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

3667--A

2013-2014 Regular Sessions

I N S E N A T E

February 8, 2013

Introduced by Sens. SAVINO, CARLUCCI, 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

AN ACT to amend the general business law, in relation to requiring the licensure of mold assessment and remediation specialists and setting minimum work standards for mold assessment and remediation specialists

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

Section 1. Article 40 of the general business law, as renumbered by chapter 407 of the laws of 1973, is renumbered article 60.

S 2. Sections 900 and 901 of the general business law, as renumbered by chapter 407 of the laws of 1973, are renumbered sections 2000 and 2001.

S 3. The general business law is amended by adding a new article 40 to read as follows:

ARTICLE 40

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

TITLE I. LICENSING OF MOLD INSPECTION, ASSESSMENT AND REMEDIATION SPECIALISTS AND MINIMUM WORK STANDARDS (SS 900-910).

II. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS AND REMEDIATION BY LICENSED PERSONS (SS 915-917).

TITLE I

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

SECTION 900. DEFINITIONS.
901. LICENSES REQUIRED.
902. LICENSE APPLICATIONS; PROCEDURE AND REQUIREMENTS.

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

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903. EXEMPTIONS.
904. LICENSE ISSUANCE AND RENEWAL.
905. PRACTICE BY LICENSE HOLDER.
906. LICENSEE DUTIES; PROHIBITED ACTIVITIES.
907. PENALTIES.
908. DENIAL OF LICENSE; COMPLAINTS; NOTICE OF HEARING.
909. JUDICIAL REVIEW.
910. RULEMAKING AUTHORITY

S 900. DEFINITIONS. AS USED IN THIS ARTICLE: 1. "DEPARTMENT" MEANS 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 THE REMOVAL, CLEANING, SANITIZING, DEMOLITION, OR OTHER TREATMENT, INCLUDING PREVENTIVE ACTIVITIES, OF MOLD OR MOLD-CONTAMINATED MATTER.

4. "MOLD INSPECTION OR 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. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT OF LABOR.

S 901. LICENSES REQUIRED. NO PERSON SHALL ENGAGE IN OR CONDUCT, OR ADVERTISE OR HOLD HIMSELF OR HERSELF OUT AS ENGAGING IN OR CONDUCTING THE BUSINESS OF, OR ACTING IN THE CAPACITY OF A PERSON WHO CONDUCTS MOLD ASSESSMENT AND/OR REMEDIATION UNLESS SUCH PERSON HOLDS A MOLD ASSESSMENT AND/OR REMEDIATION LICENSE AS PROVIDED FOR IN THIS ARTICLE.

S 902. LICENSE APPLICATIONS; PROCEDURE AND REQUIREMENTS. 1. THE COMMISSIONER SHALL ESTABLISH MINIMUM QUALIFICATIONS FOR LICENSING.

2. APPLICATIONS FOR LICENSES AND RENEWAL LICENSES SHALL BE MADE IN WRITING TO THE DEPARTMENT ON FORMS PROVIDED BY THE DEPARTMENT.

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

(A) BE EIGHTEEN YEARS OF AGE OR OLDER;

(B) HAVE SATISFACTORILY COMPLETED DEPARTMENT APPROVED COURSE WORK;

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

(D) SUBMITTED INSURANCE CERTIFICATES EVIDENCING WORKERS' COMPENSATION COVERAGE, IF REQUIRED, AND LIABILITY INSURANCE OF AT LEAST FIFTY THOUSAND DOLLARS.

4. AN APPLICANT SHALL FURNISH THE DEPARTMENT WITH A FINANCIAL STATEMENT, PREPARED BY AN INDEPENDENT AUDITOR OR ACCOUNTANT AND SIGNED BY THE APPLICANT AND AUDITOR BEFORE A NOTARY PUBLIC, STATING THE ASSETS OF THE APPLICANT, TO BE USED BY THE DEPARTMENT TO DETERMINE THE FINANCIAL RESPONSIBILITY OF THE APPLICANT TO PERFORM MOLD INSPECTION, ASSESSMENT AND/OR REMEDIATION SERVICES.

5. THE DEPARTMENT MAY CHARGE AND COLLECT THE FOLLOWING FEES:

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

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

(C) A FEE FOR DELINQUENT RENEWAL OF A LICENSE, NOT TO EXCEED FIFTY DOLLARS.

S 903. EXEMPTIONS. THE FOLLOWING PERSONS SHALL NOT BE REQUIRED TO OBTAIN A LICENSE AS PROVIDED IN THIS TITLE IN ORDER TO PERFORM MOLD INSPECTION, ASSESSMENT OR REMEDIATION:

1. A RESIDENTIAL PROPERTY OWNER WHO PERFORMS MOLD INSPECTION, ASSESSMENT OR REMEDIATION ON HIS OR HER OWN PROPERTY;

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

3. AN OWNER OR TENANT, OR A MANAGING AGENT OR EMPLOYEE OF AN OWNER OR TENANT, WHO PERFORMS MOLD ASSESSMENT OR REMEDIATION ON PROPERTY OWNED OR LEASED BY THE OWNER OR TENANT, PROVIDED THAT THIS SUBDIVISION SHALL NOT APPLY IF THE MANAGING AGENT OR EMPLOYEE ENGAGES IN THE BUSINESS OF PERFORMING MOLD ASSESSMENT OR REMEDIATION FOR THE PUBLIC; AND

