the assessment is due and payable; and

(ii) authorized in the declaration, bylaws, or rules;

(b) beginning with the next monthly or periodic payment due from the tenant; and

(c) until the association is paid the amount owing.

(3)
(a) Before requiring a tenant to pay lease payments to the association under Subsection (2), the association’s manager or board shall give the lot owner notice, in accordance with the declaration, bylaws, or association rules.

(b) The notice required under Subsection (3)(a) shall state:

(i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees;

(ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of lease payments; and

(iii) that the association intends to demand payment of future lease payments from the lot owner’s tenant if the lot owner does not pay the amount owing within 15 days.

(4)
(a) If a lot owner fails to pay the amount owing within 15 days after the association’s manager or board gives the lot owner notice under Subsection (3), the association’s manager or board may exercise the association’s rights under Subsection (2) by delivering a written notice to the tenant.

(b) A notice under Subsection (4)(a) shall state that:

(i) due to the lot owner’s failure to pay an assessment within the required time, the board has notified the lot owner of the board’s intent to collect all lease payments until the amount owing is paid;

(ii) the law requires the tenant to make all future lease payments, beginning with the
next monthly or other periodic payment, to the association, until the amount owing is paid; and
(iii) the tenant’s payment of lease payments to the association does not constitute a
default under the terms of the lease with the lot owner.
(c) The manager or board shall mail a copy of the notice to the lot owner.

(5)
(a) A tenant to whom notice under Subsection (4) is given shall pay to the association all
future lease payments as they become due and owing to the lot owner:
(i) beginning with the next monthly or other periodic payment after the notice under
Subsection (4) is delivered to the tenant; and
(ii) until the association notifies the tenant under Subsection (6) that the amount owing is
paid.
(b) A lot owner:
(i) shall credit each payment that the tenant makes to the association under this section
against any obligation that the tenant owes to the owner as though the tenant made the
payment to the owner; and
(ii) may not initiate a suit or other action against a tenant for failure to make a lease
payment that the tenant pays to an association as required under this section.

(6)
(a) Within five business days after the amount owing is paid, the association’s manager or
board shall notify the tenant in writing that the tenant is no longer required to pay future
lease payments to the association.
(b) The manager or board shall mail a copy of the notification described in Subsection
(6)(a) to the lot owner.

(7)
(a) An association shall deposit money paid to the association under this section in a
separate account and disburse that money to the association until:
(i) the amount owing is paid; and
(ii) any cost of administration, not to exceed $25, is paid.
(b) The association shall, within five business days after the amount owing is paid, pay to
the lot owner any remaining balance.

Enacted by Chapter 355, 2011 General Session

57-8a-311 Statement from association’s manager or board of unpaid assessment.
(1) An association’s manager or board shall issue a written statement indicating any unpaid
assessment with respect to a lot owner’s lot upon:
(a) a written request by the lot owner; and
(b) payment of a reasonable fee not to exceed $25.
(2) A written statement under Subsection (1) is conclusive in favor of a person who relies on
the written statement in good faith.

Enacted by Chapter 355, 2011 General Session

Part 4 Insurance

57-8a-401 Definition.
As used in this part, “reasonably available” means available using typical insurance
carriers and markets, irrespective of the ability of the association to pay.

Enacted by Chapter 355, 2011 General Session

57-8a-402 Applicability of part.
(1) This part applies to an insurance policy or combination of insurance policies:
(a) issued or renewed on or after July 1, 2011; and
(b) issued to or renewed by:
(i) a lot owner; or
(ii) an association, regardless of when the association is formed.
(2) Unless otherwise provided in the declaration, this part does not apply to a project if all of
the project’s lots are restricted to entirely nonresidential use.
(3) Subject to Subsection (4), this part does not apply to a project if:
   (a) the initial declaration for the project is recorded before January 1, 2012;
   (b) the project includes attached dwellings; and
   (c) the declaration requires each lot owner to insure the lot owner's dwelling.

(4)
   (a) An association to which this part does not apply under Subsection (3) may amend the
declaration, as provided in the declaration and applicable law, to subject the association to
this part.
   (b) During the period of administrative control, an amendment under Subsection (4)(a)
requires the consent of the declarant.

