

Chapter 19 Timeshare and Camp Resort Act

57-19-1 Short title.

This chapter is known and may be cited as the "Timeshare and Camp Resort Act."

Enacted by Chapter 73, 1987 General Session

57-19-2 Definitions.

As used in this chapter:

- (1) "Accommodation" means:
 - (a) a hotel or motel room;
 - (b) a condominium or cooperative unit;
 - (c) a cabin;
 - (d) a lodge;
 - (e) an apartment; or
 - (f) a private or commercial structure designed for overnight occupancy by one or more individuals.
- (2) "Advertisement" means a written, printed, oral, audio, electronic, or visual offer that:
 - (a) is made by direct or general solicitation to one or more individuals; and
 - (b)
 - (i) contains an offer to sell an interest; or
 - (ii) contains a solicitation to visit or obtain additional information about a development.
- (3) "Amendment" means a change to an approved registration that is required under Section 57-19-9 or by a division rule made under this chapter.
- (4) "Association" means an organized body consisting solely of owners of timeshare interests in a timeshare development, including developers or purchasers.
- (5) "Business day" means a day other than a Saturday, Sunday, or state or federal holiday.
- (6) "Camping site" means a space designed or promoted for the purpose of locating a trailer, tent, tent trailer, recreational vehicle, pickup camper, motor home, or other similar device used for land-based portable housing.
- (7) "Camp resort" means an enterprise that has as its primary purpose the offering of a camp resort interest.
- (8) "Camp resort interest" means the right to use and occupy a camping site.
- (9) "Consolidation" means the registration of one or more additional sites or interests in a development after the division approves the development's registration.
- (10) "Developer" means a person that:
 - (a) establishes, owns, offers, sells, or operates a timeshare development or camp resort; or
 - (b) engages one or more other persons to establish, own, offer, sell, or operate a timeshare development or camp resort on the person's behalf.
- (11)
 - (a) "Development" means an enterprise with the primary purpose of offering an interest in a camp resort or timeshare development.
 - (b) "Development" includes:
 - (i) a single-site development; or
 - (ii) a multiple-site development.
- (12) "Director" means the director of the division.

- (13) "Direct sales presentation" means an in-person, telephonic, or Internet-based communication that presents an offer to purchase an interest in a development to one or more prospective purchasers.
- (14) "Division" means the Division of Real Estate of the Department of Commerce.
- (15) "Executive director" means the executive director of the Department of Commerce.
- (16)
 - (a) "Interest" means a right that a purchaser receives in exchange for consideration to use and occupy a camping site or an accommodation in a development:
 - (i) on a recurring basis; and
 - (ii) for a period of time that is less than one year during any given year, regardless of whether the time is determined in advance.
 - (b) "Interest" includes a membership agreement, sale, lease, deed, license, or right-to-use agreement.
- (17) "Offer" means a solicitation solely intended to result in a person purchasing an interest in a development.
- (18) "Property report" means the form of a written disclosure described in Section 57-19-11.
- (19) "Purchaser" means a person who purchases an interest in a development.
- (20) "Registration" means:
 - (a) for a development, an approved application for registration described in Section 57-19-5; or
 - (b) for a salesperson, an approved application for registration described in Section 57-19-15.
- (21) "Renewal" or "renew" means extending a development's or a salesperson's registration for an additional period on or before the registration's expiration date.
- (22)
 - (a) "Sale" or "sell" means selling an interest in a development for value.
 - (b) "Sale" or "sell" does not include charging a reasonable fee to offset the administrative costs of transferring an interest in a development.
- (23)
 - (a) "Salesperson" means an individual who, for compensation and as agent for another, is engaged in obtaining commitments of persons to purchase an interest in a development by making direct sales presentations to those persons.
 - (b) "Salesperson" does not include a purchaser or an owner of a timeshare interest engaged in the referral of persons without making a direct sales presentation.
- (24)
 - (a) "Site" means a geographic location where one or more camping sites or accommodations are located.
 - (b) "Site" includes a geographic location where one or more camping sites or accommodations are located that is constructed in phases and is under common management.
- (25) "Timeshare development" means an enterprise with the primary purpose of offering a timeshare interest, including an interest that gives the purchaser the right to use and occupy an accommodation at a single- or multiple-site development.
- (26) "Timeshare estate" means a small, undivided fractional fee interest in real property by which the purchaser does not receive any right to use an accommodation except as provided by contract, declaration, or other instrument defining a legal right.
- (27)
 - (a) "Timeshare interest" means a right to occupy fixed or variable accommodations during three or more separate fixed or variable time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land.
 - (b) "Timeshare interest" includes a timeshare estate.

