

2010 -- S 2131

LC00617

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO HEALTH AND SAFETY -- TOXIC MOLD PROTECTION ACT

Introduced By: Senator Beatrice A. Lanzi

Date Introduced: February 04, 2010

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 85

4 TOXIC MOLD PROTECTION ACT

5 **23-84-1. Short title.** – This chapter shall be known and may be cited as the "Toxic Mold
6 Protection Act."

7 **23-84-2. Definitions.** – For purposes of this chapter:

8 (1) "Code enforcement officer" means a local official responsible for enforcing housing
9 codes and maintaining public safety in buildings.

10 (2) "Indoor environments" means the affected dwelling unit.

11 (3) "Mold" means any form of multi-cellular fungi that live on plant or animal matter and
12 in indoor environments. Types of mold include, but are not limited to, cladosporium, penicillium,
13 alternaria, aspergillus, fuarim, trichoderma, memmoniella, mucor and stachhybotrys chartarum,
14 often found in water-damaged building materials.

15 (4) "Public health officer" means a person who is either a state employee or a designee of
16 the health department whose duty, among others, shall be to conduct state mold inspections.

17 (5) "Department" means the state department of health.

18 (6) "Director" means the director of the department of health.

19 **23-84-3. Purpose.** – The purpose of this chapter is to protect the public health and public

1 interest by establishing procedures for the identification and treatment of molds in indoor
2 environments.

3 **23-84-4. Mold advisory board.** – (a) There is established a mold advisory board
4 consisting of eleven (11) members within the department of health.

5 (b) The purpose of the board shall be as follows:

6 (1) To monitor the implementation of this chapter and to ensure that the records of all
7 departments and agencies of state government relating to the mold protection act shall be made
8 accessible to the chairperson of the mold advisory board upon request, providing that the board
9 has directed the chairperson by a vote of the board as a whole;

10 (2) To report on or before March 1 of each year to the speaker of the house and the
11 president of the senate of any legislative changes required in this chapter;

12 (3) To advise the director on the desirability of proposed regulations.

13 (c) The members of the board shall be electors and shall be appointed as follows:

14 (1) There shall be three (3) ex-officio members: the director of the department of health,
15 the director of the department of administration, and the director of the department of
16 environmental management or their designees;

17 (2) There shall be four (4) public representatives, two (2) to be appointed by the speaker
18 and two (2) to be appointed by the president of the senate, and there shall be four (4) members
19 approved by the governor, one of whom shall be a physician familiar with mold problems, one of
20 whom shall be a qualified environmental health expert, and one of whom shall be an architect or
21 engineer familiar with mold problems, and one of whom shall be a mold abatement contractor.

22 (d) The term of office of each member shall be for a period of three (3) years except that
23 in the case of the initial appointments of public and professional members, one by the speaker and
24 one by the governor shall be for two (2) years and one by the speaker and two (2) by the governor
25 shall be for one year. Each member shall serve until a successor is appointed or designated. In
26 the month of August of each year, the members shall elect from among their members, a
27 chairperson, vice chairperson and secretary. Any member absent for three (3) or more
28 consecutive meetings shall be considered as having vacated the office. Six (6) members shall be
29 considered a quorum, and the board may fulfill any of its duties by a subcommittee of four (4)
30 members present.

31 (e) The board may engage any experts and secretarial staff as necessary at a rate of pay
32 approved by the unclassified pay board.

33 (f) The director shall provide any meeting and hearing rooms as the board may require.

34 **23-84-5. Advisory board duties.** -- The advisory board shall provide advice to the

1 department of health on the development of standards for permissible exposure limits to mold in
2 the indoor environment, guidelines for the identification of the presence of mold, guidelines for
3 the assessment of the health risk posed by the presence of mold, and remediation guidelines and
4 procedures for the abatement of a mold hazard.

5 **23-84-6. Permissible exposure limits.** – (a) Within twelve (12) months of the effective
6 date of this act, the department of health shall adopt permissible exposure limits to mold in indoor
7 environments, and procedures for the assessment of the health risk posed by the presence of
8 mold. The exposure limits shall be set at levels to avoid adverse effects on health, with an
9 adequate margin of safety. The department shall balance the protection of public health with
10 technological and economic feasibility when it adopts permissible exposure limits and procedures
11 for the assessment of the health risk posed by the presence of mold. The department shall use the
12 latest scientific data to develop permissible exposure limits and assessment procedures that target
13 the general population.

14 (b) The department shall consider the following criteria when it adopts permissible
15 exposure limits and assessment procedures for molds in indoor environments:

16 (1) The adverse health effects of exposure to molds on the general population, the health
17 effects on members of subgroups of the general population, which may include infants, children
18 age six (6) years and under, pregnant women, the elderly, asthmatic, allergic individuals, immune
19 compromised individuals or other subgroups that are identifiable as being at greater risk of
20 adverse health effects than the general population when exposed to mold;

21 (2) The standards for mold exposure and procedures for assessing its health effects, if
22 any, adopted by any other state or by a federal agency;

23 (3) The technological and economic feasibility of compliance with the proposed
24 permissible exposure limit for molds. For the purposes of determining economic feasibility
25 pursuant to this subsection, the department shall consider the costs of compliance to tenants,
26 landlords, homeowners, and other affected parties; and

27 (4) Toxicological studies and any scientific evidence as it relates to mold.