4. AN EMPLOYEE OF A LICENSEE WHO PERFORMS MOLD ASSESSMENT OR REMEDIATION WHILE SUPERVISED BY THE LICENSEE.

S 904. LICENSE ISSUANCE AND RENEWAL. 1. LICENSES ISSUED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE ISSUED FOR A PERIOD OF TWO YEARS. LICENSES WHICH ARE NOT RENEWED SHALL BE CONSIDERED TO BE EXPIRED, AND ANY MOLD ASSESSMENT OR REMEDIATION ACTIVITY WHICH WOULD REQUIRE A LICENSE TO PERFORM WHICH OCCURS AFTER EXPIRATION OF THE LICENSE SHALL BE DEEMED A VIOLATION OF THE PROVISIONS OF THIS ARTICLE.

2. ANY LICENSEE WHO FAILS TO TIMELY RENEW HIS OR HER LICENSE MAY THEREAFTER RENEW UPON PAYMENT OF THE APPROPRIATE RENEWAL AND DELINQUENT FEES AND UPON FILING OF A RENEWAL APPLICATION. THE PERIOD FOR DELINQUENT RENEWAL OF AN EXPIRED LICENSE SHALL BE LIMITED TO THE SIX MONTH PERIOD IMMEDIATELY FOLLOWING THE EXPIRATION DATE OF THE ACTIVE LICENSE. FAILURE TO RENEW AN EXPIRED LICENSE DURING SUCH SIX MONTH PERIOD SHALL RESULT IN FORFEITURE OF RENEWAL RIGHTS AND SHALL REQUIRE THE FORMER LICENSEE TO APPLY AS AN INITIAL APPLICANT AND MEET ALL REQUIREMENTS OF AN INITIAL APPLICANT.

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

S 905. PRACTICE BY LICENSE HOLDER. 1. A LICENSE HOLDER WHO INTENDS TO PERFORM MOLD ASSESSMENT ON A MOLD REMEDIATION PROJECT SHALL PREPARE A WORK ANALYSIS FOR THE PROJECT. THE LICENSE HOLDER SHALL PROVIDE THE ANALYSIS TO THE CLIENT BEFORE THE MOLD REMEDIATION BEGINS. THE WORK ANALYSIS MUST SPECIFY:

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

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

(C) THE PROPOSED METHODS FOR EACH TYPE OF REMEDIATION IN EACH TYPE OF AREA IN THE PROJECT; AND

(D) THE PROPOSED CLEARANCE CRITERIA FOR EACH TYPE OF REMEDIATION IN EACH TYPE OF AREA IN THE PROJECT.

2. A 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 LICENSE HOLDER SHALL PROVIDE THE WORK PLAN TO THE CLIENT BEFORE THE MOLD REMEDIATION BEGINS. THE LICENSE HOLDER SHALL MAINTAIN A COPY OF THE WORK PLAN AT THE JOB SITE WHERE THE REMEDIATION IS BEING PERFORMED.

S 906. LICENSEE DUTIES; PROHIBITED ACTIVITIES. 1. A LICENSEE WHO PERFORMS MOLD INSPECTION OR ASSESSMENT SERVICES SHALL PROVIDE A WRITTEN REPORT TO EACH PERSON FOR WHOM SUCH LICENSEE PERFORMS MOLD INSPECTION OR 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 907. PENALTIES. 1. THE DEPARTMENT MAY 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;

(B) DECEIT OR MISREPRESENTATION IN OBTAINING A LICENSE;

(C) PROVIDING FALSE TESTIMONY OR DOCUMENTS TO THE DEPARTMENT;

(D) DECEIVING OR DEFRAUDING THE PUBLIC; OR

(E) INCOMPETENCE OR GROSS NEGLIGENCE.

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

3. ALL FINES COLLECTED PURSUANT TO THIS SECTION FOR VIOLATION SHALL BE TRANSFERRED TO A SEPARATE CONTRACTOR'S EDUCATION TRUST FUND TO BE USED FOR EDUCATIONAL PURPOSES AS DETERMINED BY THE DEPARTMENT.

S 908. DENIAL OF LICENSE; COMPLAINTS; NOTICE OF HEARING. 1. THE DEPARTMENT SHALL, BEFORE MAKING A FINAL 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 NOTIFICATION SHALL BE SERVED IN ANY MANNER AUTHORIZED BY THE CIVIL PRACTICE LAW AND RULES FOR SERVICE OF SUMMONS. IF A HEARING IS REQUESTED, SUCH HEARING SHALL BE HELD AT SUCH TIME AND PLACE AS THE DEPARTMENT SHALL PRESCRIBE.

