

1 **DISCLOSURE OF METHAMPHETAMINE**
2 **CONTAMINATED PROPERTY ACT**
3 **AMENDMENTS**
4 2010 GENERAL SESSION
5 STATE OF UTAH
6 **Chief Sponsor: Steven R. Mascaro**
7 Senate Sponsor: D. Chris Buttar

8

LONG TITLE

9 **General Description:**

10 This bill modifies provisions of the Disclosure of Methamphetamine Contaminated
11 Property Act.
12

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ modifies the definition of "owner";

16 ~~H→ [→ requires an owner or lessor who obtains information that would lead a reasonable~~
17 ~~person to believe that property is or may be contaminated from methamphetamines~~
18 ~~to exercise reasonable diligence to determine whether the property is contaminated;~~

18a ~~H→ explains the reasonable diligence required; ←H] ←H~~

- 19 ▶ modifies a provision allowing an owner or lessor to report methamphetamine
20 contamination to require rather than allow the owner or lessor to report the
21 contamination; and

- 22 ▶ makes a technical change.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **57-27-102**, as enacted by Laws of Utah 2009, Chapter 194

30 **57-27-201**, as enacted by Laws of Utah 2009, Chapter 194

31

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

33 Section 1. Section **57-27-102** is amended to read:

34 **57-27-102. Definitions.**

35 As used in this chapter:

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

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

38 (3) (a) "Owner" means the holder of a legal or equitable title or interest in real property ~~H→~~ .

39 ~~[or an agent of the holder of legal or equitable title or interest.] ←H~~

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

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

43 Section 2. Section **57-27-201** is amended to read:

44 **57-27-201. Disclosure of contaminated property required.**

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

49 ~~H→ [(b) H→ (i) ←H If, in the ordinary course of business, an owner or lessor obtains H→~~
49a ~~reliable and credible ←H information that H→, considering all relevant circumstances, ←H~~
50 ~~would lead a reasonable person to believe that the property is or may be contaminated from the~~
51 ~~use, storage, or manufacture of methamphetamines, the owner or lessor shall exercise~~
52 ~~reasonable diligence to determine whether the property is contaminated.~~

52a ~~←H→ (ii) The reasonable diligence that an owner is required to exercise under Subsection~~
52b ~~(1)(b)(i) is the diligence that is reasonable under all the circumstances, and may include, but~~
52c ~~does not require in all situations, professional examination or testing of the property to~~
52d ~~determine whether the property is contaminated.] ←H~~

53 (2) (a) If an owner's or lessor's real property is contaminated from the use, storage, or
54 manufacture of methamphetamines, the owner or lessor [may] shall report the contaminated
55 property to a government agency responsible for monitoring the decontamination process and
56 documenting that the test results meet decontamination standards.

57 (b) Notwithstanding Subsection (2)(a), an owner or lessor whose contaminated
58 property is reported in a police action related to the manufacturing of methamphetamines [shall

59 be] is subject to the provisions of Title 19, Chapter 6, Part 9, Illegal Drug Operations Site
60 Reporting and Decontamination Act.

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

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

Legislative Review Note

as of 1-12-10 6:41 AM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 190 - Disclosure of Methamphetamine Contaminated Property Act
Amendments**

2010 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. If a methamphetamine test is required for rental or sold properties, individuals and businesses could be affected. The average cost of a meth verification is currently \$125 per test.