28 **23-84-7. Mold identification guidelines.** – (a) Within twelve (12) months of the
29 effective date of this act, the department of health shall adopt mold identification guidelines for
30 the recognition of mold in indoor environments.

31 (b) Identification guidelines shall include scientifically accepted methods to identify the
32 presence of mold, and may include procedures for the collection of air, surface and bulk samples,
33 visual identification, olfactory identification, laboratory analysis, measurements of amount of
34 moisture, and presence of mold, and any other recognized analytical method used for the

1 identification of molds. The department may use scientific data or existing standards or
2 procedures for the identification of molds adopted by any other state or by a federal agency.

3 (c) The department shall consider the following criteria when it develops identification
4 guidelines for molds:

5 (1) Exposure limits and the procedures for the assessment of the health threat by molds;

6 (2) Any scientific or other evidence developed by the United States Environmental
7 Protection Agency, the World Health Organization, Centers for Disease Control and Prevention,
8 or any other public health or scientific organization.

9 **23-84-8. Mold remediation procedures.** – (a) Within twelve (12) months of the
10 effective date of this act, the department of health shall adopt standards for mold remediation
11 procedures including specialized cleaning, repairs, maintenance, painting, temporary containment
12 and ongoing monitoring of mold hazards or potential hazards.

13 (b) Remediation procedures for mold developed by the department shall:

14 (1) Provide practical guidelines for the removal of mold and abatement of the underlying
15 cause of mold and associated water intrusion and water damage in indoor environments;

16 (2) Balance the protection of public health with technological and economic feasibility;

17 (3) Provide practical guidance for the removal or cleaning of contaminated materials in a
18 manner that protects the health of the person performing the remediation, including requirements
19 for the use of protective clothing or equipment.

20 **23-84-9. Public information.** -- The department shall make available to the public upon
21 request, information about contracting for the removal of mold in a building or surrounding
22 environment. The information to be made available shall include recommended steps to take
23 when contracting with a company to remove mold, existing laws, regulations, and guidelines
24 developed by the department of health, pertaining to permissible exposure limits to mold,
25 identification, and remediation, health effects of molds, methods to prevent, identify and
26 remediate mold growth, resources to obtain information about molds, and contact information for
27 individuals, organizations, or government entities to assist with public concerns about molds.

28 **23-84-10. Disclosure required upon sale or lease.** -- Any person who sells, transfers or
29 leases residential real property shall disclose, in writing, to any prospective buyer or lessee before
30 the transfer of title or execution of the rental agreement, when the seller, transferor or
31 landlord/property owner knows of the presence of mold in the unit or building and the mold either
32 exceeds permissible exposure limits to mold or poses a health risk, pursuant to the standards
33 adopted by the department of health. A disclosure shall not be required pursuant to this section if
34 a mold hazard is remediated pursuant to the remediation standards adopted by the department

1 **23-84-11. Duties of residential lessee and lessor.** – (a) Any lessee of residential
2 property who knows that mold is present in the building, heating system, ventilating or air
3 conditioning system, or appurtenant structures, or that there is a condition of chronic water
4 intrusion or flood, shall inform the lessor of this knowledge in writing within a reasonable period
5 of time. The lessee shall make the property available to the lessor or his or her agents for
6 appropriate assessment or remedial action as soon as is reasonably practicable if the lessor is
7 responsible for maintenance of the property. Nothing in this section shall affect existing duties
8 and obligations of residential lessees and lessors.

9 (b) Except as provided in subsection 23-84-11(c), any person who owns a residential
10 property, who knows or has notice that mold is present in the building, heating system, ventilating
11 or air conditioning system, or appurtenant structures, or that there is a condition of chronic water
12 intrusion or flood, shall, within a reasonable period of time, assess the presence of mold, or the
13 condition likely to result in the presence of mold and conduct any necessary remedial action.

14 (c) The provisions of subsection (b) of this section shall not apply to any property where
15 the lessee is responsible pursuant to a lease or other contract, for maintenance of the property.

16 (d) Any lessee of residential real property who knows that mold is present in the building,
17 heating system, ventilating or air conditioning system, or appurtenant structures, or that there is a
18 condition of chronic water intrusion or flood, and is responsible for maintenance of the property
19 shall inform the owner of the property, in writing of the conditions as soon as practicable and
20 shall correct the condition in compliance with the terms of the lease.

21 **23-84-12. Enforcement authority.** – Any local health inspector, local housing inspector,
22 or code enforcement officer may respond to complaints about mold and may enforce standards
23 adopted by the department of health pursuant to this chapter and may enforce the disclosure
24 requirements established by this chapter.

25 **23-84-13. Penalties.** – Any person or entity acting in violation of either this chapter or
26 any rules or regulations promulgated pursuant to the authority conferred by this chapter shall be
27 fined by the director in an amount not to exceed five thousand dollars (\$5,000) for each violation
28 provided that fines are not imposed until the director has afforded that person or entity an
29 opportunity for a hearing on the matter. Each day during which any portion of a violation
30 continues shall constitute a separate offense.

31 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- TOXIC MOLD PROTECTION ACT

1 This act would create a mold advisory board to advise the department of health with
2 respect to establishing permissible exposure limits for mold exposure and procedures for the
3 assessment of the health risk posed by the presence of mold, and would promulgate mold
4 remediation procedures.

5 This act would take effect upon passage.

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