

HOUSE BILL NO. 536  
INTRODUCED BY BRUEGGEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISCLOSURE OF THE POTENTIAL FOR MOLD IN INHABITABLE PROPERTY WITH AGREEMENTS FOR THE SALE AND PURCHASE OF INHABITABLE PROPERTY; PROVIDING FOR THE DISCLOSURE OF PRIOR TESTING AND MITIGATION AND PROVIDING IMMUNITY FOR SELLERS, LANDLORDS, SELLER'S AGENTS, BUYER'S AGENTS, AND PROPERTY MANAGERS WHO COMPLY WITH THE DISCLOSURE REQUIREMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Montana Mold Disclosure Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Inhabitable real property" means any real property that includes a building affixed to land. The building must be designed to be primarily occupied by humans, either as a dwelling or as a place of business.

(2) "Mold" means any mold, fungus, mildew, OR spores, ~~and other microscopic organisms or allergens.~~

(3) "Person" means an individual, partnership, corporation, sole proprietorship, firm, enterprise, franchise, association, consultant, state or municipal agency, political subdivision of the state, or any other entity.

NEW SECTION. **Section 3. Mold disclosure statement on real estate documents -- disclosure of prior testing -- immunity from liability.** (1) A mold disclosure statement ~~must~~ MAY be provided on at least one document, form, or application executed prior to or contemporaneously with an offer for the purchase and sale, rental, or lease of inhabitable real property. The seller, landlord, seller's agent, buyer's agent, or property manager ~~shall~~ MAY provide the following disclosure statement to the buyer or tenant, and the buyer or tenant shall acknowledge receipt of this disclosure statement by signing a copy of the disclosure statement:

MOLD DISCLOSURE: ~~There are many types of mold, but all are species of fungus. Molds are spread by airborne spores and are found everywhere that life can be supported. Homes are not, and cannot be,~~

constructed to exclude mold spores. A number of factors may contribute to the growth of mold in a home. Moisture is one of the most significant factors contributing to mold growth. Good housekeeping and home maintenance can limit or prevent the growth of mold. Information about controlling mold growth may be available from your County Extension Agent or Health Department. Although mold is generally harmless, certain strains of mold may adversely affect the health of certain susceptible persons and may cause damage to real and personal property. The most likely adverse health effects of molds are allergic reactions, including skin, eye, nose, and throat irritation. More rarely molds can cause infections, particularly in individuals with suppressed immune systems. Some experts contend that certain molds may cause serious and even life threatening diseases. However, experts do not agree about the nature and extent of the health problems caused by mold or about the level of mold exposure that may cause health problems. The Centers for Disease Control states that the link between mold and serious health conditions has not been proven IS STUDYING THE POSSIBLE LINKS BETWEEN MOLD AND SERIOUS HEALTH CONDITIONS. The seller, landlord, seller's agent, buyer's agent, or property manager cannot and does not represent or warrant the absence of mold in any inhabitable real property. It is the buyer's or tenant's obligation to make any necessary determinations of whether a mold problem is present in the property being purchased, rented, or leased through the use of qualified inspectors of the buyer's or tenant's choosing. If a buyer or tenant feels it is necessary to determine whether there are potential mold problems, the buyer or tenant should hire a qualified inspector and make any contract to purchase, rent, or lease contingent upon the results of that inspection. THERE ARE MANY TYPES OF MOLD. INHABITABLE PROPERTIES ARE NOT, AND CANNOT BE, CONSTRUCTED TO EXCLUDE MOLD. MOISTURE IS ONE OF THE MOST SIGNIFICANT FACTORS CONTRIBUTING TO MOLD GROWTH. INFORMATION ABOUT CONTROLLING MOLD GROWTH MAY BE AVAILABLE FROM YOUR COUNTY EXTENSION AGENT OR HEALTH DEPARTMENT. CERTAIN STRAINS OF MOLD MAY CAUSE DAMAGE TO PROPERTY AND MAY ADVERSELY AFFECT THE HEALTH OF SUSCEPTIBLE PERSONS, INCLUDING ALLERGIC REACTIONS THAT MAY INCLUDE SKIN, EYE, NOSE, AND THROAT IRRITATION. CERTAIN STRAINS OF MOLD MAY CAUSE INFECTIONS, PARTICULARLY IN INDIVIDUALS WITH SUPPRESSED IMMUNE SYSTEMS. SOME EXPERTS CONTEND THAT CERTAIN STRAINS OF MOLD MAY CAUSE SERIOUS AND EVEN LIFE-THREATENING DISEASES. HOWEVER, EXPERTS DO NOT AGREE ABOUT THE NATURE AND EXTENT OF THE HEALTH PROBLEMS CAUSED BY MOLD OR ABOUT THE LEVEL OF MOLD EXPOSURE THAT MAY CAUSE HEALTH PROBLEMS. THE CENTERS FOR DISEASE CONTROL AND PREVENTION IS STUDYING THE LINK BETWEEN MOLD AND SERIOUS HEALTH CONDITIONS. THE SELLER, LANDLORD, SELLER'S AGENT, BUYER'S AGENT, OR PROPERTY MANAGER CANNOT AND DOES NOT REPRESENT OR WARRANT THE ABSENCE OF MOLD. IT IS THE BUYER'S OR TENANT'S OBLIGATION TO DETERMINE WHETHER A MOLD PROBLEM IS PRESENT. TO DO SO, THE BUYER OR TENANT SHOULD HIRE A QUALIFIED INSPECTOR AND MAKE ANY CONTRACT TO PURCHASE, RENT, OR LEASE CONTINGENT UPON THE RESULTS OF THAT INSPECTION. A SELLER,

