

Representative Cheryl K. Acton proposes the following substitute bill:

HOMEOWNER ASSOCIATION PROVISIONS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends provisions related to homeowner associations and their governing documents.

Highlighted Provisions:

This bill:

- ▶ imposes certain disclosure requirements before the closing of a sale of homeowner association property to an independent third party;
- ▶ requires the Department of Commerce to publish certain educational materials on its website;
- ▶ requires a county recorder to, upon request, provide online access to recorded governing documents;
- ▶ prohibits the office of the county recorder of a county from charging a fee for online access to governing documents; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **17-21-18.5**, as last amended by Laws of Utah 2019, Chapter 302

29 **57-8-13.1**, as last amended by Laws of Utah 2013, Chapter 95

30 **57-8a-105**, as last amended by Laws of Utah 2013, Chapter 95

31 ENACTS:

32 **57-8-6.1**, Utah Code Annotated 1953

33 **57-8a-105.1**, Utah Code Annotated 1953



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

36 Section 1. Section **17-21-18.5** is amended to read:

37 **17-21-18.5. Fees of county recorder.**

38 (1) The county recorder shall receive the following fees:

39 (a) for recording any instrument, not otherwise provided for, other than bonds of public
40 officers, \$40;

41 (b) for recording any instrument, including those provided for under Title 70A,
42 Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
43 for, \$40, and if an instrument contains more than 10 descriptions, \$2 for each additional
44 description;

45 (c) for recording mining location notices and affidavits of labor affecting mining
46 claims, \$40; and

47 (d) for an affidavit or proof of labor which contains more than 10 mining claims, \$2 for
48 each additional mining claim.

49 (2) (a) Each county recorder shall record the mining rules of the several mining
50 districts in each county without fee.

51 (b) Certified copies of these records shall be received in all tribunals and before all
52 officers of this state as prima facie evidence of the rules.

53 (3) The county recorder shall receive the following fees:

54 (a) subject to Subsection (6), for copies of any record or document, a reasonable fee as
55 determined by the county legislative body;

56 (b) for each certificate under seal, \$5;

57 (c) for recording any plat, \$50 for each sheet and \$2 for each lot or unit designation;

58 (d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2
59 for each additional name;

60 (e) for recording any license issued by the Division of Occupational and Professional
61 Licensing, \$40; and

62 (f) for recording a federal tax lien, \$40, and for the discharge of the lien, \$40.

63 (4) A county recorder may not charge more than one recording fee for each instrument,
64 regardless of whether the instrument bears multiple descriptive titles or includes one or more
65 attachments as part of the instrument.

66 (5) By January 1, 2022, each county shall accept and provide for electronic recording
67 of instruments.

68 (6) (a) As used in this Subsection (6):

69 (i) "Association" means the same as that term is defined in Section 57-8a-102;

70 (ii) "Association of unit owners" means the same as that term is defined in Section
71 57-8-2; and

72 (iii) "Governing documents" means the same as that term is defined in:

73 (A) Section 57-8a-102, for an association; and

74 (B) Section 57-8-2, for an association of unit owners.

75 (b) A county recorder:

76 (i) shall, upon request, provide online access to the recorded governing documents of
77 an association or an association of unit owners; and

78 (ii) may not collect a fee for providing access to recorded governing documents as
79 described in this Subsection (6).

80 [~~6~~] (7) The county may determine and collect a fee for all services not enumerated in
81 this section.

82 [~~7~~] (8) A county recorder may not be required to collect a fee for services that are
83 unrelated to the county recorder's office.

84 Section 2. Section 57-8-6.1 is enacted to read:

85 **57-8-6.1. Information required before sale to independent third party.**

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

88 (a) a copy of the association of unit owners' recorded governing documents; and
89 (b) a link or other access point to the department's educational materials described in
90 Subsection 57-8-13.1(6).

91 (2) The grantor shall provide the information described in Subsection (1) before
92 closing.

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

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

97 Section 3. Section 57-8-13.1 is amended to read:

98 **57-8-13.1. Registration with Department of Commerce.**

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

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

103 ~~[(b) An association of unit owners existing under a declaration recorded before May~~
104 ~~10, 2011, shall, no later than July 1, 2011, register with the department in the manner~~
105 ~~established by the department.]~~

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

108 (a) the name and address of the association of unit owners;

109 (b) the name, address, telephone number, and, if applicable, email address of the
110 president of the association of unit owners;

111 (c) the name and address of each manager or management committee member;

112 (d) the name, address, telephone number, and, if the contact person wishes to use email
113 or facsimile transmission for communicating payoff information, the email address or facsimile
114 number, as applicable, of a primary contact person who has association payoff information that
115 a closing agent needs in connection with the closing of a unit owner's financing, refinancing, or
116 sale of the owner's unit; and

117 (e) a registration fee not to exceed \$37.

118 (4) An association of unit owners that has registered under Subsection (2) shall submit

119 to the department an updated registration, in the manner established by the department, within
120 90 days after a change in any of the information provided under Subsection (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

148 (ii) an event that occurred before the conveyance of the unit became final, and that
149 would have given rise to a lien under Section 57-8-44 had the association of unit owners been

150 in compliance with the registration requirements of this section, may not give rise to a lien
151 under Section 57-8-44 if the conveyance of the unit becomes final before the association of unit
152 owners ends the period of noncompliance.

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

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

158 (b) instructions regarding how an association of unit owners may be organized and
159 dismantled in accordance with this chapter.

160 Section 4. Section 57-8a-105 is amended to read:

161 **57-8a-105. Registration with Department of Commerce.**

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

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

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

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

172 (a) the name and address of the association;

173 (b) the name, address, telephone number, and, if applicable, email address of the chair
174 of the association board;

175 (c) contact information for the manager;

176 (d) the name, address, telephone number, and, if the contact person wishes to use email
177 or facsimile transmission for communicating payoff information, the email address or facsimile
178 number, as applicable, of a primary contact person who has association payoff information that
179 a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or
180 sale of the owner's lot; and

181 (e) a registration fee not to exceed \$37.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

211 (ii) an event that occurred before the conveyance of the residential lot became final,

212 and that would have given rise to a lien under Section 57-8a-301 had the association been in
213 compliance with the registration requirements of this section, may not give rise to a lien under
214 Section 57-8a-301 if the conveyance of the residential lot becomes final before the association
215 ends the period of noncompliance.

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

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

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

223 Section 5. Section 57-8a-105.1 is enacted to read:

224 **57-8a-105.1. Information required before sale to independent third party.**

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

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

228 (b) a link or other access point to the department's educational materials described in
229 Subsection 57-8a-105(6).

230 (2) The grantor shall provide the information described in Subsection (1) before
231 closing.

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

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