Amended by Chapter 152, 2013 General Session

57-8a-403 Property and liability insurance required -- Notice if insurance not
reasonably available.
(1) Beginning not later than the day on which the first lot is conveyed to a person other than
a declarant, an association shall maintain, to the extent reasonably available:
   (a) subject to Section 57-8a-405, blanket property insurance or guaranteed replacement
cost insurance on the physical structure of all attached dwellings, limited common areas
appurtenant to a dwelling on a lot, and common areas in the project, insuring against all
risks of direct physical loss commonly insured against, including fire and extended coverage
perils; and
   (b) subject to Section 57-8a-406, liability insurance covering all occurrences commonly
insured against for death, bodily injury, and property damage arising out of or in connection
with the use, ownership, or maintenance of the common areas.
(2) If an association becomes aware that property insurance under Subsection (1)(a) or
liability insurance under Subsection (1)(b) is not reasonably available, the association sha
ll, within seven calendar days after becoming aware, give all lot owners notice, as provided in
Section 57-8a-214, that the insurance is not reasonably available.

Amended by Chapter 152, 2013 General Session

57-8a-404 Other and additional insurance -- Limit on effect of lot owner act or
omission -- Insurer's subrogation waiver -- Inconsistent provisions.
(1)
   (a) The declaration or bylaws may require the association to carry other types of insurance
in addition to those described in Section 57-8a-403.
   (b) In addition to any type of insurance coverage or limit of coverage provided in the
declaration or bylaws and subject to the requirements of this part, an association may, as
the board considers appropriate, obtain:
       (i) an additional type of insurance than otherwise required; or
       (ii) a policy with greater coverage than otherwise required.
(2) Unless a lot owner is acting within the scope of the lot owner's authority on behalf of an
association, a lot owner's act or omission may not:
   (a) void a property insurance policy under Subsection 57-8a-403(1)(a) or a liability
insurance policy under Subsection 57-8a-403(1)(b); or
   (b) be a condition to recovery under a policy.
(3) An insurer under a property insurance policy or liability insurance policy obtained by an
association under this part waives its right to subrogation under the policy against:
   (a) any person residing with a lot owner, if the lot owner resides on the lot; and
   (b) the lot owner.
(4)
   (a) An insurance policy issued to an association may not be inconsistent with any provision
of this part.
   (b) A provision of a governing document that is contrary to a provision of this part has no
effect.
   (c) Neither the governing documents nor a property insurance or liability insurance policy
issued to an association may prevent a lot owner from obtaining insurance for the lot owner’s own benefit.
Amended by Chapter 152, 2013 General Session

57-8a-405 Property insurance.
(1) This section applies to property insurance required under Subsection 57-8a-403(1)(a).
(2) The total amount of coverage provided by blanket property insurance or guaranteed replacement cost insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding:
   (a) items normally excluded from property insurance policies; and
   (b) unless otherwise provided in the declaration, any commercial lot in a mixed-use project, including any fixture, improvement, or betterment in a commercial lot in a mixed-use project.
(3) Property insurance shall include coverage for any fixture, improvement, or betterment installed at any time to an attached dwelling or to a limited common area appurtenant to a dwelling on a lot, whether installed in the original construction or in any remodel or later alteration, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to an attached dwelling or to a limited common area.
(4) Notwithstanding anything in this part and unless otherwise provided in the declaration, an association is not required to obtain property insurance for a loss to a dwelling that is not physically attached to another dwelling or to a common area structure.
(5) Each lot owner is an insured person under a property insurance policy.
(6) If a loss occurs that is covered by a property insurance policy in the name of an association and another property insurance policy in the name of a lot owner:
   (a) the association’s policy provides primary insurance coverage; and
   (b) notwithstanding Subsection (6)(a) and subject to Subsection (7):
      (i) the lot owner is responsible for the association’s policy deductible; and
      (ii) building property coverage, often referred to as coverage A, of the lot owner’s policy applies to that portion of the loss attributable to the association’s policy deductible.
(7)
   (a) As used in this Subsection (7) and Subsection (10):
      (i) “Covered loss” means a loss, resulting from a single event or occurrence, that is covered by an association’s property insurance policy.
      (ii) “Lot damage” means damage to any combination of a lot, a dwelling on a lot, or a limited common area appurtenant to a lot or appurtenant to a dwelling on a lot.
      (iii) “Lot damage percentage” means the percentage of total damage resulting in a covered loss that is attributable to lot damage.
   (b) A lot owner who owns a lot that has suffered lot damage as part of a covered loss is responsible for an amount calculated by applying the lot damage percentage for that lot to the amount of the deductible under the association’s property insurance policy.
   (c) If a lot owner does not pay the amount required under Subsection (7)(b) within 30 days after substantial completion of the repairs to, as applicable, the lot, a dwelling on the lot, or the limited common area appurtenant to the lot, an association may levy an assessment against a lot owner for that amount.
(8) An association shall set aside an amount equal to the amount of the association’s property insurance policy deductible or, if the policy deductible exceeds $10,000, an amount not less than $10,000.
(9)
   (a) An association shall provide notice in accordance with Section 57-8a-214 to each lot owner of the lot owner’s obligation under Subsection (7) for the association’s policy deductible and of any change in the amount of the deductible.
   (b)
      (i) An association that fails to provide notice as provided in Subsection (9)(a) is
responsible for the portion of the deductible that the association could have assessed to a lot owner under Subsection (7), but only to the extent that the lot owner does not have insurance coverage that would otherwise apply under this section.

