S T A T E O F N E W Y O R K

744

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH, LUPARDO, MARKEY, ROBINSON, STEVENSON -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to enacting the New York toxic mold safety and protection act of 2013 and making an appropriation therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as "the New York toxic mold safety and protection act of 2013".

S 2. The public health law is amended by adding a new article 48-A to read as follows:

ARTICLE 48-A

TOXIC MOLD

TITLE I. RESEARCH AND PUBLIC EDUCATION (SS 4850-4853).
II. HOUSING PROVISIONS FOR INDOOR MOLD HAZARD PREVENTION AND DETECTION (SS 4855-4860).

TITLE I

RESEARCH AND PUBLIC EDUCATION

SECTION 4850. DEFINITIONS.
4851. RESEARCH AND REPORTING.
4852. STANDARDS FOR PREVENTING, DETECTING, AND REMEDIATING INDOOR MOLD GROWTH.
4853. PUBLIC EDUCATION.

S 4850. DEFINITIONS. WHEN USED IN THIS ARTICLE:

1. "MOLD" MEANS ANY FURRY GROWTH OF MINUTE FUNGI OCCURRING IN MOIST CONDITIONS.

2. "TOXIC MOLD" MEANS ANY INDOOR MOLD GROWTH CAPABLE OF CREATING TOXINS THAT CAN CAUSE PULMONARY, RESPIRATORY, NEUROLOGICAL OR OTHER MAJOR ILLNESSES AFTER MINIMAL EXPOSURE, AS SUCH EXPOSURE IS DEFINED BY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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THE ENVIRONMENTAL PROTECTION AGENCY, CENTERS FOR DISEASE CONTROL, NATIONAL INSTITUTE OF HEALTH OR OTHER FEDERAL, STATE OR LOCAL AGENCY ORGANIZED IN PART TO STUDY AND/OR PROTECT HUMAN HEALTH.

3. "TOXIC MOLD RISK ASSESSOR" MEANS A PERSON WHO ESTABLISHES THE LEVEL OF RISK TO PUBLIC HEALTH ASSOCIATED WITH TOXIC MOLD.

4. "MOLD INSPECTION" MEANS AN INSPECTION OF REAL PROPERTY THAT IS DESIGNED TO DISCOVER INDOOR MOLD GROWTH, TOXIC MOLD GROWTH, CONDITIONS THAT FACILITATE INDOOR MOLD GROWTH AND/OR INDICIA OF CONDITIONS THAT ARE LIKELY TO FACILITATE INDOOR MOLD GROWTH.

S 4851. RESEARCH AND REPORTING. 1. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DEPARTMENT SHALL JOINTLY UNDERTAKE A COMPREHENSIVE STUDY OF THE HEALTH EFFECTS OF INDOOR MOLD GROWTH AND TOXIC MOLD. THE RESULTS OF THE AFOREMENTIONED STUDY SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY AND THE GENERAL PUBLIC. THE STUDY SHOULD ASCERTAIN AMONG OTHER THINGS: DETAILED INFORMATION ABOUT HARMFUL AND/OR TOXIC STRAINS OF MOLD; METHODS OF DETECTING HARMFUL AND/OR TOXIC MOLD; POTENTIAL DANGERS OF PROLONGED EXPOSURE TO INDOOR MOLD GROWTH; MINIMUM LEVELS OF EXPOSURE AT WHICH INDOOR MOLD GROWTH IS HARMFUL TO HUMAN HEALTH; AND THE HAZARDS INVOLVED IN MOLD REMEDIATION.

2. THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL STUDY AND REPORT THE IMPACT OF CONSTRUCTION STANDARDS ON INDOOR MOLD GROWTH. SUCH STUDY SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY.

3. ALL RESEARCH AND STUDY CONDUCTED PURSUANT TO THIS ARTICLE SHALL BE ONGOING WITH UPDATED REPORTS PUBLISHED AS NEEDED TO ADEQUATELY INFORM THE PUBLIC AND PROTECT HUMAN HEALTH.

S 4852. STANDARDS FOR PREVENTING, DETECTING, AND REMEDIATING INDOOR MOLD GROWTH. 1. AFTER APPROPRIATE RESEARCH AND STUDY AS REQUIRED BY THIS ARTICLE, BUT NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IN CONJUNCTION WITH APPROPRIATE AGENCIES, SHALL PROMULGATE RULES AND REGULATIONS THAT INCLUDE AMONG OTHER THINGS: STANDARDS FOR MOLD INSPECTION, MOLD REMEDIATION, TESTING THE TOXICITY OF MOLD, AND THE PROBLEM OF MOLD REMEDIATION; STANDARDS FOR CERTIFICATION OF MOLD INSPECTORS, MOLD REMEDIATORS, MOLD TESTING LABS, MOLD RISK ASSESSORS AND INDUSTRIAL HYGIENISTS INVOLVED WITH MOLD REMEDIATION PLANNING; AND STANDARDS FOR THE DESIGN, INSTALLATION, AND MAINTENANCE OF AIR VENTILATION AND/OR AIR-CONDITIONING SYSTEMS TO PREVENT MOLD GROWTH OR CREATION OF CONDITIONS THAT FOSTER MOLD GROWTH.

2. AFTER APPROPRIATE RESEARCH AND STUDY AS REQUIRED BY THIS ARTICLE, BUT NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL PROMULGATE GUIDELINES IDENTIFYING CONDITIONS CREATED PRIOR TO AND DURING CONSTRUCTION THAT FACILITATE THE GROWTH OF INDOOR MOLD AND RECOMMENDING APPROPRIATE MEANS OF ELIMINATING THOSE CONDITIONS.

3. TO THE MAXIMUM EXTENT POSSIBLE, THE STANDARDS, GUIDELINES AND RECOMMENDATIONS ESTABLISHED UNDER THIS SECTION SHALL BE DEVELOPED WITH THE ASSISTANCE OF ORGANIZATIONS INVOLVED IN ESTABLISHING NATIONAL BUILDING CONSTRUCTION STANDARDS AND REPRESENTATIVES OF STATE OR LOCAL AUTHORITIES RESPONSIBLE FOR BUILDING INSPECTIONS AND ISSUANCE OF CERTIFICATES OF OCCUPANCY.

4. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL MAKE DRAFTS OF THEIR RESPECTIVE

DOCUMENTS AVAILABLE FOR PUBLIC REVIEW AND COMMENT THIRTY DAYS PRIOR TO PUBLICATION. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL MAKE FINAL MODEL STANDARDS AND TECHNIQUES AVAILABLE TO THE PUBLIC NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

5. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL TAKE SUCH ACTIONS AS MAY BE NECESSARY TO INFORM APPROPRIATE LOCAL GOVERNMENT AGENCIES AND AUTHORITIES OF THE MODEL STANDARDS AND TECHNIQUES WITH THE GOAL OF ENSURING THAT SUCH AGENCIES AND AUTHORITIES ADOPT SUCH STANDARDS AND TECHNIQUES BY JUNE FIRST, TWO THOUSAND FOURTEEN.

6. ALL STANDARDS AND GUIDELINES PROMULGATED PURSUANT TO THIS ARTICLE SHALL BE UPDATED AND PUBLISHED AS NEEDED TO ADEQUATELY INFORM THE PUBLIC AND PROTECT HUMAN HEALTH.

S 4853. PUBLIC EDUCATION. 1. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AND OTHER RELEVANT AGENCIES SHALL SPONSOR PUBLIC EDUCATION PROGRAMS TO PROMOTE AND INCREASE PUBLIC AWARENESS OF THE DANGERS OF INDOOR MOLD GROWTH OR TOXIC MOLD.

