

1 **TOXIC MOLD DISCLOSURE**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David L. Hogue**

5

LONG TITLE

6 **General Description:**

7 This bill enacts provisions within the Utah Health Code and the Utah Fit Premises Act
8 related to mold.

9 **Highlighted Provisions:**

10 This bill:

- 11
- 12 ▶ requires the Department of Health to:
 - 13 • prepare and make public certain information relating to mold; and
 - 14 • establish minimum standards of mold exposure in real property; and
 - 15 ▶ requires an owner to make a disclosure to a renter or prospective renter if mold in a
16 rental unit exceeds a minimum standard.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **57-22-2**, as enacted by Chapter 314, Laws of Utah 1990

24 ENACTS:

25 **26-48-101**, Utah Code Annotated 1953

26 **26-48-102**, Utah Code Annotated 1953

27 **26-48-201**, Utah Code Annotated 1953



28 26-48-202, Utah Code Annotated 1953

29 57-22-4.2, Utah Code Annotated 1953



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

32 Section 1. Section 26-48-101 is enacted to read:

33 **CHAPTER 48. TOXIC MOLD ACT**

34 **Part 1. General Provisions**

35 **26-48-101. Title.**

36 This chapter is known as the "Toxic Mold Act."

37 Section 2. Section 26-48-102 is enacted to read:

38 **26-48-102. Definitions.**

39 As used in this chapter:

40 (1) "Department" means the Department of Health.

41 (2) (a) "Mold" means a form of multicellular fungi that live:

42 (i) on plant or animal matter; and

43 (ii) in indoor environments.

44 (b) "Mold" includes:

45 (i) cladosporium;

46 (ii) penicillium;

47 (iii) alternaria;

48 (iv) aspergillus;

49 (v) fuarium;

50 (vi) trichoderma;

51 (vii) memnoniella;

52 (viii) mucor; and

53 (ix) stachybotrys chartarum.

54 Section 3. Section 26-48-201 is enacted to read:

55 **Part 2. Department Responsibilities**

56 **26-48-201. Department to provide public information.**

57 (1) The department shall prepare information concerning:

58 (a) the health impacts of mold on a person who occupies real property containing mold;

59 and

60 (b) recommended practices for a person who owns or occupies real property containing
61 mold.

62 (2) The department shall use any reasonable means to make the information prepared
63 under Subsection (1) available and accessible to the public.

64 Section 4. Section **26-48-202** is enacted to read:

65 **26-48-202. Rulemaking authority.**

66 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
67 department shall make rules establishing minimum standards of mold exposure within real
68 property for purposes of Section 57-22-4.2.

69 Section 5. Section **57-22-2** is amended to read:

70 **57-22-2. Definitions.**

71 As used in this chapter:

72 (1) "Mold" is as defined in Section 26-48-102.

73 ~~[(1)]~~ (2) "Owner" means the owner, lessor, or sublessor of a residential rental unit. A
74 managing agent, leasing agent, or resident manager is considered an owner for purposes of
75 notice and other communication required or allowed under this chapter unless the agent or
76 manager specifies otherwise in writing in the rental agreement.

77 ~~[(2)]~~ (3) "Rental agreement" means any agreement, written or oral, which establishes or
78 modifies the terms, conditions, rules, or any other provisions regarding the use and occupancy
79 of a residential rental unit.

80 ~~[(3)]~~ (4) "Renter" means any person entitled under a rental agreement to occupy a
81 residential rental unit to the exclusion of others.

82 ~~[(4)]~~ (5) "Residential rental unit" means a renter's principal place of residence and
83 includes the appurtenances, grounds, and facilities held out for the use of the residential renter
84 generally, and any other area or facility provided to the renter in the rental agreement. It does
85 not include facilities contained in a boarding or rooming house or similar facility, mobile home
86 lot, or recreational property rented on an occasional basis.

87 Section 6. Section **57-22-4.2** is enacted to read:

88 **57-22-4.2. Owner's duties -- Mold -- Civil action.**

89 (1) An owner shall comply with Subsection (2) if the owner knows that a residential

90 rental unit contains visible or invisible mold exceeding the minimum standards established by
91 the Department of Health under Section 26-48-202.

92 (2) An owner described in Subsection (1) shall provide written notice to:

93 (a) a prospective renter prior to entering into a rental agreement; and

94 (b) a renter within five calendar days after the owner becomes aware of a condition
95 described in Subsection (1).

96 (3) This section does not require an owner to conduct air or surface tests to determine
97 whether a rental unit contains visible or invisible mold.

98 (4) (a) A renter may bring an action against an owner for a violation of this section.

99 (b) In an action under Subsection (4)(a), a renter may recover the greater of:

100 (i) actual damages; or

101 (ii) \$1,000.

Legislative Review Note

as of 1-30-04 1:56 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel