

**HOMEOWNER ASSOCIATION PROVISIONS AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Cheryl K. Acton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Condominium Ownership Act and the Community Association Act.

**Highlighted Provisions:**

This bill:

- ▶ imposes certain disclosure requirements before the sale of homeowner association property to an independent third party;
- ▶ expands the information that homeowner associations must provide to the Department of Commerce in order to register;
- ▶ requires the Department of Commerce to publish certain educational materials on its website; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**57-8-13.1**, as last amended by Laws of Utah 2013, Chapter 95

**57-8a-105**, as last amended by Laws of Utah 2013, Chapter 95



28 ENACTS:

29 57-8-6.1, Utah Code Annotated 1953

30 57-8a-105.1, Utah Code Annotated 1953

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

33 Section 1. Section **57-8-6.1** is enacted to read:

34 **57-8-6.1. Information required before sale to independent third party.**

35 (1) Before the sale of any unit under the jurisdiction of an association of unit owners to  
36 an independent third party, the grantor shall provide to the independent third party:

37 (a) a copy of the association of unit owners' governing documents; and

38 (b) a link or other access point to the department's educational materials described in

39 Subsection 57-8-13.1(6).

40 (2) The grantor shall provide the information described in Subsection (1):

41 (a) within one week after acceptance of the offer for sale of the unit; or

42 (b) as part of the contract for sale of the unit.

43 (3) The association of unit owners shall, upon request by the grantor, provide to the  
44 grantor the information described in Subsection (1).

45 (4) This section applies to each association of unit owners, regardless of when the  
46 association of unit owners is formed.

47 Section 2. Section **57-8-13.1** is amended to read:

48 **57-8-13.1. Registration with Department of Commerce.**

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

51 (2) ~~[(a)]~~ No later than 90 days after the recording of a declaration, an association of  
52 unit owners shall register with the department in the manner established by the department.

53 ~~[(b) An association of unit owners existing under a declaration recorded before May~~  
54 ~~10, 2011, shall, no later than July 1, 2011, register with the department in the manner~~  
55 ~~established by the department.]~~

56 (3) (a) The department shall require an association of unit owners registering as  
57 required in this section to provide with each registration:

58 ~~[(a)]~~ (i) the name and address of the association of unit owners;

59           ~~(b)~~ (ii) the name, address, telephone number, and, if applicable, email address of the  
60 president of the association of unit owners;

61           ~~(c)~~ (iii) the name and address of each manager or management committee member;

62           ~~(d)~~ (iv) the name, address, telephone number, and, if the contact person wishes to use  
63 email or facsimile transmission for communicating payoff information, the email address or  
64 facsimile number, as applicable, of a primary contact person who has association payoff  
65 information that a closing agent needs in connection with the closing of a unit owner's  
66 financing, refinancing, or sale of the owner's unit; ~~and~~

67           (v) a copy of the association of unit owners' current governing documents;

68           (vi) a report describing a history of the association of unit owners' assessment fees and  
69 special assessment fees within the previous 10 years at a minimum, including a timetable of  
70 any changes in the association of unit owners' assessment or special assessment amounts;

71           (vii) (A) a statement indicating whether the association of unit owners maintains  
72 reserve funds as defined in Section 57-8-7.5; and

73           (B) if the association of unit owners maintains reserve funds, a statement indicating  
74 whether the association of unit owners is in compliance with Subsections 57-8-7.5(5), (6), and  
75 (7); and

76           ~~(e)~~ (viii) a registration fee not to exceed \$37.

77           (b) The association of unit owners shall electronically submit to the department the  
78 information described in Subsection (3)(a)(v), on an annual basis, no later than July 1 of each  
79 year.

80           (4) An association of unit owners that has registered under Subsection (2) shall submit  
81 to the department an updated registration, in the manner established by the department, within  
82 90 days after a change in any of the information provided under Subsection (3).

83           (5) (a) During any period of noncompliance with the registration requirement described  
84 in Subsection (2) or the requirement for an updated registration described in Subsection (4):

85           (i) a lien may not arise under Section 57-8-44; and

86           (ii) an association of unit owners may not enforce an existing lien that arose under  
87 Section 57-8-44.

88           (b) A period of noncompliance with the registration requirement of Subsection (2) or  
89 with the updated registration requirement of Subsection (4) does not begin until after the

90 expiration of the 90-day period specified in Subsection (2) or (4), respectively.

91 (c) An association of unit owners that is not in compliance with the registration  
92 requirement described in Subsection (2) may end the period of noncompliance by registering  
93 with the department in the manner established by the department under Subsection (2).

94 (d) An association of unit owners that is not in compliance with the updated  
95 registration requirement described in Subsection (4) may end the period of noncompliance by  
96 submitting to the department an updated registration in the manner established by the  
97 department under Subsection (4).

98 (e) Except as described in Subsection (5)(f), beginning on the date an association of  
99 unit owners ends a period of noncompliance:

100 (i) a lien may arise under Section 57-8-44 for any event that:

101 (A) occurred during the period of noncompliance; and

102 (B) would have given rise to a lien under Section 57-8-44 had the association of unit  
103 owners been in compliance with the registration requirements described in this section; and

104 (ii) an association of unit owners may enforce a lien described in Subsection (5)(e) or a  
105 lien that existed before the period of noncompliance.

106 (f) If an owner's unit is conveyed to an independent third party during a period of  
107 noncompliance described in this Subsection (5):

108 (i) a lien that arose under Section 57-8-44 before the conveyance of the unit became  
109 final is extinguished when the conveyance of the unit becomes final; and

110 (ii) an event that occurred before the conveyance of the unit became final, and that  
111 would have given rise to a lien under Section 57-8-44 had the association of unit owners been  
112 in compliance with the registration requirements of this section, may not give rise to a lien  
113 under Section 57-8-44 if the conveyance of the unit becomes final before the association of unit  
114 owners ends the period of noncompliance.