2. THE PUBLIC EDUCATION PROGRAMS SHOULD INCLUDE, AMONG OTHER THINGS, INFORMATION REGARDING THE CONDITIONS THAT FACILITATE INDOOR MOLD GROWTH; GUIDELINES FOR REMEDIATING INDOOR MOLD GROWTH; DANGERS OF EXPOSURE TO INDOOR MOLD GROWTH IN PUBLIC BUILDINGS; RISK ASSESSMENT AND INSPECTION METHODS FOR TOXIC MOLD; AND OTHER NECESSARY INFORMATION.

A. THE PUBLIC EDUCATION PROGRAMS SHALL PROVIDE EDUCATION AND INFORMATION THROUGH MODES OF COMMUNICATION THAT ARE COMMONLY UTILIZED AND ABLE TO BE EASILY CONSUMED BY RELEVANT INDIVIDUALS OR ORGANIZATIONS;

B. PUBLIC EDUCATION PROGRAMS SHOULD BE DESIGNED TO REACH HEALTH PROFESSIONALS; THE GENERAL PUBLIC; HOMEOWNERS, PROSPECTIVE HOMEOWNERS, LANDLORDS, AND TENANTS; CONSUMERS OF HOME IMPROVEMENT PRODUCTS; THE REAL ESTATE INDUSTRY; THE HOME CONSTRUCTION AND RENOVATION INDUSTRY, INCLUDING THE HEATING AND AIR CONDITIONING INDUSTRY; AND OTHER INDIVIDUALS AND ORGANIZATIONS WITH AN INTEREST IN THE USE AND/OR OCCUPANCY OF REAL PROPERTY.

3. NOTWITHSTANDING THE FOREGOING, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IN CONSULTATION WITH APPROPRIATE AGENCIES, SHALL PUBLISH, AND PERIODICALLY REVISE, A PAMPHLET REGARDING INDOOR MOLD HAZARDS. AMONG OTHER THINGS THIS PAMPHLET SHOULD: CONTAIN INFORMATION REGARDING THE HEALTH RISKS ASSOCIATED WITH EXPOSURE TO INDOOR MOLD GROWTH; PROVIDE INFORMATION ON THE HAZARDS OF INDOOR MOLD GROWTH IN PUBLIC HOUSING; DESCRIBE THE RISKS OF MOLD EXPOSURE FOR PERSONS RESIDING IN A DWELLING WITH TOXIC MOLD; PROVIDE INFORMATION ON APPROVED METHODS FOR EVALUATING AND REDUCING MOLD GROWTH AND THEIR EFFECTIVENESS IN IDENTIFYING, REDUCING, ELIMINATING, OR PREVENTING MOLD GROWTH; ADVISE PERSONS HOW TO OBTAIN A LIST OF PERSONS CERTIFIED TO INSPECT OR REMEDIATE MOLD GROWTH IN THE AREA IN WHICH THE PAMPHLET IS TO BE USED; STATE THAT A RISK ASSESSMENT OR INSPECTION FOR MOLD GROWTH IS RECOMMENDED PRIOR TO THE PURCHASE, LEASE, OR RENOVATION OF TARGET HOUSING; STATE THAT CERTAIN STATE AND LOCAL LAWS IMPOSE ADDITIONAL REQUIREMENTS RELATED TO MOLD GROWTH IN HOUSING AND PROVIDE A LISTING OF FEDERAL, STATE, AND LOCAL AGENCIES, INCLUDING ADDRESS AND TELEPHONE NUMBER, THAT CAN PROVIDE INFORMATION ABOUT APPLICABLE LAWS AND AVAILABLE GOVERNMENTAL AND PRIVATE ASSISTANCE AND FINANCING; AND PROVIDE INFORMATION DEEMED APPROPRIATE AND/OR NECESSARY TO PROMOTE AWARENESS OF THE HAZARDS POSED BY INDOOR MOLD.

TITLE II

HOUSING PROVISIONS FOR INDOOR MOLD HAZARD PREVENTION AND DETECTION

SECTION 4855. INSPECTIONS OF RESIDENTIAL PROPERTY.
4856. SALE OR LEASE OF RESIDENTIAL PROPERTY.
4857. INSPECTION REQUIREMENTS FOR EXISTING PUBLIC HOUSING.
4858. CONSTRUCTION REQUIREMENTS FOR NEW PUBLIC HOUSING.
4859. BUILDING CODES.
4860. INSPECTION REQUIREMENT IN CONNECTION WITH STATE MADE OR INSURED MORTGAGES.

S 4855. INSPECTIONS OF RESIDENTIAL PROPERTY. COMMENCING JANUARY FIRST, TWO THOUSAND FIFTEEN, THE LESSOR OF EACH UNIT OF RENTAL PROPERTY SHALL CONDUCT AN ANNUAL INSPECTION OF SUCH PROPERTY IN ACCORDANCE WITH THE MODEL STANDARDS AND TECHNIQUES SET FORTH IN SECTION FORTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE AND SHALL PROMPTLY NOTIFY THE OCCUPANTS OF SUCH PROPERTY OF THE RESULTS OF SUCH INSPECTION.

S 4856. SALE OR LEASE OF RESIDENTIAL PROPERTY. 1. NOT LATER THAN JANUARY FIRST, TWO THOUSAND SIXTEEN, THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION SHALL PROMULGATE RULES AND REGULATIONS UNDER THIS SECTION FOR THE DISCLOSURE OF MOLD HAZARDS IN HOUSING WHICH IS OFFERED FOR SALE OR LEASE.

2. THE RULES AND REGULATIONS SHALL REQUIRE THAT, BEFORE THE SALE OR LEASE OF REAL PROPERTY A MOLD INSPECTION BE CONDUCTED BY A STATE-CERTIFIED MOLD INSPECTOR AND, WITHIN A REASONABLE TIME PRIOR TO THE EFFECTIVE DATE OF THE PURCHASE OR LEASE, THE SELLER OR LESSOR SHALL CLEARLY AND ACCURATELY DISCLOSE TO THE PURCHASER OR LESSEE THE RESULTS OF THE INSPECTION REQUIRED UNDER THIS SECTION.

3. RULES AND REGULATIONS PROMULGATED UNDER THIS SECTION SHALL PROVIDE THAT EVERY CONTRACT FOR THE SALE OR LEASE OF ANY INTEREST IN HOUSING SHALL CONTAIN A STATEMENT SIGNED BY BOTH THE SELLER OR LESSOR AND BY THE PURCHASER OR LESSEE THAT ACKNOWLEDGES THE RESULT OF THE MOLD INSPECTION REQUIRED BY SUBDIVISION TWO OF THIS SECTION.

4. ANY PERSON WHO KNOWINGLY MISREPRESENTS THE RESULTS OF A MOLD INSPECTION OR CAUSES THE RESULTS OF A MOLD INSPECTION TO BE INACCURATE SHALL BE SUBJECT TO A CIVIL MONEY PENALTY OF ONE THOUSAND DOLLARS.

5. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE PURCHASER OR LESSEE IN AN AMOUNT EQUAL TO THREE TIMES THE AMOUNT OF DAMAGES INCURRED BY SUCH INDIVIDUAL.

6. IN ANY CIVIL ACTION BROUGHT FOR DAMAGES, THE APPROPRIATE COURT MAY AWARD COURT COSTS TO THE PARTY COMMENCING SUCH ACTION, TOGETHER WITH REASONABLE ATTORNEY FEES AND ANY EXPERT WITNESS FEES, IF THAT PARTY PREVAILS.

