

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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

Business Affairs and Labor

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.

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

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

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

(2) (a) TESTS CONDUCTED PURSUANT TO THIS SECTION SHALL BE
PERFORMED BY A CERTIFIED INDUSTRIAL HYGIENIST OR INDUSTRIAL
HYGIENIST, AS THOSE TERMS ARE DEFINED IN SECTION 24-30-1402, C.R.S.
IF THE BUYER'S TEST RESULTS INDICATE THAT THE PROPERTY HAS BEEN
USED AS A METHAMPHETAMINE LABORATORY BUT HAS NOT BEEN
REMEDiated TO MEET THE STANDARDS ESTABLISHED BY RULES OF THE
STATE BOARD OF HEALTH PROMULGATED PURSUANT TO SECTION
25-18.5-102, C.R.S., THE BUYER SHALL PROMPTLY GIVE WRITTEN NOTICE
TO THE SELLER OF THE RESULTS OF THE TEST, AND THE BUYER MAY
TERMINATE THE CONTRACT.

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

(c) IF THE SELLER RECEIVES THE NOTICE REFERRED TO IN

1 PARAGRAPH (b) OF THIS SUBSECTION (2) OR IF THE SELLER RECEIVES THE
2 NOTICE REFERRED TO IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND
3 DOES NOT ELECT TO HAVE THE REAL PROPERTY RETESTED PURSUANT TO
4 PARAGRAPH (b) OF THIS SUBSECTION (2), THEN AN ILLEGAL DRUG
5 LABORATORY USED TO MANUFACTURE METHAMPHETAMINE SHALL BE
6 DEEMED TO HAVE BEEN DISCOVERED AND THE OWNER SHALL BE DEEMED
7 TO HAVE RECEIVED NOTICE PURSUANT TO SECTION 25-18.5-103 (1) (a),
8 C.R.S. NOTHING IN THIS SECTION SHALL PROHIBIT A BUYER FROM
9 PURCHASING THE PROPERTY AND ASSUMING LIABILITY PURSUANT TO
10 SECTION 25-18.5-103, C.R.S., PROVIDED THAT ON THE DATE OF CLOSING,
11 THE SELLER SHALL PROVIDE NOTICE TO THE DEPARTMENT OF PUBLIC
12 HEALTH AND ENVIRONMENT OF THE PURCHASE AND ASSUMPTION OF
13 LIABILITY AND FURTHER PROVIDES THE REMEDIATION REQUIRED BY
14 SECTION 25-18.5-103, C.R.S., SHALL BE COMPLETED WITHIN NINETY DAYS.
15 (3) (a) EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION,
16 THE SELLER SHALL DISCLOSE IN WRITING TO THE BUYER WHETHER THE
17 SELLER KNOWS THAT THE PROPERTY WAS PREVIOUSLY USED AS A
18 METHAMPHETAMINE LABORATORY.
19 (b) A SELLER WHO FAILS TO MAKE A DISCLOSURE REQUIRED BY
20 THIS SECTION AT OR BEFORE THE TIME OF SALE AND WHO KNEW OF
21 METHAMPHETAMINE PRODUCTION ON THE PROPERTY IS LIABLE TO THE
22 BUYER FOR:
23 (I) COSTS RELATING TO REMEDIATION OF THE PROPERTY
24 ACCORDING TO THE STANDARDS ESTABLISHED BY RULES OF THE STATE
25 BOARD OF HEALTH PROMULGATED PURSUANT TO SECTION 25-18.5-102,
26 C.R.S.;
27 (II) COSTS RELATING TO HEALTH-RELATED INJURIES OCCURRING

1 AFTER THE SALE TO RESIDENTS OF THE PROPERTY CAUSED BY
2 METHAMPHETAMINE PRODUCTION ON THE PROPERTY; AND

3 (III) REASONABLE ATTORNEY FEES FOR COLLECTION OF COSTS
4 FROM THE SELLER.

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

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

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

27 **SECTION 2. Effective date - applicability.** This act shall take

1 effect January 1, 2007, and shall apply to contracts for the purchase and
2 sale of residential real property that are offered or entered into on or after
3 said date.

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