

**Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 06-0412.01 Thomas Morris

SENATE BILL 06-002

SENATE SPONSORSHIP

Shaffer,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING MANDATORY DISCLOSURE IN CONNECTION WITH THE**
102 **PURCHASE OF RESIDENTIAL REAL PROPERTY OF WHETHER THE**
103 **PROPERTY HAS BEEN USED AS A METHAMPHETAMINE**
104 **LABORATORY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires contracts for the purchase and sale of residential real property to disclose whether the property has ever been used as a methamphetamine laboratory. Specifies that the seller has the obligation to provide the disclosure, and that, if the seller fails to provide the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 20, 2006

SENATE
Amended 2nd Reading
March 17, 2006

disclosure, the purchaser has a claim for relief against the seller for all damages to the purchaser resulting from the failure plus court costs.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 35.7 of title 38, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **38-35.7-103. Disclosure - methamphetamine laboratory. (1) A**
5 BUYER OF RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO TEST THE
6 PROPERTY FOR THE PURPOSE OF DETERMINING WHETHER THE PROPERTY
7 HAS EVER BEEN USED AS A METHAMPHETAMINE LABORATORY.

8 (2) (a) TESTS CONDUCTED PURSUANT TO THIS SECTION SHALL BE
9 PERFORMED BY A CERTIFIED INDUSTRIAL HYGIENIST. IF THE BUYER'S TEST
10 RESULTS INDICATE THAT THE PROPERTY HAS BEEN USED AS A
11 METHAMPHETAMINE LABORATORY BUT HAS NOT BEEN REMEDIATED TO
12 MEET THE STANDARDS ESTABLISHED BY RULES OF THE STATE BOARD OF
13 HEALTH PROMULGATED PURSUANT TO SECTION 25-18.5-102, C.R.S., THE
14 HYGIENIST SHALL PROMPTLY GIVE WRITTEN NOTICE TO THE SELLER OF THE
15 RESULTS OF THE TEST, AND THE BUYER MAY TERMINATE THE CONTRACT.

16 (b) THE SELLER SHALL HAVE THIRTY DAYS AFTER RECEIPT OF THE
17 NOTICE TO CONDUCT A SECOND INDEPENDENT TEST. IF THE SELLER'S TEST
18 RESULTS INDICATE THAT THE PROPERTY HAS BEEN USED AS A
19 METHAMPHETAMINE LABORATORY OR HAS NOT BEEN REMEDIATED TO
20 MEET THE STANDARDS ESTABLISHED BY RULES OF THE STATE BOARD OF
21 HEALTH PROMULGATED PURSUANT TO SECTION 25-18.5-102, C.R.S., THEN
22 THE SECOND INDEPENDENT HYGIENIST SHALL SO NOTIFY THE SELLER.

23 (c) IF THE SELLER RECEIVES THE NOTICE REFERRED TO IN
24 PARAGRAPH (b) OF THIS SUBSECTION (2) OR IF THE SELLER RECEIVES THE
25 NOTICE REFERRED TO IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND

1 DOES NOT ELECT TO HAVE THE REAL PROPERTY RETESTED PURSUANT TO
2 PARAGRAPH (b) OF THIS SUBSECTION (2), THEN AN ILLEGAL DRUG
3 LABORATORY USED TO MANUFACTURE METHAMPHETAMINE SHALL BE
4 DEEMED TO HAVE BEEN DISCOVERED AND THE OWNER SHALL BE DEEMED
5 TO HAVE RECEIVED NOTICE PURSUANT TO SECTION 25-18.5-103 (1) (a),
6 C.R.S. NOTHING IN THIS SECTION SHALL PROHIBIT A BUYER FROM
7 PURCHASING THE PROPERTY AND ASSUMING LIABILITY PURSUANT TO
8 SECTION 25-18.5-103, C.R.S., PROVIDED THAT ON THE DATE OF CLOSING,
9 THE SELLER SHALL PROVIDE NOTICE TO THE DEPARTMENT OF PUBLIC
10 HEALTH AND ENVIRONMENT OF THE PURCHASE AND ASSUMPTION OF
11 LIABILITY AND FURTHER PROVIDES THE REMEDIATION REQUIRED BY
12 SECTION 25-18.5-103, C.R.S., SHALL BE COMPLETED WITHIN NINETY DAYS.

