

Opponent Testimony
HB 60, Human Services Committee, 1-24, 3:00 p.m.

EXHIBIT 10
DATE 1-24-05
HB HB 60

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On behalf of the Montana Association of REALTORS® and its 3800 member, I rise as a reluctant opponent of HB 60.

We realize that meth is a complex issue. Like Montana, states around the nation are working hard to craft public policy to stop the proliferation of meth labs in their rural and urban communities. Unfortunately, a best practices consensus has not been reached despite all the hard work. That's why we don't envy Representative Harris in trying to address the issue of meth lab disclosure and cleanup in Montana. We certainly applaud his efforts.

Although this bill tries hard to address the scope of issues surrounding meth lab disclosure and cleanup, it has some serious shortcomings that we'd like to highlight.

- The liability associated with this issue is enormous. We believe that under REALTOR® licensing law that we have the duty to disclose any adverse material facts associated with a property. This would include the presence of a meth lab on a property. But it's unclear to us whether we are to disclose the presence of a meth lab on a property even after it has been decontaminated. This bill does not address this concern and therefore exposes our members to potential liability.
- HB 60 provides a process for internal clean up but doesn't address the external impact of meth on sewer systems, water, and land. In fact, the bill's definition of "inhabitable property" doesn't include water systems, sewer systems, land or water outside of a building or structure. Even if a meth lab is decontaminated internally, there may still exist external impacts that could be a threat to both the individual property owner and public health.

This aspect of decontamination deserves more attention. If meth disclosure and cleanup legislation only addresses internal decontamination, what sort of legal ramifications could there be if an individual property owner or the public is harmed by toxins dumped outside of the building or into the sewer system? Could failure to disclose that a property may have external contamination expose REALTORS® to additional liability?

- Another shortcoming of the bill is that it places the onus of reporting and cleaning up meth labs on property owners. HB 60 doesn't provide any protection to property owners that aren't aware of a clandestine meth lab. This bill also places the cost of cleaning up a meth lab solely on the shoulders of a property owner. The clean up of a meth lab, according to various articles that I've read, can cost from \$5000 to \$10000. This cost doesn't factor in the amount of time a property lies idle. We can safely assume that the cost of cleaning up a meth lab, in addition to the lost income from an idle rental, would be passed on to other renters.

The critical question you must ask yourselves is this: given the public interest in controlling clandestine meth labs, shouldn't the public bear some of the costs associated with clean up?

Again, we acknowledge the complexity of this issue. That's why we applaud Representative Harris's efforts. Unfortunately, because the various shortcomings we've listed, we ask you to oppose this bill. We would like to make ourselves available to any effort to craft a better approach to tackling this critical issue.

Thank you for your time and consideration.