

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4759

BY DELEGATES WALKER, ROHRBACH, MILEY, MILLER, S.
BROWN, FLEISCHAUER, ESTEP-BURTON, PUSHKIN, PYLES
AND C. THOMPSON

[Introduced February 07, 2020; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §60A-11-5 of the Code of West Virginia, 1931, as amended, relating
2 to creating a duty to disclose by owners of property that knew or should have known that
3 crystal methamphetamine production was occurring at a residential property; and
4 authorizing voiding of lease or conveyance for failure to disclose information.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. CLANDESTINE DRUG LABORATORY REMEDIATION ACT.

§60A-11-5. Residential property owner responsibility; owner immunity; voluntary compliance.

1 (a) Upon notification to the residential property owner by a law-enforcement agency that
2 chemicals, equipment, supplies or precursors indicative of a clandestine drug laboratory have
3 been located on the residential property owner's property, the residential property owner shall be
4 responsible for actions necessary to meet the remediation standards established by the legislative
5 rule authorized by this article. The residential property owner is responsible for actions to ensure
6 the residential property shall remain unoccupied from the time the residential property owner is
7 notified of the clandestine drug laboratory until such time as the department certifies that the
8 completed remediation meets the numeric decontamination levels set forth in the legislative rule
9 authorized in this article. The department shall have 45 days from receipt of all necessary
10 paperwork and documentation to complete remediation certification: *Provided*, That a residential
11 property owner may demolish the residential property as an alternative to meeting the remediation
12 standards established by the department.

13 (b) Once the remediation has been certified complete by the department, the residential
14 property owner and any representative or agent of a residential property owner who neither knew
15 or should have known of the property's illegal use shall be immune from civil liability for action
16 brought for injuries or loss based upon the prior use of the residential property as a clandestine
17 drug laboratory by future owners, renters, lessees, or any other person who occupies the
18 residential property.

19 (c) Any residential property owner who neither knew or should have known of the
20 property's illegal use who chooses to voluntarily and successfully complete the remediation prior
21 to notification by a law-enforcement agency shall have the same immunity from liability as set
22 forth in subsection (b) of this section if the remediation meets the certification standards set forth
23 in legislative rules authorized by this article.

24 (d) Any owner who knew or should have known that chemicals, equipment, supplies, or
25 precursors indicative of a clandestine drug laboratory have been located on the residential
26 property owner's property, shall disclose in the deed, lease or other instrument the fact that the
27 property was used as a crystal methamphetamine laboratory for the creation, storage, treatment,
28 or disposal of crystal methamphetamine before the residential property can be sold, leased for a
29 period of time, or otherwise transferred to another party. The provisions in this subsection only
30 apply to those grantors or lessors who owned or had an interest in the real property when it was
31 used for the creation, storage, treatment, or disposal of crystal methamphetamine and who have
32 actual knowledge that the real property was used for the purpose or purposes during the
33 designated period of disclosure. Failure by the grantor in any deed, other instrument of
34 conveyance or any lessor in any lease or other instrument whereby any real property is let for a
35 period of time, to disclose in the deed, lease or other instrument the face that the property was
36 used as a crystal methamphetamine lab for the creation, storage, treatment, or disposal of crystal
37 methamphetamine, shall render the sale, conveyance or lease of any such real property voidable
38 at the election of the buyer, grantee, or lessee: *Provided*, That if the property and structure on the
39 land is certified to be 100 percent free of crystal methamphetamine, this provision does not apply.

NOTE: The purpose of this bill is to require disclosure by the property owner when a residential property is leased or sold, if the property was at one time a methamphetamine lab, and it was not certified under the provisions of the Clandestine Drug Laboratory Remediation Act as 100% remediated, that the owner is required to disclose to any lessor or purchaser that the property was once used in this fashion and has not been certified as remediated.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.