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I N S E N A T E

February 8, 2013

Introduced by Sens. SAVINO, CARLUCCI, GIPSON, KLEIN, SMITH, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the labor law, in relation to requiring the licensure of mold assessment and remediation specialists and setting minimum work standards for mold assessment and remediation specialists; and to amend the state finance law, in relation to enacting the mold assessment and remediation account

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

1 Section 1. The labor law is amended by adding a new article 32 to read
2 as follows:

3 ARTICLE 32

4 LICENSING OF MOLD INSPECTION, ASSESSMENT AND REMEDIATION
5 SPECIALISTS AND MINIMUM WORK STANDARDS

6 TITLE 1. LICENSING OF MOLD INSPECTION, ASSESSMENT AND REMEDIATION
7 SPECIALISTS AND MINIMUM WORK STANDARDS (SECS. 930-940.)

8 2. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS
9 AND REMEDIATION BY LICENSED PERSONS (SECS. 945-948.)

10 TITLE 1.

11 LICENSING OF MOLD INSPECTION, ASSESSMENT AND REMEDIATION
12 SPECIALISTS AND MINIMUM WORK STANDARDS

13 SECTION 930. DEFINITIONS.

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

LBD08634-06-4

931. LICENSING REQUIREMENTS.
932. LICENSE APPLICATIONS; PROCEDURE AND REQUIREMENTS.
933. EXEMPTIONS.
934. LICENSE ISSUANCE AND RENEWAL.
935. PRACTICE BY LICENSE HOLDER.
936. LICENSEE DUTIES; PROHIBITED ACTIVITIES.
937. CIVIL PENALTIES AND REVOCATION.
938. DENIAL OF LICENSE; COMPLAINTS; NOTICE OF HEARING.
939. JUDICIAL REVIEW.
940. RULEMAKING AUTHORITY.

S 930. DEFINITIONS. AS USED IN THIS ARTICLE: 1. "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR.

2. "MOLD" MEANS 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 THE ENVIRONMENTAL PROTECTION AGENCY, CENTERS FOR DISEASE CONTROL AND PREVENTION, NATIONAL INSTITUTE OF HEALTH, OR OTHER FEDERAL, STATE, OR LOCAL AGENCY ORGANIZED TO STUDY AND/OR PROTECT HUMAN HEALTH.

3. "MOLD REMEDIATION" MEANS CONDUCTING THE BUSINESS OF REMOVAL, CLEANING, SANITIZING, OR SURFACE DISINFECTION OF MOLD, MOLD CONTAINMENT, AND WASTE HANDLING OF MOLD AND MATERIALS USED TO REMOVE MOLD FROM SURFACES BY A BUSINESS ENTERPRISE, INCLUDING BUT NOT LIMITED TO, SOLE PROPRIETORSHIPS. MOLD REMEDIATION FOR THE PURPOSES OF THIS ARTICLE SHALL NOT INCLUDE REMEDIATION OF THE UNDERLYING SOURCES OF MOISTURE THAT MAY BE THE CAUSE OF MOLD THAT REQUIRES EXPERTISE NOT SPECIFIC TO ACTS AUTHORIZED UNDER THIS ARTICLE.

4. "MOLD ASSESSMENT" MEANS AN INSPECTION OR ASSESSMENT 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.

5. "MOLD ABATEMENT" MEANS THE ACT OF REMOVAL, CLEANING, SANITIZING, OR SURFACE DISINFECTION OF MOLD, MOLD CONTAINMENT, AND WASTE HANDLING OF MOLD AND MATERIALS USED TO REMOVE MOLD FROM SURFACES BY AN INDIVIDUAL.

6. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT OF LABOR.

S 931. LICENSING REQUIREMENTS. 1. IT SHALL BE UNLAWFUL FOR ANY CONTRACTOR TO ENGAGE IN MOLD ASSESSMENT, OR TO ADVERTISE OR HOLD THEMSELVES OUT AS A MOLD ASSESSMENT CONTRACTOR UNLESS SUCH CONTRACTOR HAS A VALID MOLD ASSESSMENT LICENSE ISSUED BY THE COMMISSIONER.

