

1 **DISCLOSURE OF UNREINFORCED MASONRY BUILDINGS**

2 **ACT**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Andrew Stoddard**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill requires certain disclosures or documentation related to unreinforced masonry
11 buildings in transactions involving real property.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ under certain conditions, requires an owner or lessor to disclose whether real estate
16 includes or may include an unreinforced masonry building;
- 17 ▶ establishes penalties for an owner or lessor's failure to provide written disclosure or
18 documentation regarding unreinforced masonry buildings; and
- 19 ▶ directs the Division of Consumer Protection to:
 - 20 • establish a process for reporting a violation of the Disclosure of Unreinforced
21 Masonry Buildings Act (Act);
 - 22 • investigate an alleged violation of the Act;
 - 23 • impose a fine for a violation of the Act; and
 - 24 • provide certain notifications.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **13-2-1**, as last amended by Laws of Utah 2020, Chapter 118

32 ENACTS:

33 **57-30-101**, Utah Code Annotated 1953

34 **57-30-102**, Utah Code Annotated 1953

35 **57-30-201**, Utah Code Annotated 1953

36 **57-30-301**, Utah Code Annotated 1953

37 **57-30-302**, Utah Code Annotated 1953

38 **57-30-303**, Utah Code Annotated 1953



39
40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **13-2-1** is amended to read:

42 **13-2-1. Consumer protection division established -- Functions.**

43 (1) There is established within the Department of Commerce the Division of Consumer
44 Protection.

45 (2) The division shall administer and enforce the following:

- 46 (a) Chapter 5, Unfair Practices Act;
- 47 (b) Chapter 10a, Music Licensing Practices Act;
- 48 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 49 (d) Chapter 15, Business Opportunity Disclosure Act;
- 50 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 51 (f) Chapter 21, Credit Services Organizations Act;
- 52 (g) Chapter 22, Charitable Solicitations Act;
- 53 (h) Chapter 23, Health Spa Services Protection Act;
- 54 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 55 (j) Chapter 26, Telephone Fraud Prevention Act;
- 56 (k) Chapter 28, Prize Notices Regulation Act;
- 57 (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- 58 (m) Chapter 34, Utah Postsecondary Proprietary School Act;

- 59 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 60 (o) Chapter 39, Child Protection Registry;
- 61 (p) Chapter 41, Price Controls During Emergencies Act;
- 62 (q) Chapter 42, Uniform Debt-Management Services Act;
- 63 (r) Chapter 49, Immigration Consultants Registration Act;
- 64 (s) Chapter 51, Transportation Network Company Registration Act;
- 65 (t) Chapter 52, Residential Solar Energy Disclosure Act;
- 66 (u) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 67 (v) Chapter 54, Ticket Website Sales Act;
- 68 (w) Chapter 56, Ticket Transferability Act; [~~and~~]
- 69 (x) Chapter 57, Maintenance Funding Practices Act[-]; and
- 70 (y) Title 57, Chapter 30, Disclosure of Unreinforced Masonry Buildings Act.

71 Section 2. Section **57-30-101** is enacted to read:

72 **CHAPTER 30. DISCLOSURE OF UNREINFORCED MASONRY BUILDINGS ACT**

73 **Part 1. General Provisions**

74 **57-30-101. Title.**

75 This chapter is known as the "Disclosure of Unreinforced Masonry Buildings Act."

76 Section 3. Section **57-30-102** is enacted to read:

77 **57-30-102. Definitions.**

78 As used in this chapter:

79 (1) "Division" means the Division of Consumer Protection established in Section
80 13-2-1.

81 (2) "Load-bearing wall" means a wall supporting:

82 (a) a floor or roof; or

83 (b) a superimposed load of 100 pounds per lineal foot.

84 (3) "Masonry" means units of stone, clay brick, hollow clay brick, concrete brick, or
85 hollow concrete block.

86 (4) (a) "Owner" means the holder of a legal or equitable title or interest in real
87 property.

88 (b) "Owner" includes a shareholder, partner, operator, or other legal entity.

89 (5) "Real estate professional" means a licensee under Title 61, Chapter 2f, Real Estate

90 Licensing and Practices Act.

91 (6) "Unreinforced masonry building" means a building with a load-bearing wall
92 constructed:

93 (a) of grouted or stacked masonry; and

94 (b) with less than 50% of the steel reinforcement required under the 2018 International
95 Building Code issued by the International Code Council.

96 Section 4. Section **57-30-201** is enacted to read:

97 **Part 2. Required Disclosure of Unreinforced Masonry Buildings**

98 **57-30-201. Disclosure of unreinforced masonry buildings.**

99 (1) (a) If an owner or lessor of real property has actual knowledge that the real property
100 includes an unreinforced masonry building, the owner or lessor shall, in a real property lease,
101 conveyance, or other transaction related to the real property, provide written disclosure to the
102 buyer or lessee that the real property includes an unreinforced masonry building.

