

Regular Session, 2003

HOUSE BILL NO. 1328

BY REPRESENTATIVE PINAC

LICENSING: Licenses persons who perform mold assessment and mold remediation services

1 AN ACT

2 To enact Chapter 24-A of Title 37 of the Louisiana Revised Statutes of 1950,
3 to be comprised of R.S. 37:2181 through 2192, relative to licensing; to
4 provide for licensing for persons who perform mold assessment and
5 mold remediation services; to provide relative to the State Licensing
6 Board for Contractors; to provide for a purpose and scope; to provide
7 for definitions; to provide for the board's powers and duties; to provide
8 for qualifications, applications, and fees; to provide for exceptions; to
9 provide relative to written reports; to prohibit certain activities; to
10 provide for license renewals; to provide for administrative actions and
11 penalties; to provide for cease and desist orders and injunctive relief;
12 and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Chapter 24-A of Title 37 of the Louisiana Revised Statutes
15 of 1950, comprised of R.S. 37:2181 through 2192, is hereby enacted to read
16 as follows:

1 CHAPTER 24-A. MOLD ASSESSMENT AND REMEDIATION2 §2181. Purpose

3 The legislature hereby declares that it is in the best interest of the
4 citizens of the state to require the licensure and regulation of those
5 persons who perform mold remediation and mold assessment. The
6 purpose of this Chapter is to require qualifying criteria in a professional
7 field in which unqualified individuals may injure or mislead the public.
8 The provisions of this Chapter shall contribute to the safety, health, and
9 welfare of the people of this state.

10 §2182. Definitions

11 As used in this Chapter, the following words shall have the
12 following meanings unless the context clearly indicates otherwise:

13 (1) "Applicant" means a person who seeks to be examined for
14 licensure by the board.

15 (2) "Board" means the State Licensing Board for Contractors,
16 as provided for in R.S. 37:2150 et seq.

17 (3) "Licensee" means any person who has been issued a license
18 by the board in accordance with the provisions of this Chapter.

19 (4) "Mold assessment" means one or all of the following:

20 (a) An investigation, inspection, or survey of a dwelling or other
21 structure to provide the owner or occupant with information regarding
22 the presence, identification, or evaluation of mold.

23 (b) The development of a mold management plan or
24 remediation protocol.

25 (c) The collection or analysis of a mold sample.

(5) "Mold remediation" means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter that was not purposely grown at that location.

§2183. Scope

This Chapter applies only to the regulation of mold-related activities that affect indoor air quality and does not apply to routine cleaning when not conducted for the purpose of mold remediation.

§2184. Powers and duties of the board

In addition to the powers and duties allocated to the board pursuant to Chapter 24 of this Title, the board shall also:

(1) Adopt rules and regulations, in accordance with the Administrative Procedure Act, as the board deems necessary to administer and implement the provisions of this Chapter or to govern the practice of mold assessment and mold remediation in the state.

(2) Issue, suspend, modify, and revoke licenses to practice mold assessment and mold remediation.

(3) Report to the attorney general all persons who violate the provisions of this Chapter.

(4) Maintain an up-to-date list of all licensees.

(5) Adopt minimum standards of practice for persons licensed to conduct mold assessment and those licensed to conduct mold remediation.

§2185. Licensing required

A.(1) Beginning July 1, 2004, no person shall engage in or conduct, or advertise or hold himself out as engaging in or conducting

1 ~~the business of, or acting in the capacity of a person who conducts mold~~
2 ~~assessments unless such person holds a mold assessment license as~~
3 ~~provided for in this Chapter.~~

4 (2) ~~Beginning July 1, 2004, no person shall engage in or~~
5 ~~conduct, or advertise or hold himself out as engaging in or conducting~~
6 ~~the business of, or acting in the capacity of a person who conducts mold~~
7 ~~remediation unless such person holds a mold remediation license as~~
8 ~~provided for in this Chapter.~~

9 B. ~~The following persons shall not be required to obtain a~~
10 ~~license issued pursuant to this Chapter:~~

11 (1) ~~A residential property owner who performs mold assessment~~
12 ~~or mold remediation on his own property.~~

13 (2) ~~A nonresidential property owner, or the employee of such~~
14 ~~owner, who performs mold assessment or mold remediation on an~~
15 ~~apartment building owned by that person that has more than four~~
16 ~~dwelling units.~~

17 (3) ~~An owner or tenant, or a managing agent or employee of an~~
18 ~~owner or tenant, who performs mold assessment or mold remediation~~
19 ~~on property owned or leased by the owner or tenant. This exemption~~
20 ~~does not apply if the managing agent or employee engages in the~~
21 ~~business of performing mold assessment or mold remediation for the~~
22 ~~public.~~

23 (4) ~~An employee of a licensee who performs mold assessment~~
24 ~~or mold remediation while supervised by the licensee.~~

(5) A licensed residential building contractor who performs mold assessment or mold remediation services when acting within the scope of his license.

§2186. Qualifications for licensure; application; fees

A. The board shall, by rule adopted in accordance with the Administrative Procedure Act, establish minimum qualifications for licensing. Applications for licenses and for renewal licenses shall be made in writing to the board on forms provided by the board.

