

Walt Brooks proposes the following substitute bill:

Homeowners' Association Requirements

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- increases the monetary amount a unit or lot owner may request if an association fails to properly make records available for examination;
- amends provisions relating to the period of administrative control for associations of lot owners;
- provides that a declarant may not count undeveloped land toward the total number of lots when determining the end of the period of administrative control;
- prohibits the declarant from making a change to the declaration during the period of administrative control after the declarant conveys at least one lot to a lot owner; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-17, as last amended by Laws of Utah 2022, Chapter 439

57-8a-227, as last amended by Laws of Utah 2022, Chapter 439

57-8a-502, as last amended by Laws of Utah 2016, Chapter 210

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

Section 1. Section **57-8-17** is amended to read:

29 **57-8-17 . Records -- Availability for examination.**

30 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association of unit
31 owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit
32 Corporation Act, an association of unit owners shall keep and make available to unit
33 owners:

34 (i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance~~
35 with] in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603,
36 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

37 (ii) a copy of the association's:

38 (A) governing documents;

39 (B) most recent approved minutes;

40 (C) most recent budget and financial statement;

41 (D) most recent reserve analysis; and

42 (E) certificate of insurance for each insurance policy the association of unit
43 owners holds.

44 (b) An association of unit owners may redact the following information from any
45 document the association of unit owners produces for inspection or copying:

46 (i) a Social Security number;

47 (ii) a bank account number; or

48 (iii) any communication subject to attorney-client privilege.

49 (2)(a) In addition to the requirements described in Subsection (1), an association of unit
50 owners shall:

51 (i) make documents available to unit owners in accordance with the association of
52 unit owners' governing documents; and

53 (ii)(A) if the association of unit owners has an active website, make the documents
54 described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free
55 of charge, through the website; or

56 (B) if the association of unit owners does not have an active website, make
57 physical copies of the documents described in Subsections (1)(a)(ii)(A)
58 through (C) available to unit owners during regular business hours at the
59 association of unit owners' address registered with the Department of
60 Commerce under Section 57-8-13.1.

61 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

62 (c) If a provision of an association of unit owners' governing documents conflicts with a

63 provision of this section, the provision of this section governs.

64 (3) In a written request to inspect or copy documents:

65 (a) a unit owner shall include:

66 (i) the association of unit owners' name;

67 (ii) the unit owner's name;

68 (iii) the unit owner's property address;

69 (iv) the unit owner's email address;

70 (v) a description of the documents requested; and

71 (vi) any election or request described in Subsection (3)(b); and

72 (b) a unit owner may:

73 (i) elect whether to inspect or copy the documents;

74 (ii) if the unit owner elects to copy the documents, request hard copies or electronic
75 scans of the documents; or

76 (iii) subject to Subsection (4), request that:

77 (A) the association of unit owners make the copies or electronic scans of the
78 requested documents;

79 (B) a recognized third party duplicating service make the copies or electronic
80 scans of the requested documents;

81 (C) the unit owner be allowed to bring any necessary imaging equipment to the
82 place of inspection and make copies or electronic scans of the documents while
83 inspecting the documents; or

84 (D) the association of unit owners email the requested documents to an email
85 address provided in the request.

86 (4)(a) An association of unit owners shall comply with a request described in Subsection

87 (3).

88 (b) If an association of unit owners produces the copies or electronic scans:

89 (i) the copies or electronic scans shall be legible and accurate; and

90 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the
91 copies or electronic scans and for time spent meeting with the unit owner, which
92 may not exceed:

93 (A) the actual cost that the association of unit owners paid to a recognized third
94 party duplicating service to make the copies or electronic scans; or

95 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other
96 agent's time making the copies or electronic scans.