LANDLORD, SELLER'S AGENT, BUYER'S AGENT, OR PROPERTY MANAGER WHO PROVIDES THIS MOLD DISCLOSURE STATEMENT, PROVIDES FOR THE DISCLOSURE OF ANY PRIOR TESTING AND ANY SUBSEQUENT MITIGATION OR TREATMENT FOR MOLD, AND DISCLOSES ANY KNOWLEDGE OF MOLD IS NOT LIABLE IN ANY ACTION BASED ON THE PRESENCE OF OR PROPENSITY FOR MOLD IN A BUILDING THAT IS SUBJECT TO ANY CONTRACT TO PURCHASE, RENT, OR LEASE.

(2) WHENEVER A SELLER OR LANDLORD OR AN AGENT OF EITHER HAS KNOWLEDGE THAT A BUILDING HAS MOLD PRESENT, THE SELLER, LANDLORD, OR AGENT OF EITHER SHALL, PRIOR TO OR UPON ENTRY INTO A CONTRACT FOR THE PURCHASE, RENT, OR LEASE, DISCLOSE TO THE BUYER OR RENTER THE PRESENCE OF THE MOLD. Whenever a seller or landlord knows that a building has been tested for mold, the seller or landlord, PRIOR TO OR UPON ENTRY INTO A CONTRACT FOR THE PURCHASE, RENT, OR LEASE OF THAT BUILDING, SHALL ADVISE THE BUYER OR TENANT THAT TESTING HAS OCCURRED AND shall provide to the buyer or tenant, ~~prior to or upon entry into a contract for the purchase, rent, or lease of that building,~~ a copy of the results of that test, IF AVAILABLE; TO THE SELLER OR LANDLORD, and evidence of any subsequent mitigation or treatment. A prospective buyer or tenant who contracts for the testing may receive the results of that testing AND SHALL PROVIDE A COPY OF THE RESULTS OF THAT TEST, IF AVAILABLE, TO THE SELLER OR LANDLORD. The furnishing of test results and evidence of mitigation or treatment is not to be construed as a promise, warranty, or representation of any sort by the seller, landlord, seller's agent, buyer's agent, or property manager that the test results are accurate or that the mitigation or treatment is effective. This section does not create a contingency on the purchase of the property or any right to rescind a contract for purchase unless the contingency or right to rescind is an express term of the applicable contract.

(3) A seller, landlord, seller's agent, buyer's agent, or property manager who ~~complies with subsections~~ PROVIDES THE DISCLOSURE IN SUBSECTION (1) and COMPLIES WITH SUBSECTION (2) is not liable in any action based on the presence of or propensity for mold in the building.

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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