

Effective 5/10/2016

Chapter 29
Undivided Fractionalized Long-term Estate Sales Practices Act

Part 1
General Provisions

57-29-101 Title.

- (1) This chapter is known as the "Undivided Fractionalized Long-Term Estate Sales Practices Act."
- (2) This part is known as "General Provisions."

Enacted by Chapter 381, 2016 General Session

57-29-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Real Estate Commission created in Section 61-2f-103.
- (2) "Director" means the director of the Division of Real Estate.
- (3) "Division" means the Division of Real Estate created in Section 61-2-201.
- (4) "Management agreement" means an agreement between a person and each owner of an undivided fractionalized long-term estate in a piece of real property under which the person agrees to manage the leasing or operations of the real property.
- (5) "Master lease" means an agreement under which a person is granted a leasehold interest in real property and may sublease all or a portion of the real property to one or more persons.
- (6) "Master lease tenant" means the lessee in a master lease.
- (7) "Sponsor" means a person who is the original seller of an undivided fractionalized long-term estate.
- (8)
 - (a) "Undivided fractionalized long-term estate" means an ownership interest in real property by two or more persons that is:
 - (i) a tenancy in common; or
 - (ii) a fee estate.
 - (b) "Undivided fractionalized long-term estate" does not include a joint tenancy.

Enacted by Chapter 381, 2016 General Session

57-29-103 Applicability.

This chapter does not apply to property that is subject to Title 57, Chapter 19, Timeshare and Camp Resort Act.

Enacted by Chapter 381, 2016 General Session

Part 2
License and Disclosure Requirements

57-29-201 Title.

This part is known as "License and Disclosure Requirements."

Enacted by Chapter 381, 2016 General Session

57-29-202 License required.

Except as provided by Section 61-2f-202, a person may not offer, sell, or otherwise dispose of an undivided fractionalized long-term estate unless the person is licensed by the division under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, as a principal broker, associate broker, or sales agent.

Enacted by Chapter 381, 2016 General Session

57-29-203 Required disclosures.

- (1) A sponsor or licensee who sells or offers to sell an undivided fractionalized long-term estate shall provide each prospective purchaser a written disclosure, related to the real property in which the undivided fractionalized long-term estate is offered, that:
 - (a) if applicable:
 - (i) includes a copy of any master lease agreement; and
 - (ii) states whether the sponsor is the master lease tenant or an affiliate of the master lease tenant;
 - (b) includes any material information that relates to a current lease or sublease that affects the real property in which the undivided fractionalized long-term estate is offered;
 - (c) includes a copy of:
 - (i) a tenants in common agreement; or
 - (ii) an agreement that forms the substance of the undivided fractionalized long-term estate and includes a definition of the undivided fractionalized interest;
 - (d) describes any improvements to the real property in which the undivided fractionalized long-term estate is offered;
 - (e) includes a copy of any management agreement;
 - (f) describes the relationship, if any, between each property manager and the sponsor; and
 - (g) includes any additional information that an ordinarily prudent purchaser would consider material to deciding whether to purchase the undivided fractionalized long-term estate, as determined by the commission, with concurrence by the division, by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) A sponsor or licensee who sells or offers to sell an undivided fractionalized long-term estate shall provide the written disclosure described in Subsection (1) to the prospective purchaser before the prospective purchaser purchases the undivided fractionalized long-term estate.

Enacted by Chapter 381, 2016 General Session

**Part 3
Investigation and Enforcement**

57-29-301 Title.

This part is known as "Investigation and Enforcement."

Enacted by Chapter 381, 2016 General Session

57-29-302 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter, the commission, with concurrence by the division, may make rules governing:

- (1) the form of the disclosures required under this chapter; and
- (2) enforcement of the provisions of this chapter.

Enacted by Chapter 381, 2016 General Session

Superseded 7/1/2024

57-29-303 Investigatory powers and proceedings of division.