2. IT SHALL BE UNLAWFUL FOR ANY CONTRACTOR TO ENGAGE IN MOLD REMEDIATION, OR TO ADVERTISE OR HOLD THEMSELVES OUT AS A MOLD REMEDIATION CONTRACTOR UNLESS SUCH CONTRACTOR HAS A VALID MOLD REMEDIATION LICENSE ISSUED BY THE COMMISSIONER.

3. IT SHALL BE UNLAWFUL FOR ANY INDIVIDUAL TO ENGAGE IN MOLD ABATEMENT OR TO ADVERTISE OR HOLD THEMSELVES OUT AS A MOLD ABATEMENT WORKER UNLESS SUCH INDIVIDUAL HAS A VALID MOLD ABATER'S LICENSE ISSUED BY THE COMMISSIONER.

4. A COPY OF A VALID MOLD ASSESSMENT OR MOLD REMEDIATION LICENSE MUST BE CONSPICUOUSLY DISPLAYED AT THE WORK SITE ON A MOLD PROJECT.

S 932. LICENSE APPLICATIONS; PROCEDURE AND REQUIREMENTS. 1. THE COMMISSIONER SHALL ESTABLISH MINIMUM QUALIFICATIONS FOR LICENSING.

2. APPLICATIONS FOR LICENSES AND RENEWAL LICENSES SHALL BE SUBMITTED TO THE DEPARTMENT IN WRITING ON FORMS FURNISHED BY THE COMMISSIONER AND SHALL CONTAIN THE INFORMATION SET FORTH IN THIS SECTION AS WELL AS ANY ADDITIONAL INFORMATION THAT THE COMMISSIONER MAY REQUIRE.

3. AN APPLICANT FOR A LICENSE TO PERFORM MOLD ASSESSMENT SHALL MEET THE FOLLOWING MINIMUM REQUIREMENTS:

1 (A) BE EIGHTEEN YEARS OF AGE OR OLDER;

2 (B) HAVE SATISFACTORILY COMPLETED DEPARTMENT APPROVED COURSE WORK,
3 INCLUDING TRAINING ON THE APPROPRIATE USE AND CARE OF PERSONAL
4 PROTECTION EQUIPMENT AS APPROVED BY THE COMMISSIONER OF THE DEPARTMENT
5 OF HEALTH; AND

6 (C) PAID THE APPROPRIATE FEES AS PROVIDED IN SUBDIVISION FIVE OF THIS
7 SECTION; AND

8 4. AN APPLICANT FOR A LICENSE TO PERFORM MOLD REMEDIATION SHALL MEET
9 THE FOLLOWING MINIMUM REQUIREMENTS:

10 (A) BE EIGHTEEN YEARS OF AGE OR OLDER;

11 (B) HAVE SATISFACTORILY COMPLETED DEPARTMENT APPROVED COURSE WORK,
12 INCLUDING TRAINING ON THE APPROPRIATE USE AND CARE OF PERSONAL
13 PROTECTION EQUIPMENT AS APPROVED BY THE COMMISSIONER OF THE DEPARTMENT
14 OF HEALTH;

15 (C) PAID THE APPROPRIATE FEES AS PROVIDED IN SUBDIVISION SIX OF THIS
16 SECTION; AND

17 (D) SUBMITTED INSURANCE CERTIFICATES EVIDENCING WORKERS' COMPENSATION
18 COVERAGE, IF REQUIRED, AND LIABILITY INSURANCE OF AT LEAST FIFTY THOU-
19 SAND DOLLARS. AN APPLICANT FOR A LICENSE TO PERFORM MOLD REMEDIATION
20 SHALL FURNISH THE DEPARTMENT WITH A FINANCIAL STATEMENT, PREPARED BY AN
21 INDEPENDENT AUDITOR OR ACCOUNTANT AND SIGNED BY THE APPLICANT AND AUDI-
22 TOR BEFORE A NOTARY PUBLIC, STATING THE ASSETS OF THE APPLICANT, TO BE
23 USED BY THE DEPARTMENT TO DETERMINE THE FINANCIAL RESPONSIBILITY OF THE
24 APPLICANT TO PERFORM MOLD REMEDIATION SERVICES.