Amended by Chapter 255, 2016 General Session

57-19-3 Rules.

The director may make, amend, and repeal rules, forms, and orders when necessary to carry out the provisions of this chapter.

Enacted by Chapter 73, 1987 General Session

57-19-4 Unregistered sales prohibited.

Except as provided in Section 57-19-26, it is unlawful for a person to offer or sell in this state an interest in a development unless the development is registered under this chapter or the person holds a temporary permit described in Section 57-19-6.

Amended by Chapter 255, 2016 General Session

57-19-5 Registration -- Filing application.

- (1) A person may apply for registration of a development by filing with the division:
 - (a) an application in the form prescribed by the director;
 - (b) the written disclosure described in Section 57-19-11; and
 - (c) financial statements and other information that the director may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require as being reasonably necessary to determine whether the requirements of this chapter have been met and whether any of the events specified in Subsection 57-19-13(2)(g) have occurred.
- (2) An interest in a development that is encumbered by a lien, mortgage, or other encumbrance may not be accepted for registration or offered to the public unless:
 - (a) adequate release or nondisturbance clauses are contained in the encumbering instruments to reasonably assure that the purchaser's interest in the development will not be defeated; or
 - (b) the division accepts other equivalent assurances that, in the division's opinion, meet the purposes of this Subsection (2).
- (3)
 - (a) A person who applies for a development registration shall include with the application a filing fee of \$500 for up to 100 interests, plus an additional \$3 per interest for each interest over 100, up to a maximum of \$2,500 for each application.
 - (b) If the division determines that an on-site inspection of the development is necessary, the development shall pay the division the actual amount of the costs and expenses incurred by the division in performing the on-site inspection.
- (4) A person may add an additional site or interest to an approved development registration by:
 - (a) filing an application for consolidation accompanied by an additional fee of \$200 plus \$3 for each additional interest, up to a maximum of \$1,250 for each application; and
 - (b) providing the information required under Subsection (1) for each additional site or interest.

Amended by Chapter 281, 2018 General Session

57-19-6 Effective date of application.

- (1) An application for registration filed pursuant to Section 57-19-5 is effective upon the expiration of 30 business days following its filing with the director, unless:
 - (a) an order denying the application pursuant to Section 57-19-13 is in effect;

- (b) a prior effective date has been ordered by the director; or
 - (c) the director has, before that date, notified the applicant of a defect in the registration application.
- (2) An applicant shall consent to the delay of effectiveness until the director by order declares the registration to be effective.
- (3)
- (a) Notwithstanding Section 57-19-4, the division may grant a developer a temporary permit that allows a developer to advertise, offer, or sell an interest:
 - (i) before the developer's application for registration is approved; and
 - (ii) for a period of 30 days or less.
 - (b) To obtain a temporary permit, the developer shall:
 - (i) submit an application to the division for a temporary permit in the form required by the division;
 - (ii) submit a substantially complete application for registration to the division, including all appropriate fees and exhibits required under Section 57-19-5, plus a temporary permit fee of \$100;
 - (iii) provide evidence acceptable to the division that all funds received by the developer or marketing agent will be placed into an independent escrow with instructions that funds will not be released until a final registration has been granted;
 - (iv) give to each purchaser and potential purchaser a copy of the proposed property report that the developer has submitted to the division with the initial application; and
 - (v) give to each purchaser the opportunity to cancel the purchase in accordance with Section 57-19-12.
 - (c) Upon the issuance of an approved registration, a purchaser shall have an additional opportunity to cancel the purchase if the division determines that there is a substantial difference in the disclosures contained in the final property report and those given to the purchaser in the proposed property report.
- (4)
- (a) Notwithstanding Section 57-19-4, a developer or a person acting on behalf of a developer may market and accept a reservation and deposit from a prospective purchaser before submitting to the division an application for registration or a temporary permit if:
 - (i) the deposit is placed in a non-interest bearing escrow account with a licensed real estate broker, a title company, or another escrow that the division approves in advance; and
 - (ii) the deposit is guaranteed to be fully refundable at any time at the request of the prospective purchaser.
 - (b) A deposit that a prospective purchaser tenders under Subsection (4)(a) may not be released to the developer until after:
 - (i) the division approves the development's registration; and
 - (ii) the prospective purchaser executes a written purchase contract creating a binding obligation to purchase.

