

DISCLOSURE OF REAL PROPERTY

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merlynn T. Newbold

Senate Sponsor: D. Chris Buttars

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

57-26-202, Utah Code Annotated 1953

57-26-203, Utah Code Annotated 1953

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

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

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

Part 1. General Provisions

57-26-101. Title.

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

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

57-26-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

Part 2. Disclosure of Contaminated Property

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

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

(2) (a) If an owner's or lessor's real property is contaminated from the use, storage, or manufacture of methamphetamines, the owner or lessor may report the contaminated property

58 to a government agency responsible for monitoring the decontamination process and
59 documenting that the test results meet decontamination standards.

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

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

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

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

68 **57-26-202. Real estate professional not liable.**

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

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

73 **57-26-203. Decontamination of real property.**

74 (1) A government subdivision or agency may charge an owner or lessor a fee, in
75 accordance with the provisions of Section 63J-1-303, for:

76 (a) a permit issued by the subdivision or agency to decontaminate a property;

77 (b) the subdivision or agency to determine whether or not the property has been
78 decontaminated; and

79 (c) any other related service provided by the subdivision or agency, including
80 investigation or decontamination of the property.

81 (2) A government subdivision or agency may not prohibit an owner or lessor from
82 decontaminating the owner's or lessor's real property.