S 4857. INSPECTION REQUIREMENTS FOR EXISTING PUBLIC HOUSING. 1. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH PROCEDURES TO ELIMINATE, AS FAR AS PRACTICABLE, THE HAZARDS OF INDOOR MOLD WITH RESPECT TO ANY EXISTING PUBLIC HOUSING WHICH MAY PRESENT SUCH HAZARDS, IN ACCORDANCE WITH THIS SECTION. SUCH PROCEDURES SHALL PROVIDE FOR APPROPRIATE MEASURES TO CONDUCT RISK ASSESSMENTS, INSPECTIONS, INTERIM CONTROLS, AND ABATEMENT OF INDOOR MOLD HAZARDS.

2. AT A MINIMUM, SUCH PROCEDURES SHALL REQUIRE: THE PROVISION OF INDOOR MOLD HAZARD INFORMATION PAMPHLETS TO TENANTS; PERIODIC RISK ASSESSMENTS AND INTERIM CONTROLS IN ACCORDANCE WITH A SCHEDULE DETERMINED BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL; MOLD INSPECTIONS; ABATEMENT OF INDOOR MOLD HAZARDS IDENTIFIED; WHERE RISK ASSESSMENT, INSPECTION, OR REDUCTION ACTIVITIES HAVE BEEN UNDERTAKEN,

THE PROVISION OF NOTICE TO OCCUPANTS DESCRIBING THE NATURE AND SCOPE OF SUCH ACTIVITIES AND THE ACTUAL RISK ASSESSMENT OR INSPECTION REPORTS; AND SUCH OTHER MEASURES AS THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL DEEMS APPROPRIATE.

S 4858. CONSTRUCTION REQUIREMENTS FOR NEW PUBLIC HOUSING. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL TAKE SUCH ACTIONS AND IMPOSE SUCH STANDARDS AND CONDITIONS AS MAY BE NECESSARY OR APPROPRIATE TO ENSURE THAT PUBLIC HOUSING CONSTRUCTED AFTER THE DATE OF THE ISSUANCE OF THE MODEL CONSTRUCTION STANDARDS AND TECHNIQUES ESTABLISHED UNDER SECTION FORTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE, IS CONSTRUCTED IN ACCORDANCE WITH SUCH MODEL STANDARDS AND TECHNIQUES.

S 4859. BUILDING CODES. 1. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL DEVELOP MODEL CONSTRUCTION STANDARDS AND TECHNIQUES FOR PREVENTING AND CONTROLLING MOLD WITHIN NEW BUILDINGS.

2. THE MODEL STANDARDS AND TECHNIQUES SHALL PROVIDE FOR GEOGRAPHIC DIFFERENCES IN CONSTRUCTION TYPES AND MATERIALS, GEOLOGY, WEATHER, AND OTHER VARIABLES THAT MAY AFFECT MOLD LEVELS IN NEW BUILDINGS.

3. TO THE MAXIMUM EXTENT POSSIBLE, THESE STANDARDS AND TECHNIQUES SHOULD BE DEVELOPED WITH THE ASSISTANCE OF ORGANIZATIONS INVOLVED IN ESTABLISHING NATIONAL BUILDING CONSTRUCTION STANDARDS AND TECHNIQUES. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL MAKE A DRAFT OF THE DOCUMENT CONTAINING THE MODEL STANDARDS AND TECHNIQUES AVAILABLE FOR PUBLIC REVIEW AND COMMENT. THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL MAKE FINAL MODEL STANDARDS AND TECHNIQUES AVAILABLE TO THE PUBLIC NO LATER THAN JANUARY FIRST, TWO THOUSAND FOURTEEN.

S 4860. INSPECTION REQUIREMENT IN CONNECTION WITH STATE MADE OR INSURED MORTGAGES. 1. AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, NO STATE AGENCY MAY MAKE, INSURE, OR GUARANTEE A MORTGAGE OR LOAN FOR PURCHASE OR LEASE OF RESIDENTIAL REAL PROPERTY UNLESS: THERE HAS BEEN AN INSPECTION OF THE PROPERTY FOR THE PRESENCE OF INDOOR MOLD GROWTH, TOXIC MOLD AND/OR THE CONDITIONS THAT FACILITATE INDOOR MOLD GROWTH HAZARDS BY A MOLD INSPECTOR CERTIFIED IN ACCORDANCE WITH STANDARDS PROMULGATED PURSUANT TO THIS ARTICLE WITHIN A REASONABLE TIME PRIOR TO THE MAKING, INSURING, OR GUARANTEEING OF THE MORTGAGE OR LOAN AND THE RESULTS OF THE INSPECTION ARE CLEARLY AND ACCURATELY DISCLOSED TO THE PURCHASER, SELLER AND MORTGAGOR; AND THE CONTRACT FOR PURCHASE AND SALE OF AN INTEREST IN RESIDENTIAL REAL PROPERTY FOR WHICH SUCH MORTGAGE OR LOAN WAS MADE CONTAINS A STATEMENT SIGNED BY THE SELLER OR LESSOR AND BY THE PURCHASER OR LESSEE THAT THESE CONDITIONS HAVE BEEN COMPLIED WITH.

2. THE HEADS OF EACH OF THE AGENCIES OR AUTHORITIES THAT MAKE, INSURE, OR GUARANTEE MORTGAGES OR LOANS FOR PURCHASE OR LEASE OF RESIDENTIAL REAL PROPERTY SHALL, NOT LATER THAN SEPTEMBER THIRTIETH, TWO THOUSAND THIRTEEN, ISSUE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THIS SECTION.

S 3. The insurance law is amended by adding a new article 57 to read as follows:

ARTICLE 57

TOXIC MOLD HAZARD INSURANCE PROGRAM

SECTION 5700. PROGRAM AUTHORITY.
5701. SCOPE OF PROGRAM AND PRIORITIES.
5702. NATURE AND LIMITATION OF INSURANCE COVERAGE.
5703. ESTIMATES OF PREMIUM RATES.
5704. ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.
5705. TOXIC MOLD HAZARD INSURANCE FUND.
5706. OPERATING COSTS AND ALLOWANCES.
5707. PAYMENT OF CLAIMS.

5708. DISSEMINATION OF INSURANCE INFORMATION.
5709. COORDINATION WITH OTHER PROGRAMS.
5710. REPORTS.
5711. IMPLEMENTATION.
5712. INDUSTRY INSURANCE POOL.
5713. AGREEMENTS WITH INSURANCE POOL.
5714. ADJUSTMENT AND PAYMENT OF CLAIMS AND JUDICIAL REVIEW.
5715. PREMIUM EQUALIZATION PAYMENTS.
5716. EMERGENCY IMPLEMENTATION OF PROGRAM.
5717. ADJUSTMENT AND PAYMENT OF CLAIMS AND JUDICIAL REVIEW.
5718. SERVICES BY THE INSURANCE INDUSTRY.
5719. USE OF INSURANCE POOL, COMPANIES OR OTHER PRIVATE ORGANIZATIONS FOR CERTAIN PAYMENTS.
5720. SETTLEMENT AND ARBITRATION.
5721. RECORDS AND AUDITS.
5722. PAYMENTS.

S 5700. PROGRAM AUTHORITY. (A) THE SUPERINTENDENT SHALL ESTABLISH AND CARRY OUT A STATE TOXIC MOLD INSURANCE PROGRAM TO ENABLE INTERESTED PERSONS TO PURCHASE INSURANCE AGAINST LOSSES RESULTING FROM MOLD HAZARDS IN REAL PROPERTIES LOCATED IN THE STATE.