103 (b) The written disclosure required under Subsection (1)(a) shall clearly and
104 conspicuously state:

105 "This property includes an unreinforced masonry building. An unreinforced masonry
106 building does not have structural support designed to resist even a moderate earthquake (5.0 to
107 5.9 in magnitude). Utah is home to many active fault lines with 90% of the state's population
108 living in Utah's active earthquake belt. Experts say there is a 57% chance of a 6.0 magnitude or
109 larger earthquake, and a 43% chance of a 6.75 magnitude or larger earthquake, along Utah's
110 Wasatch Front region before 2066 (DuRoss, C.B., 2016, Earthquake forecast for the Wasatch
111 Front region of the Intermountain West: U.S. Geological Survey Fact Sheet 2016-3019). The
112 collapse of unreinforced masonry buildings is one of the major sources of deaths, injury, and
113 damage resulting from an earthquake."

114 (2) (a) If real property includes a building built before 1975, unless the owner or lessor
115 of the real property makes a written disclosure required under Subsection (1), the owner or
116 lessor of the real property shall provide the buyer or lessee of the real property:

117 (i) written disclosure that the real property may include an unreinforced masonry
118 building; or

119 (ii) documentation that the real property does not include an unreinforced masonry
120 building from an individual:

121 (A) licensed under Title 58, Chapter 22, Professional Engineers and Professional Land
122 Surveyors Licensing Act; and

123 (B) whom the Department of Occupational and Professional Licensing through rule
124 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
125 considers qualified to make the determination.

126 (b) The written disclosure described in Subsection (2)(a)(i) shall clearly and
127 conspicuously state:

128 "Buildings built before 1975 may be built with unreinforced masonry. An unreinforced
129 masonry building does not have structural support designed to resist even a moderate
130 earthquake (5.0 to 5.9 in magnitude). Utah is home to many active fault lines with 90% of the
131 state's population living in Utah's active earthquake belt. Experts say there is a 57% chance of a
132 6.0 magnitude or larger earthquake, and a 43% chance of a 6.75 magnitude or larger
133 earthquake, along Utah's Wasatch Front region before 2066 (DuRoss, C.B., 2016, Earthquake
134 forecast for the Wasatch Front region of the Intermountain West: U.S. Geological Survey Fact
135 Sheet 2016-3019). The collapse of unreinforced masonry buildings is one of the major sources
136 of deaths, injury, and damage resulting from an earthquake."

137 Section 5. Section **57-30-301** is enacted to read:

138 **Part 3. Enforcement**

139 **57-30-301. Remedy.**

140 (1) (a) If an owner fails to provide a buyer the written disclosure or documentation
141 required under Section [57-30-201](#), the buyer may:

142 (i) terminate the real estate purchase contract before the day on which closing occurs;
143 and

144 (ii) retain all earnest money the buyer deposited.

145 (b) The remedy described in Subsection (1)(a) is a buyer's exclusive remedy for the
146 owner's failure to provide the written disclosure or documentation required under Section
147 [57-30-201](#).

148 (2) (a) If a lessor fails to provide a lessee the written disclosure or documentation
149 required under Section [57-30-201](#), the lessee may:

150 (i) report the lessor through the reporting process described in Section [57-30-302](#); and

151 (ii) upon receiving the notification described in Subsection [57-30-302\(3\)\(b\)](#), terminate

152 the lease by:

153 (A) providing written notice to the lessor that the lessee is terminating the lease; and

154 (B) vacating the leased premises within 10 days after the day on which the lessee

155 provides the written notice described in Subsection (2)(a)(ii)(A).

156 (b) If a lessee terminates a lease as described in this subsection, the lessor:

157 (i) shall immediately pay the lessee:

158 (A) a prorated refund for any prepaid rent;

159 (B) any security deposit due the lessee; and

160 (ii) may not charge the lessee a fee or exact a penalty against the lessee for terminating

161 the lease.

162 Section 6. Section **57-30-302** is enacted to read:

163 **57-30-302. Reporting -- Investigation -- Fines.**

164 The division shall:

165 (1) develop, maintain, and make available to the public a reporting process for a

166 lessor's alleged violation of Section [57-30-201](#);

167 (2) investigate a lessor's alleged violation of Section [57-30-201](#); and

168 (3) if the division finds a lessor violated Section [57-30-201](#):

169 (a) impose a fine on the lessor, not to exceed:

170 (i) \$300 for the first violation;

171 (ii) \$600 for the second violation; and

172 (iii) \$1,000 for the third or subsequent violation; and

173 (b) promptly notify the lessee against whom the violation occurred, that the division

174 found the lessor violated Section [57-30-201](#).

175 Section 7. Section **57-30-303** is enacted to read:

176 **57-30-303. Real estate professional not liable.**

177 A real estate professional is not liable for an owner or lessor of real property providing,

178 or failing to provide, a disclosure or documentation required under Section [57-30-201](#), unless

179 the real estate professional is also the owner or lessor of the real property.