Amended by Chapter 255, 2016 General Session

57-19-7 Prior permits.

Any permit to market a development issued by the division before April 27, 1987, is considered to be an effective registration, but is subject to the renewal provisions of this chapter upon the anniversary date of the issuance of the original permit.

Amended by Chapter 255, 2016 General Session

57-19-8 Filing proposed documents.

- (1) Every developer shall file with the director at least five business days before using any of the following in this state:
 - (a) the proposed form of the developer's sales contracts; and
 - (b) a copy or the text of any supplements to the written disclosure required under Section 57-19-11.
- (2) If the text, rather than a copy, of the materials described in Subsection (1) is filed, the developer shall file the copy, including an electronic version, of the materials with the director within five business days after the day on which the materials are first used.
- (3) A developer shall notify the division within five business days if the developer is convicted in any court of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions, or has been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions.
- (4) A developer shall notify the division within five business days if the developer files a petition in bankruptcy or if any other event occurs that could result in a material adverse effect on the development.
- (5)
 - (a) If any suit by or against a developer results in a court finding that the developer engaged in fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in a real estate transaction, the developer shall promptly give the division a copy of the final order, settlement agreement, consent agreement, or other document evidencing resolution of the case at the trial level, whether or not an appeal is anticipated.
 - (b) A developer's failure to comply with Subsection (5)(a) may, in the discretion of the division, constitute grounds for the division withholding any approval under this chapter.

Amended by Chapter 255, 2016 General Session

57-19-9 Duration of registration -- Amendment and renewal -- Supplemental disclosure -- Notice of amendment.

- (1) Registration of a development is effective for a period of one year and may, upon application, be renewed for successive periods of one year each.
- (2)
 - (a) A registration may be amended at any time, for any reason, by filing an amended application for registration.
 - (b) The amended registration shall become effective in accordance with Section 57-19-6.
- (3)
 - (a) The developer shall supplement the property report as often as is necessary to keep the required information reasonably current.
 - (b) The supplements described in Subsection (3)(a) shall be filed with the director in accordance with Section 57-19-8.
- (4)
 - (a) A developer shall provide timely notice to the director of any event that occurs that could result in a material adverse effect on the conduct of the operation of the development.

- (b) In addition to the notification described in Subsection (4)(a), the developer shall, within 30 days after the day on which an event described in Subsection (4)(a) occurs, file an amendment to the registration disclosing the information previously provided.
- (5) Each application for renewal of a registration and each supplementary filing described in this section shall be accompanied by a fee of \$200.

Amended by Chapter 255, 2016 General Session

57-19-10 Effect of application or registration -- Misleading statements to prospective purchasers a misdemeanor.

- (1) Neither the fact that an application for registration or the written disclosures required by this chapter have been filed, nor the fact that a development has been effectively registered or exempted, constitutes a finding by the director that the offering or any document filed under this chapter is true, complete, and not misleading, nor does either of these facts mean that the director has determined in any way the merits or qualifications of, or recommended or given approval to, any person, developer, or transaction involving an interest in a development.
- (2) It is a class A misdemeanor to make or cause to be made to any purchaser or prospective purchaser any offering or document filed under this chapter that is untrue, incomplete, or misleading.

Amended by Chapter 255, 2016 General Session

57-19-11 Disclosure required.

