

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION-2007

Legislative Document

No. 1903

H.P. 1337

House of Representatives, May 9, 2007

An Act To Implement the Recommendations of the Working Group Studying Mold in Buildings

Reported by Representative KOFFMAN of Bar Harbor for the Joint Standing Committee on Natural Resources pursuant to Resolve 2005, chapter 174, section 4.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA c. 217-A** is enacted to read:

3 **CHAPTER 217-A**

4 **MOLD ASSESSMENT AND REMEDIATION SERVICES**

5 **§1480. Disclosure statement required**

6 A person may not provide both mold assessment and remediation services on a
7 building project unless the person has provided to the owner of the building or the
8 owner's agent a signed disclosure statement regarding the potential for conflict of interest
9 in providing both mold assessment and remediation services. For purposes of this
10 section, "person" means an individual, a partnership, a corporation or any other legal
11 entity.

12 **Sec. 2. 10 MRSA §1487, sub-§13**, as enacted by PL 2005, c. 619, §3 and
13 affected by §6, is amended to read:

14 **13. Consumer protection information.** As an addendum to the contract, a copy of
15 the Attorney General's consumer protection information on home construction and repair,
16 which includes information on contractors successfully sued by the State, as provided on
17 the Attorney General's publicly accessible website; **and**

18 **Sec. 3. 10 MRSA §1487, sub-§14**, as enacted by PL 2005, c. 619, §4 and
19 affected by §6, is amended to read:

20 **14. Attorney General's publicly accessible website.** A clear and conspicuous
21 notice that states that consumers are strongly advised to visit the Attorney General's
22 publicly accessible website to gather current information on how to enforce their rights
23 when constructing or repairing their homes, as well as the Attorney General's publicly
24 accessible website address and telephone number; **and**

25 **Sec. 4. 10 MRSA §1487, sub-§15** is enacted to read:

26 **15. Training and certifications.** Any training received and certifications held by
27 the person supervising the building, remodeling or repair.

28 **Sec. 5. 10 MRSA §9701, sub-§1**, as enacted by PL 2003, c. 580, §1, is amended
29 to read:

30 **1. Maine Model Building Code.** Except as provided in section 9703, "Maine
31 Model Building Code" includes:

32 A. The 2003 version of the International Residential Code; **and**

33 B. The 2003 version of the International Building Code; **and**

34 C. The following mandatory moisture control provisions:

- 1 (1) Mandatory placement of flashing around all doors and windows in
2 accordance with the door and window manufacturer's installation instructions;
3 (2) Mandatory insulating and waterproofing of basement concrete; and
4 (3) Mandatory placement of vapor diffusion retarders.

5 **Sec. 6. 14 MRSA §6021, sub-§8** is enacted to read:

6 **8. Landlord-tenant mold dispute mediation.** The mold dispute resolution program
7 is established to provide tenants with a prompt, independent and inexpensive forum for
8 mediation of disputes concerning mold or excess moisture in rental properties.

9 A. The Court Alternative Dispute Resolution Service created in Title 4, section 18-B
10 shall provide mediation services under this subsection. The Court Alternative
11 Dispute Resolution Service shall:

- 12 (1) Assign mediators under this subsection who are knowledgeable in residential
13 building construction;
14 (2) Establish a simple and expedient application process; and
15 (3) Establish a fee for services in an amount not to exceed \$85 for every 2 hours
16 of mediation services provided. The tenant is responsible for the costs of the first
17 2 hours of mediation and for the costs of providing notice as required under this
18 subsection.

19 B. Before a tenant may apply for mediation under this subsection the tenant must:

- 20 (1) Make a complaint to the landlord of the dwelling unit regarding mold or
21 excessive moisture in the dwelling unit; and
22 (2) Submit a claim in writing to the landlord or the person who customarily
23 collects rent on behalf of the landlord, afford the landlord at least 10 business
24 days to respond, and fail to reach a satisfactory agreement of settlement with the
25 landlord within that time period.