13 (3) (a) EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION,
14 THE SELLER SHALL DISCLOSE IN WRITING TO THE BUYER WHETHER THE
15 SELLER KNOWS THAT THE PROPERTY WAS PREVIOUSLY USED AS A
16 METHAMPHETAMINE LABORATORY.

17 (b) A SELLER WHO FAILS TO MAKE A DISCLOSURE REQUIRED BY
18 THIS SECTION AT OR BEFORE THE TIME OF SALE AND WHO KNEW OF
19 METHAMPHETAMINE PRODUCTION ON THE PROPERTY IS LIABLE TO THE
20 BUYER FOR:

21 (I) COSTS RELATING TO REMEDIATION OF THE PROPERTY
22 ACCORDING TO THE STANDARDS ESTABLISHED BY RULES OF THE STATE
23 BOARD OF HEALTH PROMULGATED PURSUANT TO SECTION 25-18.5-102,
24 C.R.S.;

25 (II) COSTS RELATING TO HEALTH-RELATED INJURIES OCCURRING
26 AFTER THE SALE TO RESIDENTS OF THE PROPERTY CAUSED BY
27 METHAMPHETAMINE PRODUCTION ON THE PROPERTY; AND

1 (III) REASONABLE ATTORNEY FEES FOR COLLECTION OF COSTS
2 FROM THE SELLER.

3 (c) A BUYER SHALL COMMENCE AN ACTION UNDER THIS
4 SUBSECTION (3) WITHIN THREE YEARS AFTER THE DATE ON WHICH THE
5 BUYER CLOSED THE PURCHASE OF THE REAL PROPERTY WHERE THE
6 METHAMPHETAMINE PRODUCTION OCCURRED.

7 (4) IF THE SELLER BECAME AWARE THAT THE PROPERTY WAS ONCE
8 USED FOR THE PRODUCTION OF METHAMPHETAMINE AND THE SELLER
9 REMEDIED THE PROPERTY IN ACCORDANCE WITH THE STANDARDS
10 ESTABLISHED PURSUANT TO SECTION 25-18.5-102, C.R.S., AND SUCH
11 REMEDICATION WAS CERTIFIED AS COMPLETE BY THE APPLICABLE
12 GOVERNING BODY, THEN THE SELLER SHALL NOT BE REQUIRED TO
13 DISCLOSE THAT THE PROPERTY WAS USED AS A METHAMPHETAMINE
14 LABORATORY TO A BUYER AND THE PROPERTY SHALL BE REMOVED FROM
15 ANY GOVERNMENT-SPONSORED INFORMATIONAL SERVICE LISTING
16 PROPERTIES THAT HAVE BEEN USED FOR THE PRODUCTION OF
17 METHAMPHETAMINE.

18 (5) FOR PURPOSES OF THIS SECTION, "RESIDENTIAL REAL
19 PROPERTY" INCLUDES A: MANUFACTURED HOME; CONDOMINIUM;
20 TOWNHOME; HOME SOLD BY THE OWNER, A FINANCIAL INSTITUTION, OR
21 THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT;
22 RENTAL PROPERTY, INCLUDING AN APARTMENT; AND SHORT-TERM
23 RESIDENCE SUCH AS A MOTEL OR HOTEL.

24 **SECTION 2. Effective date - applicability.** This act shall take
25 effect January 1, 2007, and shall apply to contracts for the purchase and
26 sale of residential real property that are offered or entered into on or after
27 said date.

1 **SECTION 3. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.