25 5. AN APPLICANT FOR A LICENSE TO PERFORM MOLD ABATEMENT SHALL MEET THE
26 FOLLOWING MINIMUM REQUIREMENTS:

27 (A) BE EIGHTEEN YEARS OF AGE OR OLDER;

28 (B) HAVE SATISFACTORILY COMPLETED DEPARTMENT APPROVED COURSE WORK,
29 INCLUDING TRAINING ON THE APPROPRIATE USE AND CARE OF PERSONAL
30 PROTECTION EQUIPMENT AS APPROVED BY THE COMMISSIONER OF THE DEPARTMENT
31 OF HEALTH; AND

32 (C) PAID THE APPROPRIATE FEES AS PROVIDED IN SUBDIVISION SIX OF THIS
33 SECTION; AND

34 6. THE DEPARTMENT SHALL CHARGE AND COLLECT THE FOLLOWING FEES WHICH
35 SHALL ACCOMPANY EACH APPLICATION:

36 (A) A FEE FOR AN INITIAL APPLICATION FOR A LICENSE, NOT TO EXCEED ONE
37 HUNDRED DOLLARS; AND

38 (B) A FEE FOR RENEWAL OF A LICENSE, NOT TO EXCEED ONE HUNDRED DOLLARS.

39 S 933. EXEMPTIONS. THE FOLLOWING PERSONS SHALL NOT BE REQUIRED TO
40 OBTAIN A LICENSE AS PROVIDED IN THIS TITLE IN ORDER TO PERFORM MOLD
41 ASSESSMENT OR REMEDIATION:

42 1. A RESIDENTIAL PROPERTY OWNER WHO PERFORMS MOLD INSPECTION, ASSESS-
43 MENT OR REMEDIATION ON HIS OR HER OWN PROPERTY;

44 2. A NON-RESIDENTIAL PROPERTY OWNER, OR THE EMPLOYEE OF SUCH OWNER,
45 WHO PERFORMS MOLD ASSESSMENT OR REMEDIATION ON AN APARTMENT BUILDING
46 OWNED BY THAT PERSON THAT HAS NOT MORE THAN FOUR DWELLING UNITS; AND

47 3. AN OWNER OR A MANAGING AGENT OR EMPLOYEE OF AN OWNER WHO PERFORMS
48 MOLD ASSESSMENT OR REMEDIATION ON COMMERCIAL PROPERTY OWNED BY THE OWNER
49 PROVIDED, HOWEVER, THAT THIS SUBDIVISION SHALL NOT APPLY IF THE MANAGING
50 AGENT OR EMPLOYEE ENGAGES IN THE BUSINESS OF PERFORMING MOLD ASSESSMENT
51 OR REMEDIATION FOR THE PUBLIC.

52 S 934. LICENSE ISSUANCE AND RENEWAL. 1. LICENSES ISSUED PURSUANT TO
53 THE PROVISIONS OF THIS TITLE SHALL BE VALID FOR A PERIOD OF TWO YEARS
54 FROM THE DATE OF ISSUANCE AND MAY BE RENEWED IN ACCORDANCE WITH THE
55 CONDITIONS SET FORTH IN THIS ARTICLE AND ESTABLISHED BY THE COMMISSION-
56 ER.

2. WITHIN THIRTY DAYS OF THE RECEIPT OF THE APPLICATION AND FEE FOR ANY LICENSE ISSUED UNDER THIS SECTION, THE COMMISSIONER SHALL EITHER ISSUE THE LICENSE OR DENY THE LICENSE SETTING FORTH THE REASON FOR SUCH DENIAL IN WRITING.

3. LICENSES SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT.

4. THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF COMPLETION OF A DEPARTMENT-APPROVED COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF LICENSEES ON NEW AND EXISTING MOLD ASSESSMENT AND MOLD REMEDIATION STANDARDS.