(B) IN CARRYING OUT THE TOXIC MOLD HAZARD INSURANCE PROGRAM UNDER THIS ARTICLE, THE SUPERINTENDENT SHALL, TO THE MAXIMUM EXTENT PRACTICABLE, ENCOURAGE AND ARRANGE FOR APPROPRIATE FINANCIAL PARTICIPATION AND RISK SHARING IN THE PROGRAM BY INSURANCE COMPANIES AND OTHER INSURERS; AND OTHER APPROPRIATE PARTICIPATION ON OTHER THAN A RISK-SHARING BASIS, BY INSURANCE COMPANIES AND OTHER INSURERS, INSURANCE AGENTS AND BROKERS, AND INSURANCE ADJUSTMENT ORGANIZATIONS.

S 5701. SCOPE OF PROGRAM AND PRIORITIES. (A) IN CARRYING OUT THE TOXIC MOLD HAZARD INSURANCE PROGRAM, THE SUPERINTENDENT SHALL AFFORD A PRIORITY TO MAKING TOXIC MOLD HAZARD INSURANCE AVAILABLE TO COVER RESIDENTIAL PROPERTIES WHICH ARE DESIGNED FOR THE OCCUPANCY OF FROM ONE TO FOUR FAMILIES.

(B) IF, PURSUANT TO STUDIES AND INVESTIGATIONS PURSUANT TO SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE OR SUCH OTHER INFORMATION AS THE SUPERINTENDENT CONSIDERS APPROPRIATE, THE SUPERINTENDENT DETERMINES THAT IT WOULD BE FEASIBLE TO EXTEND THE INSURANCE PROGRAM UNDER THIS ARTICLE TO COVER OTHER PROPERTIES, THE SUPERINTENDENT MAY TAKE SUCH ACTION UNDER THIS ARTICLE AS MAY BE NECESSARY TO MAKE INSURANCE AVAILABLE TO COVER, ON SUCH BASIS AS MAY BE FEASIBLE, ANY TYPES AND CLASSES OF: OTHER RESIDENTIAL PROPERTIES; CHURCH PROPERTIES, AND BUSINESS PROPERTIES WHICH ARE OWNED OR LEASED AND OPERATED BY SMALL BUSINESS CONCERNS; OTHER BUSINESS PROPERTIES; PROPERTIES OCCUPIED BY PRIVATE NONPROFIT ORGANIZATIONS; AND PROPERTIES OWNED BY STATE AND LOCAL GOVERNMENTS AND AGENCIES THEREOF; AND ANY SUCH EXTENSIONS OF THE PROGRAM TO ANY TYPES AND CLASSES OF THESE PROPERTIES SHALL FROM TIME TO TIME BE PRESCRIBED IN RULES AND REGULATIONS.

S 5702. NATURE AND LIMITATION OF INSURANCE COVERAGE. THE SUPERINTENDENT SHALL FROM TIME TO TIME, AFTER CONSULTATION WITH INTERESTED PARTIES, PROVIDE BY RULE AND REGULATION FOR GENERAL TERMS AND CONDITIONS OF INSURABILITY WHICH SHALL BE APPLICABLE TO PROPERTIES ELIGIBLE FOR TOXIC MOLD HAZARD INSURANCE COVERAGE UNDER SECTION FIVE THOUSAND SEVEN HUNDRED ONE OF THIS ARTICLE, INCLUDING: THE TYPES, CLASSES, AND LOCATIONS OF ANY SUCH PROPERTIES WHICH SHALL BE ELIGIBLE FOR SUCH INSURANCE; THE NATURE AND LIMITS OF LOSS OR DAMAGE THAT MAY BE COVERED BY SUCH INSURANCE, WHICH SHALL INCLUDE COSTS OF PROPERTY DAMAGE AND LOSS, REMEDIATION, RELOCATION (DURING REMEDIATION OR PERMANENTLY), AND RENTAL

OF AN ALTERNATIVE DWELLING DURING REMEDIATION; THE CLASSIFICATION, LIMITATION, AND REJECTION OF ANY RISKS THAT MAY BE APPROPRIATE; APPROPRIATE MINIMUM PREMIUMS; APPROPRIATE LOSS-DEDUCTIBLES; APPROPRIATE LIMITS ON AGGREGATE LIABILITY UNDER SUCH COVERAGE, BASED ON THE TYPE OF PROPERTY INSURED; AND ANY OTHER TERMS AND CONDITIONS RELATING TO INSURANCE COVERAGE OR EXCLUSION WHICH MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

S 5703. ESTIMATES OF PREMIUM RATES. THE SUPERINTENDENT SHALL UNDERTAKE AND CARRY OUT SUCH STUDIES AND INVESTIGATIONS AND RECEIVE OR EXCHANGE SUCH INFORMATION AS MAY BE NECESSARY TO ESTIMATE, AND SHALL FROM TIME TO TIME ESTIMATE THE FOLLOWING PREMIUM RATES FOR TOXIC MOLD HAZARD INSURANCE COVERAGE UNDER THIS ARTICLE:

(A) ACTUARIAL RATES. THE RISK PREMIUM RATES THAT WOULD BE REQUIRED TO MAKE SUCH INSURANCE AVAILABLE ON AN ACTUARIAL BASIS FOR ANY TYPES AND CLASSES OF PROPERTIES FOR WHICH INSURANCE COVERAGE IS AVAILABLE UNDER SECTION FIVE THOUSAND SEVEN HUNDRED ONE OF THIS ARTICLE AND WHICH: ARE BASED ON CONSIDERATION OF THE RISK INVOLVED AND ACCEPTED ACTUARIAL PRINCIPLES; INCLUDE THE APPLICABLE OPERATING COSTS AND ALLOWANCES SET FORTH IN THE SCHEDULES PRESCRIBED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED SIX OF THIS ARTICLE AND REFLECTED IN SUCH RATES; AND INCLUDE ANY ADMINISTRATIVE EXPENSES OF CARRYING OUT THE INSURANCE PROGRAM UNDER THIS ARTICLE.

(B) SUBSIDIZED RATES. THE RISK PREMIUM RATES THAT: ARE LESS THAN THE RATES ESTIMATED UNDER SUBSECTION (A) OF THIS SECTION; WOULD BE REASONABLE; WOULD ENCOURAGE PROSPECTIVE INSUREDS TO PURCHASE TOXIC MOLD HAZARD INSURANCE COVERAGE; WOULD BE CONSISTENT WITH THE PURPOSES OF THIS ARTICLE; AND INCLUDE ANY ADMINISTRATIVE EXPENSES INCURRED IN CARRYING OUT THE INSURANCE PROGRAM UNDER THIS ARTICLE.

S 5704. ESTABLISHMENT OF CHARGEABLE PREMIUM RATES. (A) ON THE BASIS OF ESTIMATES MADE UNDER SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE AND SUCH OTHER INFORMATION AS MAY BE NECESSARY, THE SUPERINTENDENT SHALL FROM TIME TO TIME, AFTER CONSULTATION WITH THE INTERESTED PARTIES, PRESCRIBE BY RULES AND REGULATIONS: CHARGEABLE PREMIUM RATES FOR ANY TYPES AND CLASSES OF PROPERTIES FOR WHICH INSURANCE COVERAGE SHALL BE AVAILABLE UNDER SECTION FIVE THOUSAND SEVEN HUNDRED ONE OF THIS ARTICLE (AT LESS THAN THE ESTIMATED RISK PREMIUM RATES UNDER SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE, WHERE NECESSARY), AND THE TERMS AND CONDITIONS UNDER WHICH, AND THE AREAS WITHIN WHICH, SUCH RATES SHALL APPLY.