- (1) Except as provided in Section 57-19-26, any person who sells or offers to sell an interest in a development located in this state, or who sells or offers to sell in this state an interest in a development located outside of this state, shall provide to a prospective purchaser, before the prospective purchaser signs an agreement to purchase an interest in the development or gives any item of value for the purchase of an interest in the development, a written statement that provides a full and fair disclosure of information regarding the development and the purchaser's rights and obligations associated with the purchase of an interest in the development.
- (2) The written disclosure described in Subsection (1):
 - (a) may include electronic files; and
 - (b) shall:
 - (i) be on the property report form required by the division; and
 - (ii) include:
 - (A) the name and address of the developer;
 - (B) a statement regarding whether the developer has ever been convicted of a felony or any misdemeanor involving theft, fraud, or dishonesty, or enjoined from, assessed any civil penalty for, or found to have engaged in the violation of any law designed to protect consumers;
 - (C) a brief description of the developer's experience in timeshare, camp resort, or any other real estate development;
 - (D) a brief description of the interest that is being offered in the development;
 - (E) a description of any provisions to protect the purchaser's interest from loss due to foreclosure on any underlying financial obligation of the development;
 - (F) a statement that the development will not issue more interests during a 12-month period than the development can accommodate during the 12-month period;

- (G) any event that has occurred since the date of the offer that may have a material adverse effect on the operation of the development; and
- (H) any other information the director considers necessary for the protection of purchasers.

Amended by Chapter 255, 2016 General Session

57-19-12 Purchaser's right to cancel.

- (1)
 - (a) An agreement to purchase an interest in a development may be cancelled, at the option of the purchaser, if:
 - (i) the purchaser delivers a written notice of cancellation to the developer at the developer's business address by:
 - (A) hand; or
 - (B) certified mail, return receipt requested, or a delivery service that provides proof of delivery; and
 - (ii) the notice is delivered or postmarked not later than midnight of the fifth business day after the day on which the agreement is signed.
 - (b) In computing the number of business days for purposes of this section, the day on which the agreement was signed is not included.
 - (c) Within 30 days after the day on which the developer receives a timely notice of cancellation, the developer shall refund any money or other consideration paid by the purchaser.
- (2) Every agreement to purchase an interest in a development that is subject to this chapter shall include the following statement in at least 10-point bold upper-case type, immediately preceding the space for the purchaser's signature:

"PURCHASER'S RIGHT TO CANCEL: YOU MAY CANCEL THIS AGREEMENT WITHOUT ANY CANCELLATION FEE OR OTHER PENALTY BY HAND DELIVERING OR SENDING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR A DELIVERY SERVICE THAT PROVIDES PROOF OF DELIVERY, WRITTEN NOTICE OF CANCELLATION TO: (NAME AND ADDRESS OF DEVELOPER). THE NOTICE MUST BE DELIVERED OR POSTMARKED BY MIDNIGHT OF THE FIFTH BUSINESS DAY FOLLOWING THE DAY ON WHICH THE AGREEMENT IS SIGNED. IN COMPUTING THE NUMBER OF BUSINESS DAYS, THE DAY ON WHICH THE CONTRACT IS SIGNED IS NOT INCLUDED."

Amended by Chapter 255, 2016 General Session

57-19-13 Suspension, revocation, or denial of registration -- Fine.

- (1) Subject to Section 57-19-17, if the director finds that an applicant or developer has engaged in an act described in Subsection (2), the director may:
 - (a) deny an application for registration of a development;
 - (b) suspend or revoke an existing registration; or
 - (c) except as provided in Subsection (3), impose a fine of not more than \$5,000.
- (2) Subsection (1) applies if the director finds that:
 - (a) the developer's advertising or sales techniques or trade practices have been or are deceptive, false, or misleading;
 - (b) the developer fails to file a copy of the developer's sales contract forms as required under Section 57-19-8;
 - (c) the developer fails to comply with any provision of this chapter or any rule adopted under this chapter that materially affects or would affect the rights of a purchaser or prospective