- (1) The division may:
 - (a) conduct a public or private investigation to determine whether a person has violated or is about to violate a provision of this chapter; and
 - (b) require or allow a person to file a written statement with the division that relates to the facts and circumstances concerning a matter to be investigated.
- (2) For the purpose of an investigation or proceeding under this chapter, the division may:
 - (a) administer oaths or affirmations; and
 - (b) upon the division's own initiative or upon the request of any party:
 - (i) subpoena a witness;
 - (ii) compel a witness's attendance;
 - (iii) take evidence; or
 - (iv) require the production, within 10 business days, of any information or item that is relevant to the investigation, including:
 - (A) the existence, description, nature, custody, condition, and location of any books, electronic records, documents, or other tangible records;
 - (B) the identity and location of any person who has knowledge of relevant facts; or
 - (C) any other information or item that is reasonably calculated to lead to the discovery of material evidence.
- (3) If a person fails to obey a subpoena or other request made in accordance with this section, the division may file an action in district court for an order compelling compliance.

Enacted by Chapter 381, 2016 General Session

Effective 7/1/2024

57-29-303 Investigatory powers and proceedings of division.

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 - (a) conduct a public or private investigation to determine whether a person has violated or is about to violate a provision of this chapter; and
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 - (A) the existence, description, nature, custody, condition, and location of any books, electronic records, documents, or other tangible records;
 - (B) the identity and location of any person who has knowledge of relevant facts; or
 - (C) any other information or item that is reasonably calculated to lead to the discovery of material evidence.
- (3) If a person fails to obey a subpoena or other request made in accordance with this section, the division may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order compelling compliance.

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024
57-29-304 Enforcement.

- (1)
 - (a) If the director believes that a person has been or is engaging in conduct that violates this chapter, the director:
 - (i) shall issue and serve upon the person a cease and desist order; and
 - (ii) may order the person to take any action necessary to carry out the purposes of this chapter.
 - (b)
 - (i) A person served with an order under Subsection (1)(a) may request a hearing within 10 days after the day on which the person is served.
 - (ii)
 - (A) If a person requests a hearing in accordance with Subsection (1)(b)(i), the director shall schedule a hearing to take place no more than 30 days after the day on which the director receives the request.
 - (B) The cease and desist order remains in effect pending the hearing.
 - (iii) If the director fails to schedule a hearing in accordance with Subsection (1)(b)(ii)(A), the cease and desist order is vacated.
 - (c) The division shall conduct a hearing described in Subsection (1)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (2) After a hearing described in Subsection (1)(b):
 - (a) if the director finds that the person violated this chapter, the director may issue a final order making the cease and desist order permanent; or
 - (b) if the director finds that the person did not violate this chapter, the director shall vacate the cease and desist order.
- (3) If a person served with an order under Subsection (1)(a) does not request a hearing and the person fails to comply with the director's order, the director may file suit in district court in the name of the Department of Commerce and the Division of Real Estate to enjoin the person from violating this chapter.
- (4) The remedies and action provided in this section are not exclusive but are in addition to any other remedies or actions available under Section 57-29-305.

Enacted by Chapter 381, 2016 General Session

Effective 7/1/2024
57-29-304 Enforcement.

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- (2) After a hearing described in Subsection (1)(b):
 - (a) if the director finds that the person violated this chapter, the director may issue a final order making the cease and desist order permanent; or
 - (b) if the director finds that the person did not violate this chapter, the director shall vacate the cease and desist order.
- (3) If a person served with an order under Subsection (1)(a) does not request a hearing and the person fails to comply with the director's order, the director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the Department of Commerce and the Division of Real Estate to enjoin the person from violating this chapter.
- (4) The remedies and action provided in this section are not exclusive but are in addition to any other remedies or actions available under Section 57-29-305.

Amended by Chapter 401, 2023 General Session

57-29-305 Voidable agreements.

- (1)
 - (a) If a sponsor violates a provision of this chapter in entering into an agreement to purchase an undivided fractionalized long-term estate, the purchaser may rescind the agreement.
 - (b) A purchaser may rescind an agreement under this Subsection (1) at any time before the closing.
- (2) A purchaser who rescinds an agreement in accordance with Subsection (1) is entitled to all the consideration that the purchaser gave under the rescinded agreement.
- (3) In an action to enforce a purchaser's right of rescission under Subsection (1), the court shall award costs and reasonable attorney fees to the prevailing party.

Enacted by Chapter 381, 2016 General Session