B. An applicant for a license to perform mold remediation or mold assessment shall meet the following requirements:

(1) Attainment of eighteen years of age.

(2) Successful completion of high school or its equivalent.

(3) Present evidence to the board that he has satisfactorily completed at least the following board-approved course work:

(i) Thirty hours of training in mold and fungi identification.

(ii) Ten hours of training in mold remediation services.

(iii) Four hours of instruction in Louisiana's "Unfair Trade Practices and Consumer Protection Law".

(4) Payment of the appropriate fees.

(5) Submission of a license application as prescribed by the board.

C. The board may charge and collect fees not in excess of the following:

(1) Application for license \$100.00

(2) License renewal \$100.00

(3) Delinquent renewal \$50.00

1 §2187. Written reports; prohibited activities

2 A. A person who performs mold assessment services shall
3 provide a written report to each person for whom he performs such
4 services for compensation.

5 B.(1) No licensee shall perform both mold assessment and mold
6 remediation on the same property.

7 (2) No person shall own an interest in both the entity which
8 performs mold assessment services and the entity which performs mold
9 remediation services on the same property.

10 §2188. License issuance and renewal

11 A. Licenses shall be issued for a period of one year and shall
12 expire on the last day of the month of issuance in the preceding year.
13 Licenses which are not renewed shall be considered to be expired and
14 any mold assessment or mold remediation activity which would require
15 a license to perform which occurs after expiration of the license shall
16 be deemed a violation of this Chapter.

17 B. Any licensee who fails to timely renew his license may
18 thereafter renew upon payment of the appropriate renewal and
19 delinquent fees and upon filing of a renewal application. The period
20 for delinquent renewal of an expired license shall be limited to the six-
21 month period immediately following the expiration date of the active
22 license. Failure to renew an expired license during such six-month
23 period shall result in forfeiture of renewal rights and shall require the
24 former licensee to apply as an initial applicant and meet all
25 requirements of an initial applicant.

26 C. Licenses shall be in a form prescribed by the board.

1 §2189. Prohibited acts; penalties

2 A. The board may suspend or revoke any license, or censure,
3 fine, or impose probationary or other restrictions on any licensee for
4 good cause shown which shall include but not be limited to the
5 following:

6 (1) Conviction of a felony or the entering of a plea of guilty or
7 nolo contendere to a felony charge under the laws of the United States
8 or any other state.

9 (2) Deceit or misrepresentation in obtaining a license.

10 (3) Providing false testimony before the board.

11 (4) Efforts to deceive or defraud the public.

12 (5) Professional incompetence or gross negligence.

13 (6) Rendering, submitting, subscribing, or verifying false,
14 deceptive, misleading, or unfounded opinions or reports.

15 (7) Violating any rule or regulation adopted by the board or any
16 provision of this Chapter.

17 (8) Aiding or abetting a person to evade the provisions of this
18 Chapter or knowingly combining or conspiring with an unlicensed
19 person with the intent to evade the provisions of this Chapter.

20 (9) Violating any standard of conduct adopted by the board.

21 (10) Engaging in conduct, advertising or holding oneself out as
22 engaging in or conducting the business of, or acting in the capacity of
23 a person who performs mold assessment or mold remediation services
24 without possessing a valid license.

25 (11) Falsely representing oneself as being the holder of a valid
26 license by using the title "licensed mold remediator", "licensed mold

1 assessor", or any title, designation, or abbreviation deceptively similar
2 or likely to create the impression that such person is licensed.

3 B. Violators of any of the provisions of this Section may be
4 fined by the board in an amount not to exceed two thousand dollars per
5 violation and ten thousand dollars for each subsequent violation.

6 C. All fines collected pursuant to this Section for violations
7 shall annually be transferred to a separate mold assessment and
8 remediation educational trust fund to be used for educational purposes
9 as determined by the board.

10 §2190. Revocation or suspension; payment of costs of proceedings

11 A. Revocation of a license as a result of disciplinary action by
12 the board may prohibit the reissuance of a license to such licensee for
13 a period of up to one year from the date of revocation. The license of
14 an applicant whose license has been revoked may be reissued by the
15 board upon the submission of evidence by the applicant of satisfactory
16 completion of the board-approved course work required for new
17 applicants pursuant to R.S. 37:2186(B)(3).

18 B. The board, as a probationary condition or as a condition of
19 a revocation or suspension, may require a licensee to pay all costs of the
20 board proceedings, including but not limited to investigators',
21 stenographers', and attorney fees, and costs.

22 §2191. Cease and desist orders; injunctive relief

23 A. In addition to or in lieu of the criminal penalties and
24 administrative sanctions provided for in this Chapter, the board may
25 issue an order to any person engaged in any activity, conduct, or
26 practice constituting a violation of any provision of this Chapter or any

1 rule or regulation adopted pursuant to this Chapter directing such
2 person to cease and desist from such activity, conduct, or practice.
3 Such order shall be issued in the name of the state under the official
4 seal of the board.