(ii) Notwithstanding Subsection (9)(b)(i), an association that provides notice of the association’s policy deductible, as required under Subsection (9)(a), but fails to provide notice of a later increase in the amount of the deductible is responsible only for the amount of the increase for which notice was not provided.

(c) An association’s failure to provide notice as provided in Subsection (9)(a) may not be construed to invalidate any other provision of this part.

(10) If, in the exercise of the business judgment rule, the board determines that a covered loss is likely not to exceed the association’s property insurance policy deductible, and until it becomes apparent the covered loss exceeds the association’s property insurance deductible and a claim is submitted to the association’s property insurance insurer:

(a) for a lot to which a loss occurs, the lot owner’s policy is considered the policy for primary coverage for the damage to that lot;
(b) the association is responsible for any covered loss to any common area;
(c) a lot owner who does not have a policy to cover the damage to that lot owner’s lot is responsible for that lot damage, and the association may, as provided in Subsection (7)(c), recover any payments the association makes to remediate that lot; and
(d) the association need not tender the claim to the association’s insurer.

(11)

(a) An insurer under a property insurance policy issued to an association shall adjust with the association a loss covered under the association’s policy.
(b) Notwithstanding Subsection (11)(a), the insurance proceeds for a loss under an association’s property insurance policy:
   (i) are payable to an insurance trustee that the association designates or, if no trustee is designated, to the association; and
   (ii) may not be payable to a holder of a security interest.
(c) An insurance trustee or an association shall hold any insurance proceeds in trust for the association, lot owners, and lien holders.
(d) If damaged property is to be repaired or restored, insurance proceeds shall be disbursed first for the repair or restoration of the damaged property.
   (ii) After the disbursements described in Subsection (11)(d)(i) are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the association, lot owners, and lien holders, as provided in the declaration.

(12) An insurer that issues a property insurance policy under this part, or the insurer’s authorized agent, shall issue a certificate or memorandum of insurance to:

(a) the association;
(b) a lot owner, upon the lot owner’s written request; and
(c) a holder of a security interest, upon the holder’s written request.

(13) A cancellation or nonrenewal of a property insurance policy under this section is subject to the procedures stated in Section 31A-21-303.

(14) A board that acquires from an insurer the property insurance required in this section is not liable to lot owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

(15)

(a) Unless required in the declaration, property insurance coverage is not required for fixtures, improvements, or betterments in a commercial lot or limited common areas appurtenant to a commercial lot in a mixed-use project.
(b) Notwithstanding any other provision of this part, an association may obtain property insurance for fixtures, improvements, and betterments in a commercial lot in a mixed-use project.
project if allowed or required in the declaration.

(16)
(a) This section does not prevent a person suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a person at fault for the loss.
(b) Subsection (16)(a) does not affect Subsection 57-8a-404(3).

Amended by Chapter 152, 2013 General Session

57-8a-406 Liability insurance.
(1) This section applies to a liability insurance policy required under Subsection 57-8a-403(1)(b).
(2) A liability insurance policy shall be in an amount determined by the board but not less than an amount specified in the declaration or bylaws.
(3) Each lot owner is an insured person under a liability insurance policy that an association obtains, but only for liability arising from:
(a) the lot owner’s ownership interest in the common areas;
(b) maintenance, repair, or replacement of common areas; and
(c) the lot owner’s membership in the association.

Amended by Chapter 152, 2013 General Session

57-8a-407 Damage to a portion of project -- Insurance proceeds.
(1)
(a) If a portion of the project for which insurance is required under this part is damaged or destroyed, the association shall repair or replace the portion within a reasonable amount of time unless:
(i) the project is terminated;
(ii) repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or
(iii) (A) at least 75% of the allocated voting interests of the lot owners in the association vote not to rebuild; and
(B) each owner of a dwelling on a lot and the limited common area appurtenant to that lot that will not be rebuilt votes not to rebuild.
(b) If a portion of a project is not repaired or replaced because the project is terminated, the termination provisions of applicable law and the governing documents apply.

(2)
(a) The cost of repair or replacement of any lot in excess of insurance proceeds and reserves is a common expense to the extent the association is required under this chapter to provide insurance coverage for the lot.
(b) The cost of repair or replacement of any common area in excess of insurance proceeds and reserves is a common expense.

(3) If the entire project is damaged or destroyed and not repaired or replaced:
(a) the association shall use the insurance proceeds attributable to the damaged common areas to restore the damaged area to a condition compatible with the remainder of the project;
(b) the association shall distribute the insurance proceeds attributable to lots and common areas that are not rebuilt to:
   (i) the lot owners of the lots that are not rebuilt;
   (ii) the lot owners of the lots to which those common areas that are not rebuilt were allocated; or
   (iii) lien holders; and
(c) the association shall distribute the remainder of the proceeds to all the lot owners or lien holders in proportion to the common expense liabilities of all the lots.

(4) If the lot owners vote not to rebuild a lot:
(a) the lot’s allocated interests are automatically reallocated upon the lot owner’s vote as if
the lot had been condemned; and
(b) the association shall prepare, execute, and submit for recording an amendment to the declaration reflecting the reallocations described in Subsection (4)(a).
Amended by Chapter 152, 2013 General Session

Part 5 Association Board

57-8a-501 Board acts for association.

Except as limited in a declaration, the association bylaws, or other provisions of this chapter, a board acts in all instances on behalf of the association.
Enacted by Chapter 152, 2013 General Session

57-8a-502 Period of administrative control.
(1) Unless otherwise provided for in a declaration, a period of administrative control terminates on the first to occur of the following:
   (a) 60 days after 75% of the lots that may be created are conveyed to lot owners other than a declarant;
   (b) seven years after all declarants have ceased to offer lots for sale in the ordinary course of business; or
   (c) the day the declarant, after giving written notice to the lot owners, records an instrument voluntarily surrendering all rights to control activities of the association.
(2)
   (a) A declarant may voluntarily surrender the right to appoint and remove a member of the board before the period of administrative control terminates under Subsection (1).
   (b) Subject to Subsection (2)(a), the declarant may require, for the duration of the period of administrative control, that actions of the association or board, as specified in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.
(3)
   (a) Upon termination of the period of administrative control, the lot owners shall elect a board consisting of an odd number of at least three members, a majority of whom shall be lot owners.
   (b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.
   (c) The board members and officers shall take office upon election or appointment.
Enacted by Chapter 152, 2013 General Session

Part 6 Consolidation of Associations

57-8a-601 Consolidation of multiple associations.
(1) Two or more associations may be consolidated into a single association as provided in Title 16, Chapter 6a, Part 11, Merger, and this section.
(2) Unless the declaration, articles, or bylaws otherwise provide, a declaration of consolidation between two or more associations to consolidate into a single association is not effective unless it is approved by the lot owners of each of the consolidating associations by the highest percentage of allocated voting interests of the lot owners required by each association to amend its respective declaration, articles, or bylaws.
(3) A declaration of consolidation under Subsection (2) shall:
   (a) be prepared, executed, and certified by the president of each of the consolidating associations; and
   (b) provide for the reallocation of the allocated interests in the consolidated association by stating:
      (i) the reallocations of the allocated interests in the consolidated association or the formulas used to reallocate the allocated interests; or
      (ii) (A) the percentage of overall allocated interests of the consolidated association that are allocated to all of the lots comprising each of the consolidating associations; and
         (B) that the portion of the percentages allocated to each lot formerly comprising a part
of a consolidating association is equal to the percentages of allocated interests allocated to the lot by the declaration of the consolidating association.

(4) A declaration of consolidation under Subsection (2) is not effective until it is recorded in the office of each applicable county recorder.

(5) Unless otherwise provided in the declaration of consolidation:
   (a) the consolidated association resulting from a consolidation under this section is the legal successor for all purposes of all of the consolidating associations;
   (b) the operations and activities of all of the consolidating associations shall be consolidated into the consolidated association; and
   (c) the consolidated association holds all powers, rights, obligations, assets, and liabilities of all consolidating associations.

Enacted by Chapter 152, 2013 General Session