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

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

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

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

S 909. JUDICIAL REVIEW. THE ACTION OF THE COMMISSIONER IN SUSPENDING, REVOKING OR REFUSING TO ISSUE OR RENEW A LICENSE, OR ISSUING AN ORDER DIRECTING THE CESSATION OF UNLICENSED ACTIVITY OR IMPOSING A FINE OR REPRIMAND MAY BE APPEALED BY A PROCEEDING BROUGHT UNDER AND PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 910. RULEMAKING AUTHORITY. THE DEPARTMENT SHALL ADOPT RULES AND REGULATIONS TO OVERSEE THE PRACTICE OF MOLD INSPECTION, ASSESSMENT AND REMEDIATION AND TO ENSURE THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC.

TITLE II

MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS AND REMEDIATION BY LICENSED PERSONS

SECTION 915. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS BY LICENSED PERSONS.
916. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD REMEDIATION BY LICENSED PERSONS.
917. POST-REMEDIATION ASSESSMENT AND CLEARANCE.

S 915. MINIMUM WORK STANDARDS FOR THE CONDUCT OF MOLD ASSESSMENTS BY LICENSED PERSONS. 1. A MOLD ASSESSMENT LICENSEE SHALL PREPARE A MOLD REMEDIATION PLAN THAT IS SPECIFIC TO EACH REMEDIATION PROJECT AND PROVIDE THE PLAN TO THE CLIENT BEFORE THE REMEDIATION BEGINS. THE MOLD REMEDIATION PLAN MUST SPECIFY:

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

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

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

(D) THE PERSONAL PROTECTION EQUIPMENT (PPE) TO BE USED BY LICENSED REMEDIATORS; AND

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

2. A MOLD ASSESSMENT LICENSEE SHALL CONSIDER WHETHER TO RECOMMEND TO A CLIENT THAT, BEFORE REMEDIATION BEGINS, THE CLIENT SHOULD INFORM BUILDING OCCUPANTS OF MOLD-RELATED ACTIVITIES THAT WILL DISTURB OR WILL HAVE THE POTENTIAL TO DISTURB AREAS OF MOLD CONTAMINATION.

3. CONTAINMENT MUST BE SPECIFIED IN A MOLD REMEDIATION PLAN WHEN THE MOLD CONTAMINATION AFFECTS A TOTAL SURFACE AREA OF TWENTY-FIVE CONTIGUOUS SQUARE FEET OR MORE FOR THE PROJECT. 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.

4. A MOLD ASSESSMENT LICENSEE WHO INDICATES IN A REMEDIATION PLAN THAT A DISINFECTANT, BIOCIDE, 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.

5. IN THE REMEDIATION PLAN FOR THE PROJECT, THE MOLD ASSESSMENT LICENSEE SHALL SPECIFY THE PROCEDURE TO BE USED IN DETERMINING WHETHER THE UNDERLYING CAUSE OF THE MOLD IDENTIFIED FOR THE PROJECT HAS BEEN REMEDIATED SO THAT SUCH MOLD REMEDIATION LICENSEE IS REASONABLY CERTAIN THAT THE MOLD WILL NOT RETURN FROM THE SAME CAUSE.

S 916. 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 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, WHEN THE MOLD

AFFECTS A TOTAL SURFACE AREA FOR THE PROJECT OF TWENTY-FIVE CONTIGUOUS FEET OR MORE. EACH EMPLOYEE WHO IS PROVIDED PPE MUST RECEIVE TRAINING ON THE APPROPRIATE USE AND CARE OF THE PROVIDED PPE. THE TRAINING SHALL BE APPROVED BY THE COMMISSIONER OF THE DEPARTMENT OF HEALTH.

3. THE CONTAINMENT SPECIFIED IN THE REMEDIATION PLAN MUST BE USED ON A MOLD REMEDIATION PROJECT WHEN THE MOLD AFFECTS A TOTAL SURFACE AREA OF TWENTY-FIVE CONTIGUOUS SQUARE FEET OR MORE FOR THE PROJECT. 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.

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

5. 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 SEVENTEEN OF THIS TITLE.

6. 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 917. POST-REMEDIATION ASSESSMENT AND CLEARANCE. 1. FOR A REMEDIATED PROJECT TO ACHIEVE CLEARANCE, A MOLD ASSESSMENT LICENSEE SHALL CONDUCT A POST-REMEDIATION ASSESSMENT. THE POST-REMEDIATION ASSESSMENT SHALL DETERMINE WHETHER:

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

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

2. POST-REMEDIATION ASSESSMENT SHALL, TO THE EXTENT FEASIBLE, DETERMINE THAT THE UNDERLYING CAUSE OF THE MOLD HAS BEEN REMEDIATED SO THAT IT IS REASONABLY CERTAIN THAT THE MOLD WILL NOT RETURN FROM THAT REMEDIATED AREA.

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

4. IF THE MOLD ASSESSMENT LICENSEE DETERMINES THAT REMEDIATION HAS NOT BEEN SUCCESSFUL AND CEASES TO BE INVOLVED WITH THE PROJECT BEFORE THE PROJECT PASSES CLEARANCE, THE LICENSEE SHALL ISSUE A WRITTEN FINAL STATUS REPORT TO THE CLIENT AND TO THE REMEDIATION LICENSEE.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.