(B) SUCH RATES SHALL, INSOFAR AS PRACTICABLE, BE:

(1) BASED ON A CONSIDERATION OF THE RESPECTIVE RISKS INVOLVED, INCLUDING DIFFERENCES IN RISKS DUE TO CONSTRUCTION TYPES AND MATERIALS, BUILDING SYSTEMS, GEOLOGY, CLIMATE, AND OTHER FACTORS THAT MAY AFFECT MOLD LEVELS IN BUILDINGS;

(2) ADEQUATE, ON THE BASIS OF ACCEPTED ACTUARIAL PRINCIPLES, TO PROVIDE RESERVES FOR ANTICIPATED LOSSES; OR IF LESS THAN SUCH AMOUNT CONSISTENT WITH THE OBJECTIVE OF MAKING TOXIC MOLD HAZARD INSURANCE COVERAGE AVAILABLE WHERE NECESSARY AT REASONABLE RATES SO AS TO ENCOURAGE PROSPECTIVE INSUREDS TO PURCHASE SUCH INSURANCE AND WITH THE PURPOSES OF THIS ARTICLE;

(3) ADEQUATE TO PROVIDE FOR ANY ADMINISTRATIVE EXPENSES OF THE INSURANCE PROGRAMS UNDER THIS ARTICLE; AND

(4) STATED SO AS TO REFLECT THE BASIS FOR SUCH RATES, INCLUDING THE DIFFERENCES (IF ANY) BETWEEN THE ESTIMATED ACTUARIAL RISK PREMIUM RATES UNDER SUBSECTION (A) OF SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE AND THE ESTIMATED SUBSIDIZED RISK PREMIUM RATES UNDER

SUBSECTION (B) OF SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE.

(C) SUBJECT ONLY TO THE LIMITATION UNDER PARAGRAPH FOUR OF SUBSECTION (B) OF THIS SECTION, THE CHARGEABLE RATE WITH RESPECT TO ANY PROPERTY THAT IS LOCATED WITHIN A JURISDICTION THAT THE SUPERINTENDENT DETERMINES HAS NOT ADOPTED ADEQUATE TOXIC MOLD CONTROL MEASURES, WITH EFFECTIVE ENFORCEMENT PROVISIONS, THAT THE SUPERINTENDENT DETERMINES ARE CONSISTENT WITH THE MODEL STANDARDS AND TECHNIQUES FOR INSPECTION AND CERTIFICATION OF OCCUPANCY ISSUED UNDER SECTION FORTY-EIGHT HUNDRED FIFTY-FIVE OF THE PUBLIC HEALTH LAW AND WITH THE MODEL STANDARDS FOR PUBLIC DISCLOSURE ISSUED UNDER SECTION FORTY-EIGHT HUNDRED FIFTY-SIX OF THE PUBLIC HEALTH LAW, SHALL NOT BE LESS THAN THE APPLICABLE ESTIMATED RISK PREMIUM RATE FOR SUCH AREA (OR SUBDIVISION THEREOF) UNDER SUBSECTION (A) OF SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE, EXCEPT THAT SUCH PREMIUM RATE FOR SUCH PROPERTIES SHALL BE AFFORDABLE AND REASONABLY PRICED.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE CHARGEABLE RISK PREMIUM RATES FOR TOXIC MOLD HAZARD INSURANCE UNDER THIS ARTICLE FOR ANY PROPERTIES WITHIN ANY SINGLE RISK CLASSIFICATION MAY NOT BE INCREASED BY AN AMOUNT THAT WOULD RESULT IN THE AVERAGE OF SUCH RATE INCREASES FOR PROPERTIES WITHIN THE RISK CLASSIFICATION DURING ANY TWELVE-MONTH PERIOD EXCEEDING TEN PERCENT OF THE AVERAGE OF THE RISK PREMIUM RATES FOR PROPERTIES WITHIN THE RISK CLASSIFICATION UPON THE COMMENCEMENT OF SUCH TWELVE-MONTH PERIOD.

(E) THE CHARGEABLE RISK PREMIUM RATE FOR TOXIC MOLD HAZARD INSURANCE UNDER THIS ARTICLE FOR A SINGLE FAMILY DWELLING SHALL BE AFFORDABLE AND REASONABLY PRICED.

S 5705. TOXIC MOLD HAZARD INSURANCE FUND. (A) TO CARRY OUT THE TOXIC MOLD HAZARD INSURANCE PROGRAM UNDER THIS ARTICLE, THE SUPERINTENDENT SHALL ESTABLISH A TOXIC MOLD HAZARD INSURANCE FUND, WHICH SHALL BE AN ACCOUNT SEPARATE FROM ANY OTHER ACCOUNTS OR FUNDS AVAILABLE TO THE SUPERINTENDENT AND SHALL BE AVAILABLE FOR MAKING SUCH PAYMENTS AS MAY, FROM TIME TO TIME, BE REQUIRED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED FIFTEEN OF THIS ARTICLE; AND FOR THE PURPOSES SPECIFIED IN THIS SECTION UNDER THE CONDITIONS PROVIDED THEREIN.

(B) THE FUND SHALL BE CREDITED WITH ANY AMOUNTS AS MAY BE APPROPRIATED FOR THE FUND; INTEREST WHICH MAY BE EARNED ON INVESTMENTS OF THE FUND PURSUANT TO SUBSECTION (C) OF THIS SECTION; RECEIPTS FROM ANY OTHER OPERATIONS UNDER THIS ARTICLE (INCLUDING PREMIUMS UNDER THE CONDITIONS SPECIFIED IN THIS SECTION); AND SUCH OTHER AMOUNTS AS MAY BE CREDITED TO THE FUND.

(C) IF THE SUPERINTENDENT DETERMINES THAT THE AMOUNTS IN THE FUND ARE IN EXCESS OF CURRENT NEEDS, THE SUPERINTENDENT MAY INVEST SUCH AMOUNTS AS THE SUPERINTENDENT DEEMS ADVISABLE.

S 5706. OPERATING COSTS AND ALLOWANCES. (A) THE SUPERINTENDENT SHALL FROM TIME TO TIME NEGOTIATE WITH APPROPRIATE REPRESENTATIVES OF THE INSURANCE INDUSTRY FOR THE PURPOSE OF ESTABLISHING A CURRENT SCHEDULE OF OPERATING COSTS APPLICABLE BOTH TO RISK-SHARING INSURANCE COMPANIES AND OTHER INSURERS AND TO INSURANCE COMPANIES AND OTHER INSURERS, INSURANCE AGENTS AND BROKERS, AND INSURANCE ADJUSTMENT ORGANIZATIONS PARTICIPATING ON OTHER THAN A RISK-SHARING BASIS, AND A CURRENT SCHEDULE OF OPERATING ALLOWANCES APPLICABLE TO RISK-SHARING INSURANCE COMPANIES AND OTHER INSURERS.

(B) FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "OPERATING ALLOWANCES" SHALL MEAN AMOUNTS FOR PROFIT AND CONTINGENCIES THAT THE SUPERINTENDENT DETERMINES ARE REASONABLE AND NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(2) "OPERATING COSTS" SHALL MEAN EXPENSE REIMBURSEMENTS COVERING THE DIRECT, ACTUAL, AND NECESSARY EXPENSES INCURRED IN CONNECTION WITH SELLING AND SERVICING TOXIC MOLD HAZARD INSURANCE COVERAGE; REASONABLE COMPENSATION PAYABLE FOR SELLING AND SERVICING SUCH COVERAGE, OR COMMISSIONS OR SERVICE FEES PAID TO PRODUCERS; LOSS ADJUSTMENT EXPENSES; AND OTHER DIRECT, ACTUAL, AND NECESSARY EXPENSES WHICH THE SUPERINTENDENT FINDS ARE INCURRED IN CONNECTION WITH SELLING OR SERVICING SUCH INSURANCE COVERAGE.