26 C. A tenant may apply for mediation under this subsection by:

- 27 (1) Submitting to the Superior Court clerk all necessary fees at the time of
28 application; and
29 (2) Filing an application for mediation with the Superior Court clerk in the
30 county in which the dwelling unit that is the subject of the conflict is located.
31 The Superior Court clerk shall forward the application to the Court Alternative
32 Dispute Resolution Service under Title 4, section 18-B.

33 D. The mediator of a dispute under this subsection, whenever possible and
34 appropriate, shall conduct the mediation in the county in which the dwelling unit that
35 is the subject of the conflict is located and shall attempt to facilitate a solution to the
36 dispute that is mutually acceptable to the tenant and landlord.

37 E. The mediator of a dispute under this subsection is responsible for scheduling all
38 mediation sessions. The mediator shall provide the names and addresses of the tenant

1 and the landlord and a copy of the notice of the mediation schedule to the Superior
2 Court clerk, who shall mail the notices.

3 F. Participation in the mediation process under this subsection is mandatory for the
4 landlord of the dwelling unit.

5 G. The admissibility in court of conduct or statements made during mediation,
6 including offers of settlement, is governed by the Maine Rules of Evidence, Rule
7 408(a) for matters subsequently heard in a state court.

8 H. A mediated agreement under this subsection must be in writing. The tenant and
9 the landlord must sign the agreement as participants and the mediator must sign as
10 the mediator.

11 I. Within 90 days after a tenant files an application for mediation under paragraph C,
12 the mediator shall file a report with the Superior Court clerk. The report must
13 contain:

- 14 (1) The names of the mediation participants;
- 15 (2) The nature of any agreements reached during the course of mediation and
16 what further action is required of any person;
- 17 (3) The nature of any issues remaining unresolved and the mediation participants
18 involved in those unresolved issues; and
- 19 (4) A copy of any written agreement under paragraph H.

20 J. The terms of a mediated agreement under this subsection are enforceable in the
21 Superior Court. If the parties fail to reach a mediated settlement, a party may file an
22 appropriate civil action for remedies in accordance with applicable law.

23 **Sec. 7. 22 MRSA §454, sub-§1**, as enacted by PL 1997, c. 387, §1 and amended
24 by PL 2003, c. 689, Pt. B, §7, is further amended to read:

25 **1. Reporting; action on complaints.** In a book kept for that purpose, the local
26 health officer shall make and keep a record of all the proceedings, transactions, doings,
27 orders and regulations of that local health officer. The local health officer shall assist in
28 the reporting, prevention and suppression of diseases and conditions dangerous to health,
29 and that local health officer is subject to the supervision and direction of the department.

30 The local health officer shall report promptly to the Commissioner of Health and Human
31 Services, or the commissioner's designee, facts that relate to communicable diseases
32 occurring within the limits of the health officer's jurisdiction, and shall report to the
33 commissioner, or the commissioner's designee, every case of communicable disease as
34 the rules of the department require. Those diseases that the rules of the department may
35 require to be reported are known, under the terms of this Title, as notifiable diseases.

36 The local health officer shall receive and evaluate complaints made by any of the
37 inhabitants concerning nuisances posing a potential public health threat and complaints
38 made by tenants concerning issues with mold or excess moisture within the limits of the
39 health officer's jurisdiction. With the consent of the owner, agent or occupant, the local
40 health officer may enter upon or within any place or premises where nuisances or
41 conditions posing a public health threat or where mold or excess moisture issues are

1 known or believed to exist, and personally, or by appointed agents, inspect and examine
2 the same. If entry is refused, the municipal health officer shall apply for an inspection
3 warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the
4 inspection. When the local health officer has reasonable cause to suspect the presence of
5 a communicable disease, the local health officer shall consult with the commissioner, or a
6 designee. The health officer shall then order the suppression and removal of nuisances
7 and conditions posing a public health threat found to exist within the limits of the health
8 officer's jurisdiction. For purposes of this section, "public health threat" means any
9 condition or behavior that can reasonably be expected to place others at significant risk of
10 exposure to infection with a communicable disease.