- purchaser of an interest in a development, or that materially affects the administration of this chapter;
- (d) the developer makes a fraudulent offer of an interest in a development to a purchaser or prospective purchaser of the interest;
 - (e) the developer's application or any amendment to an application is incomplete in any material respect;
 - (f) the developer's application or any amendment to an application contains material misrepresentations or omissions of material fact that are necessary to make the statements contained in the application or amendment not misleading;
 - (g) the developer or any officer or director of the developer has been:
 - (i) convicted of a felony, or any misdemeanor involving theft, fraud, or dishonesty;
 - (ii) enjoined from, assessed a civil penalty for, or found to have engaged in a violation of any law designed to protect consumers; or
 - (iii) engaged in dishonest practices in any industry involving sales to consumers;
 - (h) the developer has represented or is representing to purchasers in connection with the offer or sale of an interest in a development that any accommodations, related facilities, or amenities are planned, without reasonable grounds to believe that they will be completed within a reasonable time;
 - (i) the developer disposes, conceals, or diverts any funds or assets so as to defeat the rights of purchasers;
 - (j) the developer fails to provide to a purchaser a copy of the written disclosure required by Section 57-19-11; or
 - (k) the developer, the developer's successor in interest, or a managing association discloses a purchaser's name, address, or email address to an unaffiliated entity without first obtaining written consent from the purchaser, unless the disclosure is in response to a subpoena or an order of a court or administrative tribunal.
- (3) The authority to impose a fine under this section does not apply to Subsection (2)(e).
- (4) Notwithstanding Subsection (2)(k), a developer shall, upon request by the division, provide the division a list of each purchaser's name, address, and email address.

Amended by Chapter 255, 2016 General Session

57-19-14 Registration of salesperson.

Except as provided in Section 57-19-26, it is unlawful for a person to act as a salesperson and market a development in this state without first registering under this chapter as a salesperson.

Amended by Chapter 255, 2016 General Session

57-19-15 Application for registration of salesperson.

- (1) A person may apply for registration as a salesperson under this chapter by filing with the director an application in the form prescribed by the director, including:
 - (a) a statement regarding whether the applicant has ever been:
 - (i) convicted of:
 - (A) a felony; or
 - (B) a misdemeanor involving theft, fraud, or dishonesty; or
 - (ii) enjoined from, assessed a civil penalty for, or found to have engaged in the violation of a law designed to protect a consumer;
 - (b)

- (i) a statement describing the applicant's employment history for the five years immediately preceding the day on which the application is filed; and
 - (ii) a statement regarding whether a termination of employment during the period described in Subsection (1)(b)(i) is a result of theft, fraud, or an act of dishonesty;
 - (c) evidence of the applicant's honesty, integrity, truthfulness, and reputation; and
 - (d) any other information that the director, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, considers necessary to protect a purchaser's interests.
- (2)
- (a) Notwithstanding the requirements for a regulatory fee under Section 63J-1-504, at the time an applicant files an application, the applicant shall pay to the division a fee of \$100.
 - (b) The fee for registration described in Subsection (2)(a) is waived for a person licensed by the division under Title 61, Chapter 2f, Real Estate Licensing and Practices Act.
- (3)
- (a) Registration as a salesperson is effective for two years after the day on which the registration is approved by the director, unless the director specifies otherwise.
 - (b) To renew a registration, a salesperson shall:
 - (i) file a form prescribed by the director for that purpose; and
 - (ii) pay a renewal fee of \$100.

Amended by Chapter 255, 2016 General Session

57-19-16 Denial, revocation, or suspension of registration of salesperson -- Fine.

- (1) Subject to Section 57-19-17, if the division finds that an applicant or salesperson has engaged in an act described in Subsection (2), the division may:
- (a) deny an application for registration as a salesperson;
 - (b) suspend or revoke an existing registration; or
 - (c) impose a civil penalty not to exceed \$5,000.
- (2) Subsection (1) applies if the division finds that the applicant or salesperson:
- (a) files, or causes to be filed, with the division a document that contains untrue or misleading information;
 - (b) makes an untrue or misleading statement of material fact;
 - (c) fails to state a material fact that is necessary in order to make the statements made not misleading in light of the circumstances under which the statements are made;
 - (d) employs a device, scheme, or artifice to defraud, or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit upon a person;
 - (e) subsequent to the effective date of registration as a salesperson, is:
 - (i) convicted of:
 - (A) a felony; or
 - (B) a misdemeanor involving theft, fraud, or dishonesty; or
 - (ii) enjoined from, assessed a civil penalty for, or found to have engaged in a violation of any law designed to protect consumers;
 - (f) violates this chapter;
 - (g) engages in an activity that constitutes dishonest dealing; or
 - (h) engages in unprofessional conduct as defined by statute or rule made by the director.

Amended by Chapter 255, 2016 General Session

57-19-17 Administrative procedures.