S 5707. PAYMENT OF CLAIMS. THE SUPERINTENDENT SHALL PRESCRIBE RULES AND REGULATIONS ESTABLISHING THE GENERAL METHOD OR METHODS BY WHICH PROVED AND APPROVED CLAIMS FOR LOSSES MAY BE ADJUSTED AND PAID FOR ANY LOSSES OR DAMAGES COVERED BY TOXIC MOLD HAZARD INSURANCE MADE AVAILABLE UNDER THIS ARTICLE.

S 5708. DISSEMINATION OF INSURANCE INFORMATION. THE SUPERINTENDENT SHALL FROM TIME TO TIME TAKE SUCH ACTION AS MAY BE NECESSARY IN ORDER TO MAKE INFORMATION AVAILABLE TO THE PUBLIC, AND TO ANY STATE OR LOCAL AGENCY OR OFFICIAL, WITH REGARD TO THE TOXIC MOLD HAZARD INSURANCE PROGRAM, ITS COVERAGE, AND OBJECTIVES; AND ESTIMATED AND CHARGEABLE INSURANCE PREMIUM RATES UNDER THE PROGRAM, INCLUDING THE BASIS FOR AND DIFFERENCES BETWEEN SUCH RATES IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

S 5709. COORDINATION WITH OTHER PROGRAMS. IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE, THE SUPERINTENDENT SHALL CONSULT WITH OTHER DEPARTMENTS AND AGENCIES OF THE STATE, AND WITH INTERSTATE AND LOCAL AGENCIES HAVING RESPONSIBILITIES FOR TOXIC MOLD INSPECTION AND PREVENTION, IN ORDER TO ENSURE THAT THE PROGRAMS OF SUCH AGENCIES AND THE PROGRAM UNDER THIS ARTICLE ARE MUTUALLY CONSISTENT.

S 5710. REPORTS. THE SUPERINTENDENT SHALL ANNUALLY SUBMIT A REPORT OF OPERATIONS UNDER THIS ARTICLE TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

S 5711. IMPLEMENTATION. FOLLOWING SUCH CONSULTATION WITH REPRESENTATIVES OF THE INSURANCE INDUSTRY AS MAY BE NECESSARY, THE SUPERINTENDENT SHALL IMPLEMENT THE TOXIC MOLD HAZARD INSURANCE PROGRAM UNDER THIS ARTICLE.

S 5712. INDUSTRY INSURANCE POOL. (A) THE SUPERINTENDENT MAY ENCOURAGE AND OTHERWISE ASSIST ANY INSURANCE COMPANIES AND OTHER INSURERS THAT MEET THE REQUIREMENTS PRESCRIBED UNDER SUBSECTION (B) OF THIS SECTION TO FORM, ASSOCIATE, OR OTHERWISE JOIN TOGETHER IN A POOL IN ORDER TO PROVIDE THE INSURANCE COVERAGE AUTHORIZED UNDER THIS ARTICLE, AND FOR THE PURPOSE OF ASSUMING, ON SUCH TERMS AND CONDITIONS AS MAY BE AGREED UPON, SUCH FINANCIAL RESPONSIBILITY AS WILL ENABLE SUCH COMPANIES AND OTHER INSURERS, WITH THE FINANCIAL AND OTHER ASSISTANCE AVAILABLE UNDER THIS ARTICLE, TO ASSURE A REASONABLE PROPORTION OF RESPONSIBILITY FOR THE ADJUSTMENT AND PAYMENT OF CLAIMS FOR LOSSES UNDER THE TOXIC MOLD HAZARD INSURANCE PROGRAM.

(B) TO PROMOTE THE EFFECTIVE ADMINISTRATION OF THE TOXIC MOLD HAZARD INSURANCE PROGRAM UNDER THIS ARTICLE, AND TO ENSURE THAT THE OBJECTIVES OF THIS ARTICLE ARE FURTHERED, THE SUPERINTENDENT MAY PRESCRIBE APPROPRIATE REQUIREMENTS FOR INSURANCE COMPANIES AND OTHER INSURERS PARTICIPATING IN SUCH POOL, INCLUDING MINIMUM REQUIREMENTS FOR CAPITAL, SURPLUS OR ASSETS.

S 5713. AGREEMENTS WITH INSURANCE POOL. (A) THE SUPERINTENDENT MAY ENTER INTO SUCH AGREEMENTS WITH THE POOL FORMED OR OTHERWISE CREATED

UNDER THIS ARTICLE AS THE SUPERINTENDENT DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(B) SUCH AGREEMENTS SHALL SPECIFY: THE TERMS AND CONDITIONS UNDER WHICH RISK CAPITAL WILL BE AVAILABLE FOR THE ADJUSTMENT AND PAYMENTS OF CLAIMS; THE TERMS AND CONDITIONS UNDER WHICH THE POOL (AND THE COMPANIES AND OTHER INSURERS PARTICIPATING THEREIN) SHALL PARTICIPATE IN PREMIUMS RECEIVED AND PROFITS OR LOSSES REALIZED OR SUSTAINED; THE MAXIMUM AMOUNT OF PROFIT, ESTABLISHED BY THE SUPERINTENDENT AND SET FORTH IN THE SCHEDULES PRESCRIBED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED SIX OF THIS ARTICLE, WHICH MAY BE REALIZED BY SUCH POOL (AND THE COMPANIES AND OTHER INSURERS PARTICIPATING THEREIN); THE TERMS AND CONDITIONS UNDER WHICH OPERATING COSTS AND ALLOWANCES SET FORTH IN THE SCHEDULES PRESCRIBED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED SIX OF THIS ARTICLE MAY BE PAID; AND THE TERMS AND CONDITIONS UNDER WHICH PREMIUM EQUALIZATION PAYMENTS UNDER SECTION FIVE THOUSAND SEVEN HUNDRED FIFTEEN OF THIS ARTICLE WILL BE MADE.

(C) IN ADDITION, SUCH AGREEMENTS SHALL CONTAIN SUCH PROVISIONS AS THE SUPERINTENDENT FINDS NECESSARY TO ENSURE THAT: NO INSURANCE COMPANY OR OTHER INSURER THAT MEETS THE REQUIREMENTS PRESCRIBED UNDER SUBSECTION (B) OF SECTION FIVE THOUSAND SEVEN HUNDRED TWELVE OF THIS ARTICLE AND HAS INDICATED AN INTENTION TO PARTICIPATE IN THE TOXIC MOLD HAZARD INSURANCE PROGRAM ON A RISK-SHARING BASIS, WILL BE EXCLUDED FROM PARTICIPATING IN THE POOL; THE INSURANCE COMPANIES AND OTHER INSURERS PARTICIPATING IN THE POOL WILL TAKE WHATEVER ACTION MAY BE NECESSARY TO PROVIDE CONTINUITY OF TOXIC MOLD HAZARD INSURANCE COVERAGE BY THE POOL; AND ANY INSURANCE COMPANIES AND OTHER INSURERS, INSURANCE AGENTS, AND BROKERS AND INSURANCE ADJUSTMENT ORGANIZATIONS WILL BE PERMITTED TO COOPERATE WITH THE POOL AS FISCAL AGENTS OR OTHERWISE, ON OTHER THAN A RISK-SHARING BASIS, TO THE MAXIMUM EXTENT PRACTICABLE.