5 B. If the person to whom the board directs a cease and desist
6 order does not cease and desist the prohibited activity, conduct, or
7 practice within two days of service of such order by certified mail, the
8 board may seek a writ of injunction in any court of competent
9 jurisdiction and proper venue enjoining such person from engaging in
10 the activity, conduct, or practice.

11 §2192. Fees and other funds received

12 All fees and fines received by the board under this Chapter shall
13 be used solely to effectuate the provisions of this Chapter and Chapter
14 24 of this Title.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Pinac

HB No. 1328

Abstract: Requires the licensure of all persons engaged in the practice of mold assessment and mold remediation. Licenses shall be issued by the State Licensing Board for Contractors.

Proposed law defines "applicant", "board", "licensee", "mold assessment", and "mold remediation".

Proposed law provides that the provisions of proposed law apply only to the regulation of mold-related activities that affect indoor air quality and not to routine cleaning when not conducted for the purpose of mold remediation.

Proposed law provides that in addition to the powers and duties allocated to the State Licensing Board for Contractors in present law, the board shall also do the following:

- (1) Adopt rules and regulations as the board deems necessary to administer and implement the provisions of proposed law or to govern the practice of mold assessment and mold remediation.
- (2) Issue, suspend, modify, and revoke licenses to practice mold assessment and mold remediation.
- (3) Report to the attorney general all persons who violate proposed law.
- (4) Maintain an up-to-date list of all licensees.
- (5) Adopt minimum standards of practice for persons licensed to conduct mold assessment and those licensed to conduct mold remediation.

Proposed law provides that beginning July 1, 2004, no person shall act in the capacity of a person who conducts mold assessment or mold remediation within the state without a license. It further exempts the following persons from licensure:

- (1) A residential property owner who performs mold assessment or remediation on his own property.
- (2) A nonresidential property owner or his employee who performs mold assessment or remediation on an apartment building owned by that person.
- (3) An owner or tenant who performs mold assessment or remediation on property owned or leased by the owner or tenant. The exemption shall not apply if the managing agent performs such services for the public.
- (4) An employee of a licensee who performs mold assessment or remediation while supervised by the licensee.
- (5) A licensed residential building contractor who performs mold assessment or remediation services when acting within the scope of his license.

Proposed law provides that the board, by rule, shall establish minimum qualifications for licensing. An applicant for a license shall meet the following requirements:

- (1) Attainment of 18 years of age.
- (2) Successful completion of high school.
- (3) Present evidence that he has satisfactorily completed 30 hours of training in mold and fungi identification, 10 hours of training in mold remediation services, and 4 hours of instruction in the "Unfair Trade Practices and Consumer Protection Law".
- (5) Payment of the appropriate fees.
- (6) Submission of a license application.

Proposed law allows the board to charge fees not in excess of the following:

- | | | |
|-----|---------------------|-------|
| (1) | License application | \$100 |
| (2) | License renewal | \$100 |
| (3) | Delinquent renewal | \$50 |

Proposed law provides that a person who performs mold assessment shall provide a written report to each person for whom he performs such services. It prohibits a licensee from performing both mold assessment and mold remediation on the same property, and it further prohibits a person from

owning an interest in both the entity which performs mold assessment services and the entity which performs mold remediation services on the same property.

Proposed law provides that licenses shall be issued for a period of one year and shall expire on the last day of the month of issuance. Licenses that are not renewed shall expire and any services provided following expiration shall be violations of the law. Any licensee who fails to timely renew his license may pay a delinquent fee within six months of renewal and have his license renewed. Failure to renew within six months shall require the licensee to reapply as an initial applicant.

Proposed law allows the board to suspend or revoke any license, or censure, issue fines not exceeding \$2000 per violation and \$10,000 for each subsequent violation, or otherwise impose other restrictions on any licensee for any of the following reasons:

- (1) Conviction of a felony or pleading guilty to a felony.
- (2) Deceit or misrepresentation in obtaining a license.
- (3) Providing false testimony.
- (4) Efforts to deceive or defraud the public.
- (5) Professional incompetence or gross negligence.
- (6) Submitting false opinions or reports.
- (7) Violating any board rule or regulation.
- (8) Aiding or abetting a person to evade the provisions of proposed law.
- (9) Violating any standard of conduct adopted by the board.
- (10) Engaging in the conduct of a licensee without a license.
- (11) Falsely representing oneself as a licensee.

Proposed law provides that all fines collected for violations shall annually be transferred to a separate mold remediation educational trust fund to be used for educational purposes as determined by the board.

Proposed law provides that revocation of a license as a result of disciplinary action by the board may prohibit the reissuance of a license for up to one year. A license may be reissued if the applicant completes board-approved course work. The board may also require a licensee to pay all costs of board proceedings, including attorney, investigator, and stenographer fees.

Proposed law provides that the board may also issue a cease and desist order to any person engaged in any activity constituting a violation of proposed law. If such person does not cease and desist the activity within two days of service of such order, the board may seek a writ of injunction to enjoin such person from engaging in the activity.

Proposed law provides that all fees and fines received by the board shall be used solely to effectuate the provisions of proposed law and the laws governing contractors.

(Adds R.S. 37:2181-2192)