

DISCLOSURE OF REAL PROPERTY

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merlynn T. Newbold

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Disclosure of Methamphetamine Contaminated Property Act.

Highlighted Provisions:

This bill:

▶ requires a real property owner or lessor to disclose in a property transaction that the owner's or lessor's property is contaminated from methamphetamine use if the owner or lessor has actual knowledge of the contamination;

▶ creates a civil cause of action for failure to disclose methamphetamine contamination; and

▶ allows a real property owner or lessor to decontaminate the owner's or lessor's real property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-26-101, Utah Code Annotated 1953

57-26-102, Utah Code Annotated 1953

57-26-201, Utah Code Annotated 1953



28 57-26-202, Utah Code Annotated 1953
29 57-26-203, Utah Code Annotated 1953



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

32 Section 1. Section 57-26-101 is enacted to read:

33 **CHAPTER 26. DISCLOSURE OF METHAMPHETAMINE CONTAMINATED**
34 **PROPERTY ACT**

35 **Part 1. General Provisions**

36 **57-26-101. Title.**

37 This chapter is known as the "Disclosure of Methamphetamine Contaminated Property
38 Act."

39 Section 2. Section 57-26-102 is enacted to read:

40 **57-26-102. Definitions.**

41 As used in this chapter:

42 (1) "Contaminated" or "contamination" is as defined in Section 19-6-902.

43 (2) "Decontaminated" or "decontamination" is as defined in Section 19-6-902.

44 (3) (a) "Owner" means the holder of a legal or equitable title or interest in real
45 property.

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

47 (4) "Real estate professional" means a licensee under Title 61, Chapter 2, Division of
48 Real Estate.

49 Section 3. Section 57-26-201 is enacted to read:

50 **Part 2. Disclosure of Contaminated Property**

51 **57-26-201. Disclosure of contaminated property required.**

52 (1) Subject to Section 57-1-37, if an owner or lessor of real property has actual
53 knowledge that the property is currently contaminated from the use, storage, or manufacture of
54 methamphetamines, the owner or lessor shall, in a real property lease, conveyance, or other
55 transaction related to the contaminated property, disclose that the property is contaminated.

56 (2) (a) If an owner's or lessor's real property is contaminated from the use, storage, or
57 manufacture of methamphetamines, the owner or lessor may report the contaminated property
58 to a government agency responsible to certify that the property is decontaminated.

59 (b) Notwithstanding Subsection (2)(a), an owner or lessor whose contaminated
 60 property is reported in a police action related to the manufacturing of methamphetamines shall
 61 be subject to the provisions of Title 19, Chapter 6, Part 9, Illegal Drug Operations Site
 62 Reporting and Decontamination Act.

63 (3) (a) A person may file a civil action to enforce this chapter.

64 (b) A court may award a prevailing party damages, court costs, and reasonable attorney
 65 fees for an action filed under this chapter.

66 Section 4. Section **57-26-202** is enacted to read:

67 **57-26-202. Real estate professional not liable.**

68 A real estate professional is not liable for an owner or lessor of real property making, or
 69 failing to make, a disclosure required by Section 57-26-201, unless the real estate professional
 70 is also the owner or lessor of the real property.

71 Section 5. Section **57-26-203** is enacted to read:

72 **57-26-203. Decontamination of real property.**

73 A government subdivision or agency may not:

74 (1) charge an owner or lessor:

75 (a) a fee for a permit to decontaminate a property;

76 (b) a fee to determine whether or not the property has been decontaminated; or

77 (c) other fees related to the investigation or decontamination of a property; or

78 (2) prohibit the owner or lessor from performing the decontamination.

Legislative Review Note
 as of 2-24-09 1:47 PM

Office of Legislative Research and General Counsel

H.B. 404 - Disclosure of Real Property

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and businesses who own property may be impacted due to changes in the proposed statute.