- 97 (c) If a unit owner requests a recognized third party duplicating service make the copies
98 or electronic scans:
- 99 (i) the association of unit owners shall arrange for the delivery and pick up of the
100 original documents; and
- 101 (ii) the unit owner shall pay the duplicating service directly.
- 102 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the
103 inspection, the association of unit owners shall provide the necessary space, light, and
104 power for the imaging equipment.
- 105 (5) If, in response to a unit owner's request to inspect or copy documents, an association of
106 unit owners fails to comply with a provision of this section, the association of unit
107 owners shall pay:
- 108 (a) the reasonable costs of inspecting and copying the requested documents;
- 109 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner
110 who made the request for each day the request continues unfulfilled, beginning the
111 sixth day after the day on which the unit owner made the request; and
- 112 (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the
113 inspection and copies of the requested documents.
- 114 (6)(a) In addition to any remedy in the association of unit owners' governing documents
115 or as otherwise provided by law, a unit owner may file an action in court under this
116 section if:
- 117 (i) subject to Subsection (9), an association of unit owners fails to make documents
118 available to the unit owner in accordance with this section, the association of unit
119 owners' governing documents, or as otherwise provided by law; and
- 120 (ii) the association of unit owners fails to timely comply with a notice described in
121 Subsection (6)(d).
- 122 (b) In an action described in Subsection (6)(a):
- 123 (i) the unit owner may request:
- 124 (A) injunctive relief requiring the association of unit owners to comply with the
125 provisions of this section;
- 126 (B) [~~\$500~~] \$1,000 or actual damage, whichever is greater; or
- 127 (C) any other relief provided by law; and
- 128 (ii) the court shall award costs and reasonable attorney fees to the prevailing party,
129 including any reasonable attorney fees incurred before the action was filed that
130 relate to the request that is the subject of the action.

- 131 (c)(i) In an action described in Subsection (6)(a), upon motion by the unit owner
 132 made in accordance with Subsection (6)(b), notice to the association of unit
 133 owners, and a hearing in which the court finds a likelihood that the association of
 134 unit owners failed to comply with a provision of this section, the court shall order
 135 the association of unit owners to immediately comply with the provision.
- 136 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
 137 after the day on which the unit owner files the motion.
- 138 (d) At least 10 days before the day on which a unit owner files an action described in
 139 Subsection (6)(a), the unit owner shall deliver a written notice to the association of
 140 unit owners that states:
- 141 (i) the unit owner's name, address, telephone number, and email address;
 142 (ii) each requirement of this section with which the association of unit owners has
 143 failed to comply;
 144 (iii) a demand that the association of unit owners comply with each requirement with
 145 which the association of unit owners has failed to comply; and
 146 (iv) a date by which the association of unit owners shall remedy the association of
 147 unit owners' noncompliance that is at least 10 days after the day on which the unit
 148 owner delivers the notice to the association of unit owners.
- 149 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association of unit
 150 owners.
- 151 (b) The provisions of this section apply regardless of any conflicting provision in Title
 152 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 153 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that
 154 the unit owner has under this section.
- 155 (9) An association of unit owners is not liable for identifying or providing a document in
 156 error, if the association of unit owners identified or provided the erroneous document in
 157 good faith.
- 158 Section 2. Section **57-8a-227** is amended to read:
 159 **57-8a-227 . Records -- Availability for examination.**
- 160 (1)(a) Subject to Subsection (1)(b) and regardless of whether the association is
 161 incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an
 162 association shall keep and make available to lot owners:
- 163 (i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance~~
 164 with] in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603,