S 935. PRACTICE BY LICENSE HOLDER. 1. A MOLD ASSESSMENT LICENSE HOLDER WHO INTENDS TO PERFORM MOLD ASSESSMENT ON A MOLD REMEDIATION PROJECT SHALL PREPARE A WORK ANALYSIS FOR THE PROJECT. THE MOLD ASSESSMENT LICENSE HOLDER SHALL PROVIDE THE ANALYSIS TO THE CLIENT BEFORE THE MOLD REMEDIATION BEGINS AND SUCH PLAN MUST INCLUDE THE ANALYSIS AS DEFINED IN SECTION NINE HUNDRED FORTY-FIVE OF THIS ARTICLE.

2. A MOLD REMEDIATION LICENSE HOLDER WHO INTENDS TO PERFORM MOLD REMEDIATION SHALL PREPARE A WORK PLAN PROVIDING INSTRUCTIONS FOR THE REMEDIATION EFFORTS TO BE PERFORMED FOR THE MOLD REMEDIATION PROJECT. THE MOLD REMEDIATION LICENSE HOLDER SHALL PROVIDE THE WORK PLAN TO THE CLIENT BEFORE THE MOLD REMEDIATION BEGINS. THE MOLD REMEDIATION LICENSE HOLDER SHALL MAINTAIN A COPY OF THE WORK PLAN AT THE JOB SITE WHERE THE REMEDIATION IS BEING PERFORMED.

S 936. LICENSEE DUTIES; PROHIBITED ACTIVITIES. 1. A MOLD ASSESSMENT LICENSEE WHO PERFORMS MOLD ASSESSMENT SERVICES SHALL PROVIDE A WRITTEN REPORT TO EACH PERSON FOR WHOM SUCH LICENSEE PERFORMS MOLD ASSESSMENT SERVICES FOR COMPENSATION.

2. NO LICENSEE SHALL PERFORM BOTH MOLD ASSESSMENT AND MOLD REMEDIATION ON THE SAME PROPERTY.

3. NO PERSON SHALL OWN AN INTEREST IN BOTH THE ENTITY WHICH PERFORMS MOLD ASSESSMENT SERVICES AND THE ENTITY WHICH PERFORMS MOLD REMEDIATION SERVICES ON THE SAME PROPERTY.

S 937. CIVIL PENALTIES AND REVOCATION. 1. THE DEPARTMENT MAY, AFTER A NOTICE AND HEARING, SUSPEND OR REVOKE ANY LICENSE, OR CENSURE, FINE, OR IMPOSE PROBATIONARY OR OTHER RESTRICTIONS ON ANY LICENSEE FOR GOOD CAUSE SHOWN WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING:

(A) CONVICTION OF A FELONY RELATING TO THE PERFORMANCE OF A MOLD ASSESSMENT OR MOLD REMEDIATION;

(B) DECEIT OR MISREPRESENTATION IN OBTAINING A LICENSE AUTHORIZED UNDER THIS ARTICLE;

(C) PROVIDING FALSE TESTIMONY OR DOCUMENTS TO THE DEPARTMENT IN RELATION TO A LICENSE AUTHORIZED BY THIS ARTICLE OR ANY OTHER LICENSE ISSUED BY THE DEPARTMENT;

(D) DECEIVING OR DEFRAUDING THE PUBLIC IN RELATION TO SERVICES PROVIDED FOR A FEE THAT REQUIRE A LICENSE; OR

(E) INCOMPETENCE OR GROSS NEGLIGENCE IN RELATION TO MOLD ASSESSMENT OR MOLD REMEDIATION.

2. VIOLATORS OF ANY OF THE PROVISIONS OF THIS ARTICLE MAY BE FINED BY THE DEPARTMENT IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR THE INITIAL VIOLATION AND UP TO TEN THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

S 938. DENIAL OF LICENSE; COMPLAINTS; NOTICE OF HEARING. 1. THE DEPARTMENT SHALL, BEFORE MAKING A DETERMINATION TO DENY AN APPLICATION FOR A LICENSE, NOTIFY THE APPLICANT IN WRITING OF THE REASONS FOR SUCH PROPOSED DENIAL AND AFFORD THE APPLICANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL PRIOR TO DENIAL OF THE APPLICATION. SUCH NOTIFICA-

1 TION SHALL BE SERVED IN ANY MANNER AUTHORIZED BY THE CIVIL PRACTICE LAW
2 AND RULES FOR SERVICE OF SUMMONS. SUCH NOTICE SHALL NOTIFY THE APPLICANT
3 THAT A REQUEST FOR A HEARING MUST BE MADE WITHIN THIRTY DAYS AFTER
4 RECEIPT OF SUCH NOTIFICATION. IF A HEARING IS REQUESTED, SUCH HEARING
5 SHALL BE HELD AT SUCH TIME AND PLACE AS THE DEPARTMENT SHALL PRESCRIBE.

6 2. IF THE APPLICANT FAILS TO MAKE A WRITTEN REQUEST FOR A HEARING
7 WITHIN THIRTY DAYS AFTER RECEIPT OF SUCH NOTIFICATION, THEN THE NOTIFI-
8 CATION OF DENIAL SHALL BECOME THE FINAL DETERMINATION OF THE DEPARTMENT.
9 THE DEPARTMENT SHALL HAVE SUBPOENA POWERS REGULATED BY THE CIVIL PRAC-
10 TICE LAW AND RULES. IF, AFTER SUCH HEARING, THE APPLICATION IS DENIED,
11 WRITTEN NOTICE OF SUCH DENIAL SHALL BE SERVED UPON THE APPLICANT IN ANY
12 MANNER AUTHORIZED BY THE CIVIL PRACTICE LAW AND RULES FOR THE SERVICE OF
13 A SUMMONS.

14 3. THE DEPARTMENT SHALL, BEFORE REVOKING OR SUSPENDING ANY LICENSE OR
15 IMPOSING ANY FINE AS AUTHORIZED BY THIS ARTICLE OR REPRIMAND ON THE
16 HOLDER THEREOF, OR BEFORE ISSUING ANY ORDER DIRECTING THE CESSATION OF
17 UNLICENSED ACTIVITIES, AND AT LEAST TEN DAYS PRIOR TO THE DATE SET FOR
18 THE HEARING, NOTIFY IN WRITING THE HOLDER OF SUCH LICENSE, OR THE PERSON
19 ALLEGED TO HAVE ENGAGED IN UNLICENSED ACTIVITIES, OF ANY CHARGES MADE
20 AND SHALL AFFORD SUCH PERSON AN OPPORTUNITY TO BE HEARD IN PERSON OR BY
21 COUNSEL IN REFERENCE THERETO.

22 4. WRITTEN NOTICE MUST BE SERVED TO THE LICENSEE OR PERSON CHARGED.

23 5. THE HEARING ON SUCH CHARGES SHALL BE AT SUCH TIME AND PLACE AS THE
24 DEPARTMENT SHALL PRESCRIBE.

25 S 939. JUDICIAL REVIEW. THE ACTION OF THE COMMISSIONER IN SUSPENDING,
26 REVOKING OR REFUSING TO ISSUE OR RENEW A LICENSE, OR ISSUING AN ORDER
27 DIRECTING THE CESSATION OF UNLICENSED ACTIVITY OR IMPOSING A FINE OR
28 REPRIMAND MAY BE APPEALED BY A PROCEEDING BROUGHT UNDER AND PURSUANT TO
29 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

30 S 940. RULEMAKING AUTHORITY. THE DEPARTMENT SHALL ADOPT RULES AND
31 REGULATIONS TO OVERSEE THE PRACTICE OF MOLD ASSESSMENT, REMEDIATION AND
32 ABATEMENT AND TO ENSURE THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC.

33 TITLE 2

34 MINIMUM WORK STANDARDS FOR THE CONDUCT OF
35 MOLD ASSESSMENTS AND REMEDIATION BY LICENSED PERSONS
36 SECTION 945. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS
37 BY LICENSED PERSONS.

38 946. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD REMEDIATION
39 BY LICENSED PERSONS.

40 947. POST-REMEDIATION ASSESSMENT AND CLEARANCE.

41 948. INVESTIGATIONS AND COMPLAINTS.

42 S 945. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS BY
43 LICENSED PERSONS. 1. A MOLD ASSESSMENT LICENSEE SHALL PREPARE A MOLD
44 REMEDIATION PLAN THAT IS SPECIFIC TO EACH REMEDIATION PROJECT AND
45 PROVIDE THE PLAN TO THE CLIENT BEFORE THE REMEDIATION BEGINS. THE MOLD
46 REMEDIATION PLAN MUST SPECIFY:

47 (A) THE ROOMS OR AREAS WHERE THE WORK WILL BE PERFORMED;

48 (B) THE ESTIMATED QUANTITIES OF MATERIALS TO BE CLEANED OR REMOVED;

49 (C) THE METHODS TO BE USED FOR EACH TYPE OF REMEDIATION IN EACH TYPE
50 OF AREA;

51 (D) THE PERSONAL PROTECTION EQUIPMENT (PPE) TO BE SUPPLIED BY LICENSED
52 REMEDIATORS FOR USE BY LICENSED ABATERS;

53 (E) THE PROPOSED CLEARANCE PROCEDURES AND CRITERIA FOR EACH TYPE OF
54 REMEDIATION IN EACH TYPE OF AREA;

55 (F) WHEN THE PROJECT IS A BUILDING THAT IS CURRENTLY OCCUPIED, HOW TO
56 PROPERLY NOTIFY SUCH OCCUPANTS OF SUCH PROJECTS TAKING INTO CONSIDER-

ATION PROPER HEALTH CONCERNS; THE PLAN MUST ALSO PROVIDE RECOMMENDATIONS FOR NOTICE AND POSTING REQUIREMENTS THAT ARE APPROPRIATE FOR THE PROJECT SIZE, DURATION AND POINTS OF ENTRY;

(G) AN ESTIMATE OF COST AND AN ESTIMATED TIME FRAME FOR COMPLETION; AND

(H) WHEN POSSIBLE, THE UNDERLYING SOURCES OF MOISTURE THAT MAY BE CAUSING THE MOLD AND A RECOMMENDATION AS TO THE TYPE OF CONTRACTOR WHO WOULD REMEDY THE SOURCE OF SUCH MOISTURE.

2. THE CONTAINMENT SPECIFIED IN THE REMEDIATION PLAN MUST PREVENT THE SPREAD OF MOLD TO AREAS OF THE BUILDING OUTSIDE THE CONTAINMENT UNDER NORMAL CONDITIONS OF USE.

3. A MOLD ASSESSMENT LICENSEE WHO INDICATES IN A REMEDIATION PLAN THAT A DISINFECTANT, BIOCIDES, OR ANTIMICROBIAL COATING WILL BE USED ON A MOLD REMEDIATION PROJECT SHALL INDICATE A SPECIFIC PRODUCT OR BRAND ONLY IF IT IS REGISTERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE INTENDED USE AND IF THE USE IS CONSISTENT WITH THE MANUFACTURER'S LABELING INSTRUCTIONS. A DECISION BY A MOLD ASSESSMENT LICENSEE TO USE SUCH PRODUCTS MUST TAKE INTO ACCOUNT THE POTENTIAL FOR OCCUPANT SENSITIVITIES.

S 946. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD REMEDIATION BY LICENSED PERSONS. 1. A MOLD REMEDIATION LICENSEE SHALL PREPARE A MOLD REMEDIATION WORK PLAN THAT IS SPECIFIC TO EACH PROJECT, FULFILLS ALL THE REQUIREMENTS OF THE MOLD REMEDIATION PLAN DEVELOPED BY THE MOLD ASSESSMENT LICENSEE AS PROVIDED TO THE CLIENT AND PROVIDES SPECIFIC INSTRUCTIONS AND/OR STANDARD OPERATING PROCEDURES FOR HOW A MOLD REMEDIATION PROJECT WILL BE PERFORMED. THE MOLD REMEDIATION LICENSEE SHALL PROVIDE THE MOLD REMEDIATION WORK PLAN TO THE CLIENT BEFORE SITE PREPARATION WORK BEGINS.