S 5714. ADJUSTMENT AND PAYMENT OF CLAIMS AND JUDICIAL REVIEW. THE INSURANCE COMPANIES AND OTHER INSURERS THAT FORM, ASSOCIATE, OR OTHERWISE JOIN TOGETHER IN THE POOL UNDER THIS PART MAY ADJUST AND PAY ALL CLAIMS FOR PROVED AND APPROVED LOSSES COVERED BY TOXIC MOLD HAZARD INSURANCE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND, UPON THE DISALLOWANCE BY ANY SUCH COMPANY OR OTHER INSURER OF ANY SUCH CLAIM, OR UPON THE REFUSAL OF THE CLAIMANT TO ACCEPT THE AMOUNT ALLOWED UPON ANY SUCH CLAIM, THE CLAIMANT, WITHIN ONE YEAR AFTER THE DATE OF MAILING OF NOTICE OF DISALLOWANCE OR PARTIAL DISALLOWANCE OF THE CLAIM, MAY INSTITUTE AN ACTION ON SUCH CLAIM AGAINST SUCH COMPANY OR OTHER INSURER.

S 5715. PREMIUM EQUALIZATION PAYMENTS. (A) THE SUPERINTENDENT, ON SUCH TERMS AND CONDITIONS AS THE SUPERINTENDENT MAY FROM TIME TO TIME PRESCRIBE, SHALL MAKE PERIODIC PAYMENTS TO THE POOL FORMED OR OTHERWISE CREATED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED TWELVE OF THIS ARTICLE, IN RECOGNITION OF SUCH REDUCTIONS IN CHARGEABLE PREMIUM RATES UNDER SECTION FIVE THOUSAND SEVEN HUNDRED FOURTEEN OF THIS ARTICLE BELOW ESTIMATED PREMIUM RATES UNDER SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE AS ARE REQUIRED IN ORDER TO MAKE TOXIC MOLD HAZARD INSURANCE AVAILABLE ON REASONABLE TERMS AND CONDITIONS.

(B) DESIGNATED PERIODS UNDER THIS SECTION AND THE METHODS FOR DETERMINING THE SUM OF PREMIUMS PAID OR PAYABLE DURING SUCH PERIODS SHALL BE ESTABLISHED BY THE SUPERINTENDENT.

S 5716. EMERGENCY IMPLEMENTATION OF PROGRAM. (A) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, FOR THE PURPOSE OF PROVIDING TOXIC MOLD HAZARD INSURANCE COVERAGE AT THE EARLIEST POSSIBLE TIME, THE SUPERINTENDENT MAY CARRY OUT THE INSURANCE PROGRAM UNDER THIS ARTICLE DURING THE PERIOD ENDING SEPTEMBER THIRTIETH, TWO THOUSAND FOURTEEN, IN ACCORD-

ANCE WITH THE PROVISIONS OF THIS ARTICLE INSOFAR AS THEY RELATE TO THIS ARTICLE, BUT SUBJECT TO THE MODIFICATIONS MADE BY OR UNDER SUBSECTION (B) OF THIS SECTION.

(B) IN CARRYING OUT THE TOXIC MOLD HAZARD INSURANCE PROGRAM PURSUANT TO SUBSECTION (A) OF THIS SECTION, THE SUPERINTENDENT SHALL PROVIDE INSURANCE COVERAGE WITHOUT REGARD TO ANY ESTIMATED RISK PREMIUM RATES WHICH WOULD OTHERWISE BE DETERMINED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED THREE OF THIS ARTICLE; AND SHALL UTILIZE THE PROVISIONS AND PROCEDURES CONTAINED IN OR PRESCRIBED BY THIS ARTICLE TO SUCH EXTENT AND IN SUCH MANNER AS THE SUPERINTENDENT MAY CONSIDER NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSE OF THIS SECTION.

S 5717. ADJUSTMENT AND PAYMENT OF CLAIMS AND JUDICIAL REVIEW. IF THE PROGRAM IS CARRIED OUT AS PROVIDED IN THIS ARTICLE, THE SUPERINTENDENT MAY ADJUST AND MAKE PAYMENT OF ANY CLAIMS FOR PROVED AND APPROVED LOSSES COVERED BY TOXIC MOLD HAZARD INSURANCE, AND UPON THE DISALLOWANCE BY THE SUPERINTENDENT OF ANY SUCH CLAIMS, OR UPON THE REFUSAL OF THE CLAIMANT TO ACCEPT THE AMOUNT ALLOWED UPON ANY SUCH CLAIM, THE CLAIMANT, WITHIN ONE YEAR AFTER THE DATE OF MAILING OF NOTICE OF DISALLOWANCE OR PARTIAL DISALLOWANCE BY THE SUPERINTENDENT, MAY INSTITUTE AN ACTION AGAINST THE SUPERINTENDENT ON SUCH CLAIM.

S 5718. SERVICES BY THE INSURANCE INDUSTRY. IN ADMINISTERING THE TOXIC MOLD HAZARD INSURANCE PROGRAM UNDER THIS ARTICLE, THE SUPERINTENDENT MAY ENTER INTO ANY CONTRACTS, AGREEMENTS, OR OTHER APPROPRIATE ARRANGEMENTS WHICH MAY, FROM TIME TO TIME, BE NECESSARY FOR THE PURPOSE OF UTILIZING, ON SUCH TERMS AND CONDITIONS AS MAY BE AGREED UPON, THE FACILITIES AND SERVICES OF ANY INSURANCE COMPANIES OR OTHER INSURERS, INSURANCE AGENTS AND BROKERS, OR INSURANCE ADJUSTMENT ORGANIZATIONS; AND SUCH CONTRACTS, AGREEMENTS, OR ARRANGEMENTS MAY INCLUDE PROVISION FOR PAYMENT OF APPLICABLE OPERATING COSTS AND ALLOWANCES FOR SUCH FACILITIES AND SERVICES AS SET FORTH IN THE SCHEDULES PRESCRIBED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED SIX OF THIS ARTICLE.

S 5719. USE OF INSURANCE POOL, COMPANIES OR OTHER PRIVATE ORGANIZATIONS FOR CERTAIN PAYMENTS. (A) TO PROVIDE FOR MAXIMUM EFFICIENCY IN THE ADMINISTRATION OF THE TOXIC MOLD HAZARD INSURANCE PROGRAM AND TO FACILITATE THE EXPEDITIOUS PAYMENT OF ANY FUNDS UNDER SUCH PROGRAM, THE SUPERINTENDENT MAY ENTER INTO CONTRACTS WITH A POOL FORMED OR OTHERWISE CREATED UNDER SECTION FIVE THOUSAND SEVEN HUNDRED TWELVE OF THIS ARTICLE, OR ANY INSURANCE COMPANY OR OTHER PRIVATE ORGANIZATION, FOR THE PURPOSE OF SECURING PERFORMANCE BY SUCH POOL, COMPANY, OR ORGANIZATION OR ANY OR ALL OF THE FOLLOWING RESPONSIBILITIES: ESTIMATING AND LATER DETERMINING ANY AMOUNTS OF PAYMENTS TO BE MADE; RECEIVING FROM THE SUPERINTENDENT, DISBURSING, AND ACCOUNTING FOR FUNDS IN MAKING SUCH PAYMENTS; MAKING SUCH AUDITS OF THE RECORDS OF ANY INSURANCE COMPANY OR OTHER INSURER, INSURANCE AGENT OR BROKER, OR INSURANCE ADJUSTMENT ORGANIZATION AS MAY BE NECESSARY TO ASSURE THAT PROPER PAYMENTS ARE MADE; OTHERWISE ASSISTING IN SUCH MANNER AS THE CONTRACT MAY PROVIDE TO FURTHER THE PURPOSES OF THIS ARTICLE.