- (1) The director may summarily deny an application for registration under any of the provisions of Section 57-19-13 or 57-19-16. If a registration is denied, the applicant may, within 10 days after receipt of notice of the denial, request a hearing before an administrative law judge. The director shall schedule the hearing within 30 days after receipt of the applicant's request and give notice of the hearing in writing to the applicant, specifying the reasons for denial of the registration. If, as a result of the hearing, it is determined that the applicant is qualified to be registered, the registration shall be issued.
- (2) Before an existing registration is suspended or revoked, or a fine imposed, the director shall schedule a hearing before an administrative law judge and give notice in writing to the affected person as prescribed in Title 13, Chapter 1, Department of Commerce, and the rules of procedure for hearings before the Department of Commerce. If, as a result of the hearing, the administrative law judge finds that there has been a violation of this chapter, the registration shall be suspended or revoked, or a fine imposed, by written order of the director in concurrence with the executive director.
- (3) The developer or salesperson has the right to appear at the hearing, in person or by counsel, to be heard and to examine witnesses appearing in connection with the complaint. At the hearing, all witnesses shall be sworn by the administrative law judge, and stenographic notes or a tape recording of the proceeding shall be taken and filed as a part of the record in the case. Any party to the proceeding shall be furnished a copy of the stenographic notes or tape recording at a reasonable cost. The administrative law judge shall render a decision within 60 days after the completion of the hearing. The executive director and the director shall concurrently make the final decision and promptly notify the parties to the proceedings, in writing, of the ruling, order, or decision.
- (4) The developer or salesperson, or any person aggrieved, may appeal any adverse ruling, order, or decision of the executive director and the director to the district court for the county in which the hearing was held, within 30 days from the date of service of notice of the ruling, order, or decision upon him. At the time of filing the notice of appeal, the appellant shall file with the notice a bond for costs on appeal in the amount of \$200, conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed.

Amended by Chapter 225, 1989 General Session

57-19-18 Investigation -- Publication.

- (1) The director may make any investigations or requests for information, within or outside of this state, that he considers necessary:
 - (a) to determine whether any registration under this chapter should be granted, denied, or revoked;
 - (b) to determine whether any person has violated or is about to violate any of the provisions of this chapter or any rule or order under this chapter; or
 - (c) to aid in the enforcement of this chapter.
- (2) The director may publish information concerning any violation of this chapter or any rule or order under this chapter.

Enacted by Chapter 73, 1987 General Session

57-19-19 Subpoenas -- Evidence.

- (1) For the purposes of any investigation or proceeding under this chapter, the director, or any officer designated by him, may administer oaths and affirmations, subpoena witnesses,

compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director considers relevant or material to the inquiry.

- (2) A person who disobeys any subpoena lawfully issued by the director, or who refuses to testify to any matters regarding which he may be lawfully interrogated, is subject to the provisions of Section 78B-6-313.

Amended by Chapter 3, 2008 General Session

Superseded 7/1/2024

57-19-20 Injunctive relief -- Cease and desist order.

- (1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, and that it would be in the public interest to stop those acts or practices, the director may either:
 - (a) seek injunctive relief as provided in Rule 65A, Utah Rules of Civil Procedure; or
 - (b) issue an administrative cease and desist order.
- (2) If an administrative cease and desist order is issued pursuant to Subsection (1), the person upon whom the order is served may, within 10 days after receiving the order, request that a hearing be held before an administrative law judge. If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. Pending the hearing, the order remains in effect.
- (3) If, at the hearing, a finding is made that there has been a violation of this chapter, the director, with the concurrence of the executive director, may issue an order making the cease and desist order permanent. If no hearing is requested, and if the person fails to cease the act or practice, or after discontinuing the act or practice again commences it, the director shall file suit in the district court of the county in which the act or practice occurred, or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter.
- (4) Whether or not the director has issued a cease and desist order, the attorney general, in the name of the state or of the director, may bring an action in any court of competent jurisdiction to enjoin any act or practice constituting a violation of any provision of this chapter, and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

Amended by Chapter 382, 2008 General Session

Effective 7/1/2024

57-19-20 Injunctive relief -- Cease and desist order.