115 (6) The department shall publish educational materials on the department's website  
116 providing, in simple and easy to understand language, a brief overview of state law governing  
117 associations of unit owners, including:

118 (a) a description of the rights and responsibilities provided in this chapter to any party  
119 under the jurisdiction of an association of unit owners; and

120 (b) instructions regarding how an association of unit owners may be organized and

121 dismantled in accordance with this chapter.

122 Section 3. Section **57-8a-105** is amended to read:

123 **57-8a-105. Registration with Department of Commerce.**

124 (1) As used in this section, "department" means the Department of Commerce created  
125 in Section [13-1-2](#).

126 (2) (a) No later than 90 days after the recording of a declaration of covenants,  
127 conditions, and restrictions establishing an association, the association shall register with the  
128 department in the manner established by the department.

129 (b) An association existing under a declaration of covenants, conditions, and  
130 restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the  
131 department in the manner established by the department.

132 (3) (a) The department shall require an association registering as required in this  
133 section to provide with each registration:

134 ~~(a)~~ (i) the name and address of the association;

135 ~~(b)~~ (ii) the name, address, telephone number, and, if applicable, email address of the  
136 chair of the association board;

137 ~~(c)~~ (iii) contact information for the manager;

138 ~~(d)~~ (iv) the name, address, telephone number, and, if the contact person wishes to use  
139 email or facsimile transmission for communicating payoff information, the email address or  
140 facsimile number, as applicable, of a primary contact person who has association payoff  
141 information that a closing agent needs in connection with the closing of a lot owner's financing,  
142 refinancing, or sale of the owner's lot; ~~and~~

143 (v) a copy of the association's current governing documents;

144 (vi) a report describing a history of the association's assessment fees and special  
145 assessment fees within the previous 10 years at a minimum, including a timetable of any  
146 changes in the association's assessment or special assessment amounts;

147 (vii) (A) a statement indicating whether the association maintains reserve funds as  
148 defined in Section [57-8a-211](#); and

149 (B) if the association maintains reserve funds, a statement indicating whether the  
150 association is in compliance with Subsections [57-8a-211](#)(5), (6), and (7); and

151 ~~(e)~~ (viii) a registration fee not to exceed \$37.

152           **(b) The association shall electronically submit to the department the information**  
153 **described in Subsection (3)(a)(v), on an annual basis, no later than July 1 of each year.**

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

157           (5) (a) During any period of noncompliance with the registration requirement described  
158 in Subsection (2) or the requirement for an updated registration described in Subsection (4):

159           (i) a lien may not arise under Section 57-8a-301; and

160           (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

161           (b) A period of noncompliance with the registration requirement of Subsection (2) or  
162 with the updated registration requirement of Subsection (4) does not begin until after the  
163 expiration of the 90-day period specified in Subsection (2) or (4), respectively.

164           (c) An association that is not in compliance with the registration requirement described  
165 in Subsection (2) may end the period of noncompliance by registering with the department in  
166 the manner established by the department under Subsection (2).

167           (d) An association that is not in compliance with the updated registration requirement  
168 described in Subsection (4) may end the period of noncompliance by submitting to the  
169 department an updated registration in the manner established by the department under  
170 Subsection (4).

171           (e) Except as described in Subsection (5)(f), beginning on the date an association ends  
172 a period of noncompliance:

173           (i) a lien may arise under Section 57-8a-301 for any event that:

174           (A) occurred during the period of noncompliance; and

175           (B) would have given rise to a lien under Section 57-8a-301 had the association been in  
176 compliance with the registration requirements described in this section; and

177           (ii) an association may enforce a lien described in Subsection (5)(e) or a lien that  
178 existed before the period of noncompliance.

179           (f) If an owner's residential lot is conveyed to an independent third party during a  
180 period of noncompliance described in this Subsection (5):

181           (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential  
182 lot became final is extinguished when the conveyance of the residential lot becomes final; and

183 (ii) an event that occurred before the conveyance of the residential lot became final,  
184 and that would have given rise to a lien under Section 57-8a-301 had the association been in  
185 compliance with the registration requirements of this section, may not give rise to a lien under  
186 Section 57-8a-301 if the conveyance of the residential lot becomes final before the association  
187 ends the period of noncompliance.

188 (6) The department shall publish educational materials on the department's website  
189 providing, in simple and easy to understand language, a brief overview of state law governing  
190 associations, including:

191 (a) a description of the rights and responsibilities provided in this chapter to any party  
192 under the jurisdiction of an association; and

193 (b) instructions regarding how an association may be organized and dismantled in  
194 accordance with this chapter.

195 Section 4. Section 57-8a-105.1 is enacted to read:

196 **57-8a-105.1. Information required before sale to independent third party.**

197 (1) Before the sale of any lot under the jurisdiction of an association to an independent  
198 third party, the grantor shall provide to the independent third party:

199 (a) a copy of the association's governing documents; and

200 (b) a link or other access point to the department's educational materials described in

201 Subsection 57-8a-105(6).

202 (2) The grantor shall provide the information described in Subsection (1):

203 (a) within one week after acceptance of the offer for sale of the lot; or

204 (b) as part of the contract for sale of the lot.

205 (3) The association shall, upon request by the grantor, provide to the grantor the  
206 information described in Subsection (1).

207 (4) This section applies to each association, regardless of when the association is  
208 formed.