(B) ANY CONTRACT WITH THE POOL OR AN INSURANCE COMPANY OR OTHER PRIVATE ORGANIZATION UNDER THIS SECTION MAY CONTAIN SUCH TERMS AND CONDITIONS AS THE SUPERINTENDENT FINDS NECESSARY OR APPROPRIATE FOR CARRYING OUT RESPONSIBILITIES UNDER SUBSECTION (A) OF THIS SECTION, AND MAY PROVIDE FOR PAYMENT OF ANY COSTS WHICH THE SUPERINTENDENT DETERMINES ARE INCIDENTAL TO CARRYING OUT SUCH RESPONSIBILITIES WHICH ARE COVERED BY THE CONTRACT.

(C) NO CONTRACT MAY BE ENTERED INTO UNDER THIS SECTION UNLESS THE SUPERINTENDENT FINDS THAT THE POOL, COMPANY, OR ORGANIZATION WILL

PERFORM ITS OBLIGATIONS UNDER THE CONTRACT EFFICIENTLY AND EFFECTIVELY, AND WILL MEET SUCH REQUIREMENTS AS TO FINANCIAL RESPONSIBILITY, LEGAL AUTHORITY, AND OTHER MATTERS AS THE SUPERINTENDENT FINDS APPROPRIATE.

(D) (1) ANY SUCH CONTRACT MAY REQUIRE THE POOL, COMPANY, OR ORGANIZATION OR ANY OF ITS OFFICERS OR EMPLOYEES CERTIFYING PAYMENTS OR DISBURSING FUNDS PURSUANT TO THE CONTRACT, OR OTHERWISE PARTICIPATING IN CARRYING OUT THE CONTRACT, TO GIVE SURETY BOND IN SUCH AMOUNT AS THE SUPERINTENDENT MAY DEEM APPROPRIATE.

(2) (A) NO INDIVIDUAL DESIGNATED PURSUANT TO A CONTRACT UNDER THIS SECTION TO CERTIFY PAYMENTS SHALL, IN THE ABSENCE OF GROSS NEGLIGENCE OR INTENT TO DEFRAUD, BE LIABLE WITH RESPECT TO ANY PAYMENT CERTIFIED BY SUCH INDIVIDUAL UNDER THIS SECTION.

(B) NO OFFICER DISBURSING FUNDS SHALL IN THE ABSENCE OF GROSS NEGLIGENCE OR INTENT TO DEFRAUD, BE LIABLE WITH RESPECT TO ANY PAYMENT BY SUCH OFFICER UNDER THIS SECTION IF IT WAS BASED UPON A VOUCHER SIGNED BY AN INDIVIDUAL DESIGNATED TO CERTIFY PAYMENTS.

(E) ANY CONTRACT ENTERED INTO UNDER THIS SECTION SHALL BE FOR A TERM OF ONE YEAR, AND MAY BE MADE AUTOMATICALLY RENEWABLE FROM TERM TO TERM IN THE ABSENCE OF NOTICE BY EITHER PARTY OF AN INTENTION TO TERMINATE AT THE END OF THE CURRENT TERM; EXCEPT THAT THE SUPERINTENDENT MAY TERMINATE ANY SUCH CONTRACT AT ANY TIME (AFTER REASONABLE NOTICE TO THE POOL, COMPANY, OR ORGANIZATION INVOLVED) IF THE SUPERINTENDENT FINDS THAT THE POOL, COMPANY, OR ORGANIZATION HAS FAILED SUBSTANTIALLY TO CARRY OUT THE CONTRACT, OR IS CARRYING OUT THE CONTRACT IN A MANNER INCONSISTENT WITH THE EFFICIENT AND EFFECTIVE ADMINISTRATION OF THE TOXIC MOLD HAZARD INSURANCE PROGRAM UNDER THIS ARTICLE.

S 5720. SETTLEMENT AND ARBITRATION. (A) THE SUPERINTENDENT MAY MAKE FINAL SETTLEMENT OF ANY CLAIMS OR DEMANDS WHICH MAY ARISE AS A RESULT OF ANY FINANCIAL TRANSACTIONS THAT THE SUPERINTENDENT IS AUTHORIZED TO CARRY OUT UNDER THIS ARTICLE AND MAY, TO ASSIST THE SUPERINTENDENT IN MAKING ANY SUCH SETTLEMENT, REFER ANY DISPUTES RELATING TO SUCH CLAIMS OR DEMANDS TO ARBITRATION, WITH THE CONSENT OF THE PARTIES CONCERNED.

(B) SUCH ARBITRATION SHALL BE ADVISORY IN NATURE, AND ANY AWARD, DECISION, OR RECOMMENDATION WHICH MAY BE MADE SHALL BECOME FINAL ONLY UPON THE APPROVAL OF THE SUPERINTENDENT.

S 5721. RECORDS AND AUDITS. (A) THE INSURANCE POOL FORMED OR OTHERWISE CREATED UNDER THIS ARTICLE, AND ANY INSURANCE COMPANY OR OTHER PRIVATE ORGANIZATION EXECUTING ANY CONTRACT, AGREEMENT, OR OTHER APPROPRIATE ARRANGEMENT WITH THE SUPERINTENDENT UNDER THIS ARTICLE, SHALL KEEP SUCH RECORDS AS THE SUPERINTENDENT SHALL PRESCRIBE, INCLUDING RECORDS WHICH FULLY DISCLOSE THE TOTAL COSTS OF THE PROGRAM UNDERTAKEN OR THE SERVICES BEING RENDERED, AND SUCH OTHER RECORDS AS WILL FACILITATE AN EFFECTIVE AUDIT.

(B) THE SUPERINTENDENT AND THE COMPTROLLER, OR ANY OF THEIR DULY AUTHORIZED REPRESENTATIVES, SHALL HAVE ACCESS FOR THE PURPOSE OF AUDIT AND EXAMINATION TO ANY BOOKS, DOCUMENTS, PAPERS AND ANY SUCH INSURANCE COMPANY OR OTHER PRIVATE ORGANIZATION THAT ARE PERTINENT TO THE COSTS OF THE PROGRAM UNDERTAKEN OR THE SERVICES BEING RENDERED.

S 5722. PAYMENTS. ANY PAYMENTS UNDER THIS ARTICLE MAY BE MADE (AFTER NECESSARY ADJUSTMENT ON ACCOUNT OF PREVIOUSLY MADE UNDERPAYMENTS OR OVERPAYMENTS) IN ADVANCE OR BY WAY OF REIMBURSEMENT, AND IN SUCH INSTALLMENTS AND ON SUCH CONDITIONS, AS THE SUPERINTENDENT MAY DETERMINE.

S 4. The sum of two hundred fifty thousand dollars ($250,000), or so much thereof as may be necessary, is hereby appropriated to pay the expenses incurred, including personal service, in carrying out the

provisions of this act. Such moneys shall be payable out of the state treasury in the general fund to the credit of the state purposes account after audit by and on the warrant of the comptroller upon voucher certified or approved by the superintendent of financial services in the manner prescribed by law.

S 5. This act shall take effect on the sixtieth day after it shall have become a law.