

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 106 Session of 2011

INTRODUCED BY TALLMAN, BAKER, BOYD, V. BROWN, CREIGHTON, GEIST, GROVE, HENNESSEY, HESS, KNOWLES, MILLER, PYLE, READSHAW, ROCK, SCHRODER, K. SMITH, SWANGER AND VULAKOVICH, JANUARY 19, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 19, 2011

AN ACT

1 Requiring owners and lessors of real property contaminated by
2 methamphetamines to disclose the contamination to purchasers,
3 lessees and transferees; providing for the powers and duties
4 of the Department of Environmental Protection and for
5 enforcement; and establishing civil immunity for real estate
6 professionals under certain circumstances.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Disclosure of
11 Methamphetamine Contaminated Property Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Contaminated." In reference to a property, that the
17 property is polluted by hazardous materials as a result of the
18 use, production, storage or presence of methamphetamine in

1 excess of decontamination standards adopted by the Department of
2 Environmental Protection under this act.

3 "Decontaminated" or "decontamination." In reference to a
4 property, that the property at one time was contaminated, but
5 that the hazardous materials have been removed and the property
6 satisfies the decontamination standards adopted by the
7 Department of Environmental Protection under this act.

8 "Department." The Department of Environmental Protection of
9 the Commonwealth.

10 "Owner." A person, including, but not limited to, a
11 shareholder, partner, operator or other legal entity, that holds
12 a legal or equitable title or interest in real property.

13 "Real estate professional." A person licensed by the
14 Commonwealth to sell real property.

15 Section 3. Decontamination standards to be developed.

16 The department shall develop scientifically based standards
17 for the removal of hazardous materials that exist at real
18 property as a result of the use, production, storage or presence
19 of methamphetamine on the property and shall promulgate
20 regulations relating to such standards.

21 Section 4. Disclosure of contaminated property.

22 If an owner or lessor of real property has actual knowledge
23 that the property is contaminated, the owner or lessor shall,
24 prior to the conveyance, lease or transfer of the property,
25 disclose to the purchaser, lessee or transferee that the
26 property is contaminated on a form developed by regulation of
27 the department.

28 Section 5. Reporting to department.

29 If the property of an owner or lessor is contaminated, the
30 owner or lessor may report the contaminated property to the

1 department.

2 Section 6. Monitoring of decontamination.

3 The department shall monitor the decontamination of real
4 property reported to it under section 5 and shall document when
5 the property has been decontaminated.

6 Section 7. Certificate of decontaminated property.

7 (a) Duty of department.--The department shall, upon the
8 request of an owner or lessor of real property that:

9 (1) has reported the property as contaminated; and

10 (2) after monitoring by the department, has

11 decontaminated the property,

12 certify that the property has been decontaminated and the date
13 of decontamination.

14 (b) Legal effect of certificate.--A certificate issued under
15 this section shall be evidence of compliance with this act as of
16 the date specified in the certificate.

17 Section 8. Enforcement.

18 (a) Right of action.--Any person may file a civil action to
19 enforce compliance with the provisions of this act.

20 (b) Relief.--A court may issue an injunction or such other
21 relief as necessary to enforce the provisions of this act.

22 (c) Court costs and attorney fees.--A court may award a
23 prevailing party in a civil action initiated under subsection

24 (a) court costs and reasonable attorney fees.

25 Section 9. Immunity for real estate professionals.

26 A real estate professional shall be immune from liability
27 under this act for the failure of an owner or lessor of real
28 property to comply with the provisions of this act, unless the
29 real estate professional is also the owner or lessor of the real
30 property.

1 Section 10. Decontamination procedure.

2 The department may establish and impose a fee on an owner or
3 lessor of real property for any of the following:

4 (1) A certificate issued by the department that the
5 property has been decontaminated.

6 (2) Monitoring to determine whether the property has
7 been decontaminated.

8 (3) Any other related service provided by the department
9 under this act.

10 Section 11. Limitation on authority.

11 The department may not prohibit an owner or lessor of real
12 property from decontaminating the property.

13 Section 12. Effective date.

14 This act shall take effect in 60 days.