

HOMEOWNER ASSOCIATION PROVISIONS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: _____

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



ENACTS:

57-8-6.1, Utah Code Annotated 1953

57-8a-105.1, Utah Code Annotated 1953

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

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

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

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

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

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

Subsection **57-8-13.1**(6).

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

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

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

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

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

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

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

~~[(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

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.

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

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

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

dismantled in accordance with this chapter.

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

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

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

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

~~[(c)]~~ (iii) contact information for the manager;

~~[(d)]~~ (iv) 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]~~

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

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

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

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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