- (1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, and that it would be in the public interest to stop those acts or practices, the director may either:
 - (a) seek injunctive relief as provided in Rule 65A, Utah Rules of Civil Procedure; or
 - (b) issue an administrative cease and desist order.
- (2) If an administrative cease and desist order is issued pursuant to Subsection (1), the person upon whom the order is served may, within 10 days after receiving the order, request that a hearing be held before an administrative law judge. If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. Pending the hearing, the order remains in effect.
- (3)

- (a) If, at the hearing, a finding is made that there has been a violation of this chapter, the director, with the concurrence of the executive director, may issue an order making the cease and desist order permanent.
 - (b) If no hearing is requested, and if the person fails to cease the act or practice, or after discontinuing the act or practice again commences the act or practice, the director shall bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin and restrain the person from violating this chapter.
- (4)
- (a) Whether or not the director has issued a cease and desist order, the attorney general, in the name of the state or of the director, may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin any act or practice constituting a violation of any provision of this chapter, and to enforce compliance with this chapter or any rule or order under this chapter.
 - (b) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

Amended by Chapter 401, 2023 General Session

57-19-21 Voidable agreements.

- (1) Any agreement to purchase an interest in a development that violates Section 57-19-4 or 57-19-14 may, at the option of the purchaser, be voided and the purchaser's entire consideration recovered together with interest at the legal rate, costs, and reasonable attorney fees.
- (2) No suit under this section may be brought more than two years after the later of:
 - (a) the day on which the agreement is signed; or
 - (b) the day on which the purchaser knew or reasonably should have known of the violation.

Amended by Chapter 255, 2016 General Session

57-19-22 Violation a misdemeanor.

Any person who willfully violates any provision of this chapter is guilty of a class B misdemeanor.

Amended by Chapter 241, 1991 General Session

57-19-23 Prosecution.

The director may refer any available evidence concerning violations of this chapter or of any rule or order under this chapter to the attorney general or the proper prosecuting attorney, who may, in his discretion, with or without such a referral, institute the appropriate civil or criminal proceedings under this chapter.

Enacted by Chapter 73, 1987 General Session

57-19-24 Violation of Consumer Sales Practice Act.

For purposes of applying Title 13, Chapter 11, Utah Consumer Sales Practices Act, any material violation of the provisions of this chapter constitutes an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

Enacted by Chapter 73, 1987 General Session

57-19-25 Remedies nonexclusive.

The remedies provided in this chapter are cumulative and nonexclusive, and do not affect any other remedy available at law.

Enacted by Chapter 73, 1987 General Session

57-19-26 Exemptions.

- (1) Unless entered into for the purpose of evading the provisions of this chapter, the following transactions are exempt from registration:
 - (a) an isolated transaction by an owner of an interest in a development or by a person holding the owner's executed power of attorney;
 - (b) an offer or sale by a governmental entity; and
 - (c) a resale of an interest that is:
 - (i) acquired:
 - (A) by the developer who initially registered the development or by the managing association of the development; and
 - (B) through a foreclosure, quitclaim deed, deed in lieu of foreclosure, or equivalent means;
 - (ii) not offered as part of a development that includes one or more interests that are unregistered or have been registered by a different developer or as part of a different development; and
 - (iii) closed after the developer or managing association provides a purchaser the disclosures required by Section 57-19-11 and the right to rescind required by Section 57-19-12.
- (2) After a resale by a developer or managing association that is claimed to be exempt under Subsection (1)(c), the division retains jurisdiction to:
 - (a) investigate a complaint regarding the resale; and
 - (b) if applicable, take an administrative action against the developer or managing association on the basis of unprofessional conduct, as described in Section 57-19-13.
- (3)
 - (a) The director may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or by order, exempt any person from any requirement of this chapter if the director finds that the offering of an interest in a development is essentially noncommercial.
 - (b) The offering of an interest in a development that has 10 or fewer interests is considered essentially noncommercial.
 - (c) A person who does not meet the requirements described in Subsection (3)(b), but believes that a proposed offering of more than 10 interests in a development is essentially noncommercial, may request an order of exemption from the director.
 - (d) To request an order of exemption under this section, a person shall submit to the director a request for agency action in accordance with Section 63G-4-201.

Amended by Chapter 255, 2016 General Session