2. IF A MOLD ASSESSMENT LICENSEE SPECIFIES IN THE MOLD REMEDIATION PLAN THAT PERSONAL PROTECTION EQUIPMENT (PPE) IS REQUIRED FOR THE PROJECT, THE MOLD REMEDIATION LICENSEE SHALL PROVIDE THE SPECIFIED PPE TO ALL EMPLOYEES WHO ENGAGE IN REMEDIATION ACTIVITIES AND WHO WILL, OR ARE ANTICIPATED TO, DISTURB OR REMOVE MOLD CONTAMINATION. THE CONTAINMENT, WHEN CONSTRUCTED AS DESCRIBED IN THE REMEDIATION WORK PLAN AND UNDER NORMAL CONDITIONS OF USE, MUST PREVENT THE SPREAD OF MOLD TO AREAS OUTSIDE THE CONTAINMENT.

3. SIGNS ADVISING THAT A MOLD REMEDIATION PROJECT IS IN PROGRESS SHALL BE DISPLAYED AT ALL ACCESSIBLE ENTRANCES TO REMEDIATION AREAS.

4. NO PERSON SHALL REMOVE OR DISMANTLE ANY CONTAINMENT STRUCTURES OR MATERIALS FROM A PROJECT SITE PRIOR TO RECEIPT BY THE MOLD REMEDIATION LICENSEE OVERSEEING THE PROJECT OF A NOTICE FROM A MOLD ASSESSMENT LICENSEE THAT THE PROJECT HAS ACHIEVED CLEARANCE AS DESCRIBED IN SECTION NINE HUNDRED FORTY-SEVEN OF THIS TITLE.

5. DISINFECTANTS, BIOCIDES AND ANTIMICROBIAL COATINGS MAY BE USED ONLY IF THEIR USE IS SPECIFIED IN A MOLD REMEDIATION PLAN, IF THEY ARE REGISTERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE INTENDED USE AND IF THE USE IS CONSISTENT WITH THE MANUFACTURER'S LABELING INSTRUCTIONS. IF A PLAN SPECIFIES THE USE OF SUCH A PRODUCT BUT DOES NOT SPECIFY THE BRAND OR TYPE OF PRODUCT, A MOLD REMEDIATION LICENSEE MAY SELECT THE BRAND OR TYPE OF PRODUCT TO BE USED. A DECISION BY A MOLD ASSESSMENT OR REMEDIATION LICENSEE TO USE SUCH A PRODUCT MUST TAKE INTO ACCOUNT THE POTENTIAL FOR OCCUPANT SENSITIVITIES AND POSSIBLE ADVERSE REACTIONS TO CHEMICALS THAT HAVE THE POTENTIAL TO BE OFF-GASSED FROM SURFACES COATED WITH THE PRODUCT.

S 947. POST-REMEDIATION ASSESSMENT AND CLEARANCE. 1. FOR A REMEDIATED PROJECT TO ACHIEVE CLEARANCE, A MOLD ASSESSMENT LICENSEE SHALL CONDUCT A

1 POST-REMEDATION ASSESSMENT. THE POST-REMEDATION ASSESSMENT SHALL
2 DETERMINE WHETHER:

3 (A) THE WORK AREA IS FREE FROM ALL VISIBLE MOLD; AND

4 (B) ALL WORK HAS BEEN COMPLETED IN COMPLIANCE WITH THE REMEDIATION
5 PLAN AND REMEDIATION WORK PLAN AND MEETS CLEARANCE CRITERIA SPECIFIED IN
6 THE PLAN.

7 2. POST-REMEDATION ASSESSMENT SHALL, TO THE EXTENT FEASIBLE, DETER-
8 MINE THAT THE UNDERLYING CAUSE OF THE MOLD HAS BEEN REMEDIATED SO THAT
9 IT IS REASONABLY CERTAIN THAT THE MOLD WILL NOT RETURN FROM THAT REMEDI-
10 ATED AREA. IF IT HAS BEEN DETERMINED THAT THE UNDERLYING CAUSE OF THE
11 MOLD HAS NOT BEEN REMEDIATED, THE MOLD ASSESSMENT LICENSEE SHALL MAKE A
12 RECOMMENDATION TO THE CLIENT AS TO THE TYPE OF CONTRACTOR WHO COULD
13 REMEDY THE SOURCE OF THE MOLD OR THE MOISTURE CAUSING THE MOLD.

