

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0734.01 Duane Gall x4335

HOUSE BILL 16-1108

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HOUSE SPONSORSHIP

Conti,

SENATE SPONSORSHIP

(None),

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**House Committees**  
Business Affairs and Labor

**Senate Committees**

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A BILL FOR AN ACT

101 CONCERNING THE OBLIGATION OF THE SELLER OF RESIDENTIAL REAL  
102 PROPERTY TO DISCLOSE THE PRIOR USE OF THE PROPERTY FOR  
103 INDOOR HORTICULTURAL OPERATIONS.

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)*

The bill requires the Colorado real estate commission to adopt rules for the disclosure in a listing contract, contract of sale, or seller's disclosure of whether the property was used for the cultivation of 7 or more plants of specified size using any amount of pesticides or fertilizers. An exemption from the disclosure requirement is provided if the seller

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

has the property inspected and certified safe by a qualified inspector. **Section 2** of the bill authorizes and directs the state board of health, in consultation with the commissioner of agriculture, to adopt rules for the training and certification of inspectors.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and determines that:

4 (a) Section 16 (3) (b) of article XVIII of the Colorado constitution  
5 gives adult Coloradans the right to possess up to six marijuana plants for  
6 their personal, recreational use;

7 (b) Section 14 (4) (b) of article XVIII of the Colorado constitution  
8 provides an affirmative defense to a charge of possession of more than six  
9 plants based on a person's asserted need for more than this amount for  
10 medicinal purposes;

11 (c) Due to the recent increase in the number of home  
12 marijuana-growing operations for recreational purposes, the ease of  
13 obtaining a medical marijuana card, the availability of the affirmative  
14 defense based on asserted medical necessity, and the budgetary and  
15 practical limitations on enforcement of the six-plant limit, many  
16 single-family homes in Colorado are now being used for the cultivation  
17 of more than six marijuana plants;

18 (d) A mature marijuana plant is large, often over five feet in  
19 height, and like any other large plant, its cultivation requires significant  
20 amounts of water in addition to any fertilizers, pesticides, artificial light,  
21 and increased heat that the owner may use to promote growth; and

22 (e) When such an operation is conducted inside a residential  
23 space, the resulting increases in temperature and humidity and the

1 introduction of chemicals may make the residence unusually susceptible  
2 to mold and other biological contaminants as well as an unhealthy  
3 accumulation of chemicals not normally found in a home.

4 (2) Therefore, the general assembly declares that it is in the public  
5 interest to require the seller of a home in which seven or more large plants  
6 have been grown to disclose this fact to potential buyers.

7 **SECTION 2.** In Colorado Revised Statutes, 25-1-108, **add** (1.5)  
8 as follows:

9 **25-1-108. Powers and duties of state board of health -**  
10 **definition - rules.** (1.5) (a) THE BOARD, IN CONSULTATION WITH THE  
11 COMMISSIONER OF AGRICULTURE OR THE COMMISSIONER'S DESIGNEE,  
12 SHALL PROMULGATE RULES IN ACCORDANCE WITH SECTION 24-4-103,  
13 C.R.S., CONCERNING:

14 (I) PROCEDURES FOR TESTING CONTAMINATION, EVALUATING  
15 CONTAMINATION, AND ESTABLISHING THE ACCEPTABLE STANDARDS FOR  
16 CLEANUP OF RESIDENTIAL STRUCTURES IN WHICH INDOOR HORTICULTURAL  
17 OPERATIONS HAVE BEEN OR MAY HAVE BEEN CONDUCTED;

18 (II) PROCEDURES FOR A TRAINING AND CERTIFICATION PROGRAM  
19 FOR PEOPLE INVOLVED IN THE ASSESSMENT, DECONTAMINATION, AND  
20 SAMPLING OF INDOOR HORTICULTURAL OPERATIONS. THE BOARD MAY  
21 DEVELOP DIFFERENT LEVELS OF TRAINING AND CERTIFICATION  
22 REQUIREMENTS BASED ON A PERSON'S PRIOR EXPERIENCE IN THE  
23 ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG  
24 LABORATORIES, AGRICULTURAL OPERATIONS, OR OTHER SIMILAR  
25 OPERATIONS.

26 (III) A DEFINITION OF "ASSESSMENT", "DECONTAMINATION", AND  
27 "SAMPLING" FOR PURPOSES OF THIS SUBSECTION (1.5);

1 (IV) PROCEDURES FOR THE APPROVAL OF PERSONS TO TRAIN  
2 CONSULTANTS OR CONTRACTORS IN THE ASSESSMENT, DECONTAMINATION,  
3 OR SAMPLING OF INDOOR HORTICULTURAL OPERATIONS; AND

4 (V) PROCEDURES FOR CONTRACTORS AND CONSULTANTS TO ISSUE  
5 CERTIFICATES OF COMPLIANCE TO PROPERTY OWNERS UPON COMPLETION  
6 OF ASSESSMENT, DECONTAMINATION, AND SAMPLING OF INDOOR  
7 HORTICULTURAL OPERATIONS TO CERTIFY THAT THE REMEDIATION OF THE  
8 PROPERTY MEETS THE CLEAN-UP STANDARDS ESTABLISHED BY THE BOARD  
9 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

10 (b) THE BOARD SHALL ESTABLISH FEES FOR THE FOLLOWING:

11 (I) CERTIFICATION OF PERSONS INVOLVED IN THE ASSESSMENT,  
12 DECONTAMINATION, AND SAMPLING OF INDOOR HORTICULTURAL  
13 OPERATIONS;

14 (II) MONITORING OF PERSONS INVOLVED IN THE ASSESSMENT,  
15 DECONTAMINATION, AND SAMPLING OF INDOOR HORTICULTURAL  
16 OPERATIONS, IF NECESSARY TO ENSURE COMPLIANCE WITH THIS ARTICLE;  
17 AND

18 (III) APPROVAL OF PERSONS INVOLVED IN TRAINING FOR  
19 CONSULTANTS OR CONTRACTORS UNDER SUBPARAGRAPH (IV) OF  
20 PARAGRAPH (a) OF THIS SUBSECTION (1.5).

21 (c) AS USED IN THIS SUBSECTION (1.5), "INDOOR HORTICULTURAL  
22 OPERATION" MEANS THE CULTIVATION, WITHIN ANY RESIDENTIAL  
23 STRUCTURE, OF SEVEN OR MORE PLANTS OF ANY SPECIES CAPABLE OF  
24 GROWING TO A HEIGHT OF THREE FEET OR A DIAMETER OF TWO FEET AND  
25 IN WHICH ANY DETECTABLE AMOUNT OF PESTICIDE OR FERTILIZER IS USED.

26 **SECTION 3.** In Colorado Revised Statutes, **add** 38-35.7-109 as  
27 follows:

1           **38-35.7-109. Disclosure of indoor horticultural operation -**  
2           **applicability - rules.** (1) (a) BY JANUARY 1, 2017, THE REAL ESTATE  
3           COMMISSION CREATED IN SECTION 12-61-105, C.R.S., SHALL, BY RULE,  
4           REQUIRE EACH LISTING CONTRACT, CONTRACT OF SALE, OR SELLER'S  
5           PROPERTY DISCLOSURE FOR RESIDENTIAL REAL PROPERTY THAT IS SUBJECT  
6           TO THE COMMISSION'S JURISDICTION PURSUANT TO ARTICLE 61 OF TITLE  
7           12, C.R.S., TO DISCLOSE WHETHER THE SUBJECT PROPERTY WAS USED FOR  
8           AN INDOOR HORTICULTURAL OPERATION, AS DEFINED IN SECTION 25-1-108  
9           (1.5), C.R.S.

10           (b) PARAGRAPH (a) OF THIS SUBSECTION (1) DOES NOT APPLY IF  
11           THE SELLER OBTAINS, AND THE LISTING AGENT PROVIDES TO ANY PARTY  
12           TO THE CONTRACT UPON REQUEST, A WRITTEN STATEMENT THAT THE  
13           PROPERTY IS NOT CONTAMINATED, WHICH STATEMENT IS SIGNED BY A  
14           PERSON CERTIFIED TO CONDUCT INSPECTIONS IN ACCORDANCE WITH RULES  
15           OF THE STATE BOARD OF HEALTH UNDER SECTION 25-1-108 (1.5), C.R.S.

16           (2) THE OBLIGATION TO PROVIDE THE DISCLOSURE SET FORTH IN  
17           SUBSECTION (1) OF THIS SECTION IS UPON THE SELLER. IF THE SELLER  
18           COMPLIES WITH THIS SECTION, THE PURCHASER DOES NOT HAVE ANY  
19           CLAIM UNDER THIS SECTION FOR RELIEF AGAINST THE SELLER OR ANY  
20           PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S., FOR  
21           DAMAGES TO THE PURCHASER RESULTING FROM ANY ALLEGED EFFECT OF  
22           INDOOR HORTICULTURAL OPERATIONS. NOTHING IN THIS SECTION AFFECTS  
23           ANY REMEDY THAT THE PURCHASER MAY OTHERWISE HAVE AGAINST THE  
24           SELLER.

25           (3) FOR PURPOSES OF THIS SECTION, "RESIDENTIAL REAL  
26           PROPERTY" MEANS RESIDENTIAL LAND AND RESIDENTIAL IMPROVEMENTS,  
27           AS THOSE TERMS ARE DEFINED IN SECTION 39-1-102, C.R.S., BUT DOES

1 NOT INCLUDE HOTELS AND MOTELS, AS THOSE TERMS ARE DEFINED IN  
2 SECTION 39-1-102, C.R.S.; EXCEPT THAT A MOBILE HOME AND A  
3 MANUFACTURED HOME, AS THOSE TERMS ARE DEFINED IN SECTION  
4 39-1-102, C.R.S., CONSTITUTE RESIDENTIAL REAL PROPERTY ONLY IF THE  
5 MOBILE HOME OR MANUFACTURED HOME IS PERMANENTLY AFFIXED TO A  
6 FOUNDATION.

7 **SECTION 4. Act subject to petition - effective date.** This act  
8 takes effect at 12:01 a.m. on the day following the expiration of the  
9 ninety-day period after final adjournment of the general assembly (August  
10 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
11 referendum petition is filed pursuant to section 1 (3) of article V of the  
12 state constitution against this act or an item, section, or part of this act  
13 within such period, then the act, item, section, or part will not take effect  
14 unless approved by the people at the general election to be held in  
15 November 2016 and, in such case, will take effect on the date of the  
16 official declaration of the vote thereon by the governor.