

1 **HOME ENERGY RATING INDEX SCORE DISCLOSURE**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kraig Powell**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts the Home Energy Rating Disclosure Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ requires that before a person sells a new residential building, the person must
- 14 disclose the building's home energy efficiency score and other related information to
- 15 the prospective purchaser;

16 ▶ provides that the Division of Real Estate, in consultation with the Department of

17 Environmental Quality, shall create and make available to the public a home energy

18 efficiency score information pamphlet;

19 ▶ addresses the contents of a real estate purchase agreement relating to the home

20 energy efficiency score;

21 ▶ allows the Division of Real Estate to make rules consistent with the provisions of

22 this bill;

23 ▶ provides a procedure to enforce compliance with the provisions of this bill; and

24 ▶ makes technical and conforming changes.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **61-2-201**, as last amended by Laws of Utah 2011, Chapter 289

32 ENACTS:

33 **57-28-101**, Utah Code Annotated 1953

34 **57-28-102**, Utah Code Annotated 1953

35 **57-28-201**, Utah Code Annotated 1953

36 **57-28-202**, Utah Code Annotated 1953

37 **57-28-203**, Utah Code Annotated 1953

38 **57-28-301**, Utah Code Annotated 1953

39 **57-28-302**, Utah Code Annotated 1953

40 **57-28-303**, Utah Code Annotated 1953



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

43 Section 1. Section **57-28-101** is enacted to read:

44 **CHAPTER 28. HOME ENERGY RATING INDEX DISCLOSURE ACT**

45 **Part 1. General Provisions**

46 **57-28-101. Title.**

47 (1) This chapter is known as the "Home Energy Rating Disclosure Act."

48 (2) This part is known as "General Provisions."

49 Section 2. Section **57-28-102** is enacted to read:

50 **57-28-102. Definitions.**

51 As used in this chapter:

52 (1) "Certified home energy rater" means a person who is certified or otherwise
53 approved by a provider to calculate a new residential building's home energy efficiency score.

54 (2) "Department" means the Department of Environmental Quality.

55 (3) "Division" means the Division of Real Estate, created in Section **61-2-201**.

56 (4) "Energy efficiency rating system" means a provider's method or standard by which
57 a person measures a building's energy efficiency and calculates a home energy efficiency score.

58 (5) "Home energy efficiency score" means a number that:

- 59 (a) represents a building's energy efficiency;
- 60 (b) is calculated by a certified home energy rater; and
- 61 (c) accounts for the results of:
- 62 (i) energy modeling;
- 63 (ii) a blower door test; and
- 64 (iii) a duct blaster test.

65 (6) "New residential building" means a building or structure, or a portion of a building
 66 or structure, that is:

- 67 (a) newly constructed; and
- 68 (b) designed or intended for occupancy as a residence of one or more individuals.
- 69 (7) "Owner" means the holder of a legal or equitable title or interest in a new
 70 residential building.

71 (8) "Provider" means a nationwide entity approved by the division, in consultation with
 72 the department, that:

- 73 (a) administers an energy efficiency rating system; and
- 74 (b) tests and certifies or otherwise approves individuals to calculate home energy
 75 efficiency scores.

76 Section 3. Section **57-28-201** is enacted to read:

77 **Part 2. New Residential Conveyance Requirements**

78 **57-28-201. Title.**

79 This part is known as "New Residential Conveyance Requirements."

80 Section 4. Section **57-28-202** is enacted to read:

81 **57-28-202. Required disclosures.**

82 (1) At least 72 hours before a purchaser is obligated to purchase an interest in a new
 83 residential building from an owner, the owner shall give the purchaser a written disclosure that
 84 includes:

- 85 (a) the new residential building's home energy efficiency score that was calculated no
 86 more than 30 days before the day on which the home energy efficiency score is disclosed;
- 87 (b) the date on which the home energy efficiency score was calculated;
- 88 (c) the name of the provider associated with the home energy efficiency score;
- 89 (d) the name and contact information of the certified home energy rater who calculated

90 the home energy efficiency score; and

91 (e) a copy of the home energy efficiency score information pamphlet described in

92 Subsection (2).

93 (2) The division, in consultation with the department, shall develop and make available

94 to the public a home energy efficiency score information pamphlet that describes:

95 (a) the meaning of each provider's home energy efficiency score; and

96 (b) how each provider's home energy efficiency score is calculated.

97 Section 5. Section **57-28-203** is enacted to read:

98 **57-28-203. Real estate purchase contract -- Required contents.**

99 Each contract for the purchase of an interest in a new residential building shall contain a

100 provision, signed by the purchaser, that states that the purchaser timely received the written

101 disclosure described in Subsection [57-28-202](#)(1).

102 Section 6. Section **57-28-301** is enacted to read:

103 **Part 3. Administration and Enforcement**

104 **57-28-301. Title.**

105 This part is known as "Administration and Enforcement."

106 Section 7. Section **57-28-302** is enacted to read:

107 **57-28-302. Rulemaking.**

108 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

109 consistent with this chapter, the division:

110 (1) shall make rules governing:

111 (a) the process and standards for becoming an approved provider; and

112 (b) the enforcement of the provisions of this chapter; and

113 (2) may make rules governing:

114 (a) the content and form of disclosures relating to a home energy efficiency score;

115 (b) the procedure for making disclosures relating to a home energy efficiency score;

116 and

117 (c) the contents of a real estate purchase contract that relate to a home energy efficiency

118 score.

119 Section 8. Section **57-28-303** is enacted to read:

120 **57-28-303. Enforcement -- Right of rescission.**

121 (1) The division may enforce the provisions of this chapter.

122 (2) A person who knowingly discloses a false, inaccurate, or misleading home energy
 123 efficiency score is subject to a civil fine of no greater than \$10,000.

124 (3) (a) If a person fails to comply with a provision of Section [57-28-202](#) or [57-28-203](#),
 125 the purchaser may, within one year after the day on which the agreement to purchase the new
 126 residential building is executed, rescind the agreement.

127 (b) A person may file an action in district court to enforce the person's right of
 128 rescission described in Subsection (3)(a).

129 (c) In an action described in Subsection (3)(b), the court shall award costs and
 130 reasonable attorney fees to the prevailing party.

131 Section 9. Section **61-2-201** is amended to read:

132 **61-2-201. Division of Real Estate created -- Director appointed -- Personnel.**

133 (1) There is created within the department a Division of Real Estate. The division is
 134 responsible for the administration and enforcement of:

135 (a) this chapter;

136 (b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

137 (c) Title 57, Chapter 19, Timeshare and Camp Resort Act;

138 (d) Title 57, Chapter 23, Real Estate Cooperative Marketing Act;

139 (e) Title 57, Chapter 28, Home Energy Rating Index Disclosure Act;

140 [~~(e)~~] (f) Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

141 [~~(f)~~] (g) Chapter 2e, Appraisal Management Company Registration and Regulation

142 Act;

143 [~~(g)~~] (h) Chapter 2f, Real Estate Licensing and Practices Act; and

144 [~~(h)~~] (i) Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

145 (2) The division is under the direction and control of a director appointed by the
 146 executive director of the department with the approval of the governor. The director holds the
 147 office of director at the pleasure of the governor.

148 (3) The director, with the approval of the executive director, may employ personnel
 149 necessary to discharge the duties of the division at salaries to be fixed by the director according
 150 to standards established by the Department of Administrative Services.

Legislative Review Note
as of 1-22-15 2:39 PM

Office of Legislative Research and General Counsel