

MOLD AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David L. Hogue

Senate Sponsor: _____

LONG TITLE**General Description:**

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

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to:
 - prepare and make public certain information relating to mold; and
 - establish minimum standards of mold exposure in real property;
- ▶ requires an owner to make a disclosure to a renter or prospective renter if mold in a rental unit exceeds a minimum standard; and
- ▶ requires a seller to make a disclosure to a buyer or a prospective buyer of a residential building if mold in the building exceeds a minimum standard.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-48-101, Utah Code Annotated 1953

26-48-102, Utah Code Annotated 1953



26-48-201, Utah Code Annotated 1953

26-48-202, Utah Code Annotated 1953

57-22-4.2, Utah Code Annotated 1953

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

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

CHAPTER 48. TOXIC MOLD ACT

Part 1. General Provisions

26-48-101. Title.

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

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

26-48-102. Definitions.

As used in this chapter:

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

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

(i) on plant or animal matter; and

(ii) in indoor environments.

(b) "Mold" includes:

(i) cladosporium;

(ii) penicillium;

(iii) alternaria;

(iv) aspergillus;

(v) fuarium;

(vi) trichoderma;

(vii) memnoniella;

(viii) mucor; and

(ix) stachybotrys chartarum.

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

Part 2. Department Responsibilities

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

(1) The department shall prepare information concerning:

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

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

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

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

26-48-202. Rulemaking authority.

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

Section 5. Section **57-22-4.2** is enacted to read:

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

(1) For purposes of this section:

(a) "Mold" is defined in Section 26-48-102.

(b) "Owner" includes:

(i) an owner as defined in Section 57-22-2; and

(ii) a person who holds title to real property that contains a residential building.

(c) "Residential building":

(i) means any building or structure intended for occupation as a residence; and

(ii) includes:

(A) "a residential rental unit" as defined in Section 57-2-22;

(B) any residential rental unit or units sold to a purchaser; and

(C) a building or structure intended for occupation as a residence by the purchaser.

(2) An owner shall comply with Subsection (3) if the owner knows that a residential building contains visible or invisible mold exceeding the minimum standards established by the Department of Health under Section 26-48-202.

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

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

(b) a renter within five calendar days after the owner becomes aware of a condition described in Subsection (2);

90 (c) a prospective buyer prior to entering into an escrow agreement for the purchase of
91 the residential building; and

92 (d) while the sale of the residential building is pending, within five calendar days after
93 the owner becomes aware of a condition described in Subsection (2).

94 (4) This section does not require an owner to conduct air or surface tests to determine
95 whether a residential building contains visible or invisible mold.

96 (5) (a) A renter or purchaser may bring an action against an owner for a violation of
97 this section.

98 (b) In an action under Subsection (5)(a), a renter or purchaser may recover the greater
99 of:

100 (i) actual damages; or

101 (ii) \$1,000.

Legislative Review Note

as of 12-15-05 8:15 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

An ongoing General Fund appropriation of \$102,500 starting in FY 2007 is required to implement the provisions of this bill.

Additional funds may be needed by local health departments in subsequent years to enforce the standards established by the Department of Health. Local health departments are funded by state, federal and local funding.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$102,500	\$102,500	\$0	\$0
TOTAL	\$102,500	\$102,500	\$0	\$0

Individual and Business Impact

Costs, including insurance costs, to landlords and those selling property could be significant. If landlords' costs increase, it is likely that rents will go up as well.

Office of the Legislative Fiscal Analyst