- 165 16-6a-1605, 16-6a-1606, and 16-6a-1610; and
- 166 (ii) a copy of the association's:
- 167 (A) governing documents;
- 168 (B) most recent approved minutes;
- 169 (C) most recent budget and financial statement;
- 170 (D) most recent reserve analysis; and
- 171 (E) certificate of insurance for each insurance policy the association holds.
- 172 (b) An association may redact the following information from any document the
- 173 association produces for inspection or copying:
- 174 (i) a Social Security number;
- 175 (ii) a bank account number; or
- 176 (iii) any communication subject to attorney-client privilege.
- 177 (2)(a) In addition to the requirements described in Subsection (1), an association shall:
- 178 (i) make documents available to lot owners in accordance with the association's
- 179 governing documents; and
- 180 (ii)(A) if the association has an active website, make the documents described in
- 181 Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge,
- 182 through the website; or
- 183 (B) if the association does not have an active website, make physical copies of the
- 184 documents described in Subsections (1)(a)(ii)(A) through (C) available to lot
- 185 owners during regular business hours at the association's address registered
- 186 with the Department of Commerce under Section 57-8a-105.
- 187 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 188 (c) If a provision of an association's governing documents conflicts with a provision of
- 189 this section, the provision of this section governs.
- 190 (3) In a written request to inspect or copy documents:
- 191 (a) a lot owner shall include:
- 192 (i) the association's name;
- 193 (ii) the lot owner's name;
- 194 (iii) the lot owner's property address;
- 195 (iv) the lot owner's email address;
- 196 (v) a description of the documents requested; and
- 197 (vi) any election or request described in Subsection (3)(b); and
- 198 (b) a lot owner may:

- 199 (i) elect whether to inspect or copy the documents;
- 200 (ii) if the lot owner elects to copy the documents, request hard copies or electronic
201 scans of the documents; or
- 202 (iii) subject to Subsection (4), request that:
- 203 (A) the association make the copies or electronic scans of the requested
204 documents;
- 205 (B) a recognized third party duplicating service make the copies or electronic
206 scans of the requested documents;
- 207 (C) the lot owner be allowed to bring any necessary imaging equipment to the
208 place of inspection and make copies or electronic scans of the documents while
209 inspecting the documents; or
- 210 (D) the association email the requested documents to an email address provided in
211 the request.
- 212 (4)(a) An association shall comply with a request described in Subsection (3).
- 213 (b) If an association produces the copies or electronic scans:
- 214 (i) the copies or electronic scans shall be legible and accurate; and
- 215 (ii) the lot owner shall pay the association the reasonable cost of the copies or
216 electronic scans and for time spent meeting with the lot owner, which may not
217 exceed:
- 218 (A) the actual cost that the association paid to a recognized third party duplicating
219 service to make the copies or electronic scans; or
- 220 (B) 10 cents per page and \$15 per hour for the employee's, manager's, or other
221 agent's time.
- 222 (c) If a lot owner requests a recognized third party duplicating service make the copies
223 or electronic scans:
- 224 (i) the association shall arrange for the delivery and pick up of the original
225 documents; and
- 226 (ii) the lot owner shall pay the duplicating service directly.
- 227 (d) If a lot owner requests to bring imaging equipment to the inspection, the association
228 shall provide the necessary space, light, and power for the imaging equipment.
- 229 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy
230 documents, an association fails to comply with a provision of this section, the
231 association shall pay:
- 232 (a) the reasonable costs of inspecting and copying the requested documents;

- 233 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner
234 who made the request for each day the request continues unfulfilled, beginning the
235 sixth day after the day on which the lot owner made the request; and
- 236 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the
237 inspection and copies of the requested documents.
- 238 (6)(a) In addition to any remedy in the association's governing documents or otherwise
239 provided by law, a lot owner may file an action in court under this section if:
- 240 (i) subject to Subsection (9), an association fails to make documents available to the
241 lot owner in accordance with this section, the association's governing documents,
242 or as otherwise provided by law; and
- 243 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 244 (b) In an action described in Subsection (6)(a):
- 245 (i) the lot owner may request:
- 246 (A) injunctive relief requiring the association to comply with the provisions of this
247 section;
- 248 (B) [~~\$500~~] \$1,000 or actual damage, whichever is greater; or
- 249 (C) any other relief provided by law; and
- 250 (ii) the court [~~shall~~] may award costs and reasonable attorney fees to the prevailing
251 party, including any reasonable attorney fees incurred before the action was filed
252 that relate to the request that is the subject of the action.
- 253 (c)(i) In an action described in Subsection (6)(a), upon motion by the lot owner made
254 in accordance with Subsection (6)(b), notice to the association, and a hearing in
255 which the court finds a likelihood that the association failed to comply with a
256 provision of this section, the court shall order the association to immediately
257 comply with the provision.
- 258 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days
259 after the day on which the lot owner files the motion.
- 260 (d) At least 10 days before the day on which a lot owner files an action described in
261 Subsection (6)(a), the lot owner shall deliver a written notice to the association that
262 states:
- 263 (i) the lot owner's name, address, telephone number, and email address;
- 264 (ii) each requirement of this section with which the association has failed to comply;
- 265 (iii) a demand that the association comply with each requirement with which the
266 association has failed to comply; and

267 (iv) a date by which the association shall remedy the association's noncompliance
 268 that is at least 10 days after the day on which the lot owner delivers the notice to
 269 the association.

270 (7)(a) The provisions of Section 16-6a-1604 do not apply to an association.

271 (b) The provisions of this section apply regardless of any conflicting provision in Title
 272 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

273 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the
 274 lot owner has under this section.

275 (9) An association is not liable for identifying or providing a document in error, if the
 276 association identified or provided the erroneous document in good faith.

277 Section 3. Section **57-8a-502** is amended to read:

278 **57-8a-502 . Period of administrative control.**

279 (1) As used in this section, "undeveloped land" means land within an association that a
 280 declarant designates for potential development on which no new development has taken
 281 place and no infrastructure for construction has been installed.

282 [~~(1)~~] (2) [~~Unless otherwise provided for in a declaration,~~] For an association comprised of
 283 300 lots or more, a period of administrative control terminates on [~~the first to occur of~~
 284 ~~the following~~]:

285 (a) the date provided in the declaration; or

286 [~~(a)~~] (b) if the declaration does not provide a date, the first to occur of the following:

287 (i) 60 days after [~~75%~~] 80% of the lots [~~that may be created~~] are conveyed to lot
 288 owners other than a declarant;

289 [~~(b)~~] (ii) seven years after all declarants have ceased to offer lots for sale in the
 290 ordinary course of business; or

291 [~~(c)~~] (iii) the day the declarant, after giving written notice to the lot owners, records an
 292 instrument voluntarily surrendering all rights to control activities of the
 293 association.

294 (3) For an association comprised of fewer than 300 lots, a period of administrative control
 295 terminates on the first to occur of the following:

296 (a) the date provided in the declaration; or

297 (b) if the declaration does not provide a date, the first to occur of the following:

298 (i) 60 days after 80% of the lots are conveyed to lot owners other than a declarant;

299 (ii) one year after all declarants have ceased to offer lots for sale in the ordinary
 300 course of business; or

301 (iii) the day the declarant, after giving written notice to the lot owners, records an
302 instrument voluntarily surrendering all rights to control activities of the
303 association.

304 ~~[(2)]~~ (4)(a) A declarant may voluntarily surrender the right to appoint and remove a
305 member of the board before the period of administrative control terminates under
306 Subsection ~~[(1)]~~ (2).

307 (b) Subject to Subsection ~~[(2)(a)]~~ (4)(a), the declarant may require, for the duration of the
308 period of administrative control, that actions of the association or board, as specified
309 in a recorded instrument executed by the declarant, be approved by the declarant
310 before they become effective.

311 (c) During a period of administrative control, except as provided in Subsection ~~[(2)(a),]~~
312 (4)(a), a declarant may appoint the declarant's officers, employees, or agents as
313 members of the board.

314 ~~[(3)]~~ (5)(a) Upon termination of the period of administrative control, the lot owners shall
315 elect a board consisting of an odd number of at least three members, a majority of
316 whom shall be lot owners.

317 (b) Unless the declaration provides for the election of officers by the lot owners, the
318 board shall elect officers of the association.

319 (c) The board members and officers shall take office upon election or appointment.

320 ~~(6)(a)~~ When calculating the percentage in Subsection (2)(b)(i) or (3)(b)(i), a declarant
321 may not include any undeveloped land.

322 (b) After the day on which the declarant conveys at least one lot to a lot owner other
323 than the declarant, the declarant may not amend the declaration without approval of a
324 majority of lot owners.

325 Section 4. **Effective date.**

326 This bill takes effect on May 7, 2025.