14 3. A MOLD ASSESSMENT LICENSEE WHO DETERMINES THAT REMEDIATION HAS BEEN
15 SUCCESSFUL SHALL ISSUE A WRITTEN PASSED CLEARANCE REPORT TO THE CLIENT
16 AT THE CONCLUSION OF EACH MOLD REMEDIATION PROJECT.

17 4. IF THE MOLD ASSESSMENT LICENSEE DETERMINES THAT REMEDIATION HAS NOT
18 BEEN SUCCESSFUL, THE LICENSEE SHALL ISSUE A WRITTEN FINAL STATUS REPORT
19 TO THE CLIENT AND TO THE REMEDIATION LICENSEE AND RECOMMEND TO THE
20 CLIENT THAT EITHER A NEW ASSESSMENT BE CONDUCTED, THAT THE REMEDIATION
21 PLAN AS ORIGINALLY DEVELOPED BE COMPLETED, OR THE UNDERLYING CAUSES OF
22 MOLD BE ADDRESSED, AS APPROPRIATE.

23 S 948. INVESTIGATIONS AND COMPLAINTS. THE COMMISSIONER SHALL HAVE THE
24 AUTHORITY TO INSPECT ONGOING OR COMPLETED MOLD ASSESSMENT AND MOLD REME-
25 DIATION PROJECTS AND TO CONDUCT AN INVESTIGATION UPON HIS OR HER OWN
26 INITIATION OR UPON RECEIPT OF A COMPLAINT BY ANY PERSON OR ENTITY.

27 S 2. The state finance law is amended by adding a new section 97-pppp
28 to read as follows:

29 S 97-PPPP. MOLD ASSESSMENT AND REMEDIATION ACCOUNT. 1. THERE IS HEREBY
30 ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER THE MOLD ASSESSMENT
31 AND REMEDIATION ACCOUNT.

32 2. SUCH ACCOUNT SHALL CONSIST OF MONEYS COLLECTED PURSUANT TO THE
33 PROVISIONS OF ARTICLE THIRTY-TWO OF THE LABOR LAW.

34 3. MONEYS OF THE ACCOUNT SHALL BE AVAILABLE TO THE COMMISSIONER OF
35 LABOR FOR PURPOSES OF OFFSETTING THE COSTS INCURRED BY THE COMMISSIONER
36 OF LABOR FOR THE ADMINISTRATION OF ARTICLE THIRTY-TWO OF THE LABOR LAW,
37 INCLUDING THE ADMINISTRATION OF LICENSES, COURSE WORK AND TRAINING
38 PROGRAMS, AND ENFORCEMENT AS SET FORTH IN SUCH ARTICLE THIRTY-TWO.

39 4. THE MONEYS SHALL BE PAID OUT OF THE ACCOUNT ON THE AUDIT AND
40 WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE
41 COMMISSIONER OR HIS OR HER DESIGNEE.

42 5. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW, NO
43 MONEYS SHALL BE AVAILABLE FROM THE ACCOUNT UNTIL A CERTIFICATE OF ALLO-
44 CATION AND A SCHEDULE OF AMOUNTS TO BE AVAILABLE THEREFOR SHALL HAVE
45 BEEN ISSUED BY THE DIRECTOR OF THE BUDGET, AND A COPY OF SUCH CERTIF-
46 ICATE FILED WITH THE COMPTROLLER. SUCH CERTIFICATE MAY BE AMENDED FROM
47 TIME TO TIME BY THE DIRECTOR OF THE BUDGET AND A COPY OF EACH SUCH
48 AMENDMENT SHALL BE FILED WITH THE COMPTROLLER.

49 S 3. This act shall take effect on the one hundred eightieth day after
50 it shall have become a law.