

CHAPTER 173

PROPERTY

SENATE BILL 06-002

BY SENATOR(S) Shaffer, Bacon, Fitz-Gerald, Gordon, Groff, Hanna, Tochtrop, Williams, Windels, and Boyd;
 also REPRESENTATIVE(S) Pommer, Borodkin, Buescher, Cloer, Coleman, Frangas, Garcia, Green, Knoedler, Madden,
 McGihon, Merrifield, Paccione, Solano, Sullivan, and Todd.

AN ACT

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

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 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,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

C.R.S., THEN THE SECOND INDEPENDENT HYGIENIST SHALL SO NOTIFY THE SELLER.

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

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

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

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

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

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

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

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

(5) FOR PURPOSES OF THIS SECTION, "RESIDENTIAL REAL PROPERTY" INCLUDES A:

MANUFACTURED HOME; MOBILE HOME; CONDOMINIUM; TOWNHOME; HOME SOLD BY THE OWNER, A FINANCIAL INSTITUTION, OR THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; RENTAL PROPERTY, INCLUDING AN APARTMENT; AND SHORT-TERM RESIDENCE SUCH AS A MOTEL OR HOTEL.

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

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

Approved: May 1, 2006