11 **Sec. 8. 22 MRSA §1695-A** is enacted to read:

12 **§1695-A. Review and recommendation of mold guidelines and standards**

13 The Maine Center for Disease Control and Prevention shall review and recommend
14 guidelines and standards for:

15 **1. Mold assessment.** The assessment of mold contamination in buildings in the
16 State;

17 **2. Mold remediation.** The remediation of mold contamination from buildings in the
18 State;

19 **3. Education.** The education and certification of mold assessment and remediation
20 professionals; and

21 **4. Worker protection.** Protection of workers from mold contamination.

22 In recommending guidelines and standards pursuant to this section, the Maine Center
23 for Disease Control and Prevention shall give preference to accredited standards of the
24 American National Standards Institute, independent 3rd-party certifications and federal
25 guidelines and shall consider strategies to communicate the availability of the information
26 to professionals and members of the general public.

27 **Sec. 9. 35-A MRSA §121, sub-§1**, as enacted by PL 2003, c. 645, §6, is amended
28 to read:

29 **1. Development; rules.** The commission shall adopt by rule a model building
30 energy code, including a ventilation code, that is consistent with any other model building
31 codes adopted by the State and with the building energy standards established in Title 10,
32 section 1415-C, subsection 3 and section 1415-D. The model building energy code must
33 include mandatory moisture control provisions, including mandatory placement of
34 flashing around all doors and windows in accordance with the door and window
35 manufacturer's installation instructions and mandatory insulating and waterproofing of
36 basement concrete. The commission shall ensure that the model code is not inconsistent
37 with any other applicable state code or standard, including, but not limited to, any fire
38 safety code, plumbing code, oil and solid fuel equipment standard, propane and natural
39 gas equipment standard or boiler and pressure vessel standard.

1 Rules adopted pursuant to this subsection are major substantive rules as defined in Title
2 5, chapter 375, subchapter 2-A.

3 **Sec. 10. Appropriations and allocations.** The following appropriations and
4 allocations are made.

5 **ATTORNEY GENERAL, DEPARTMENT OF**

6 **Consumer Protection Division**

7 Initiative: Establishes one Attorney General Detective position to support investigation
8 of complaints related to substandard construction and renovation and mold assessment
9 and remediation practices.

10			
11	GENERAL FUND	2007-08	2008-09
12	Personal Services	\$78,442	\$82,805
13	All Other	\$10,480	\$8,480
14			
15	GENERAL FUND TOTAL	<u>\$88,922</u>	<u>\$91,285</u>

16 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

17 **Maine Center for Disease Control and Prevention**

18 Initiative: Establishes one Comprehensive Health Planner I position in the Maine Center
19 for Disease Control and Prevention to address mold issues in the State, including, but not
20 limited to, reviewing and recommending guidelines, standards and certification and
21 providing ongoing education and response to public concerns regarding mold.

22			
23	GENERAL FUND	2007-08	2008-09
24	Personal Services	\$45,810	\$64,134
25	All Other	\$25,000	\$25,000
26			
27	GENERAL FUND TOTAL	<u>\$70,810</u>	<u>\$89,134</u>

28 **SUMMARY**

29 This bill implements recommendations of the working group created pursuant to
30 Resolve 2005, chapter 174 to study mold in buildings. Specifically, the bill:

31 1. Requires home construction contracts to contain the training received and
32 certifications held by project supervisors;

33 2. Requires disclosure of the potential for conflict of interest if mold assessment and
34 remediation services are provided by the same person or company;

1 3. Adds mandatory moisture control provisions to the Maine Model Building Code
2 and the Maine model building energy code;

3 4. Establishes a mandatory mediation program for mold or excess moisture disputes
4 between tenants and landlords;

5 5. Authorizes local health officers to evaluate complaints made by tenants
6 concerning issues with mold or excess moisture;

7 6. Directs the Maine Center for Disease Control and Prevention to review and
8 recommend guidelines and standards regarding assessment and remediation of mold; and

9 7. Establishes one position in the Department of the Attorney General, Consumer
10 Protection Division to support investigations of complaints related to substandard
11 construction, renovation and mold assessment and remediation practices. It also
12 establishes one position in the Department of Health and Human Services, Maine Center
13 for Disease Control and Prevention to support the reviewing and recommending of
14 guidelines and standards in connection with mold in buildings in the State and to provide
15 education and response to public concerns regarding mold.