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HOUSE BILL NO. 1768

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 54.1-501, 55-225.9, and 55-248.18:2 of the Code of Virginia, relating to mold remediation; exemption from licensure; mold in dwelling units.

Patron—Shuler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-501, 55-225.9, and 55-248.18:2 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-501. Powers and duties of the Board.

The Board shall administer and enforce this chapter. The Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of asbestos, lead, and renovation licenses, and governing conflicts of interest among various categories of asbestos, lead, and renovation licenses;

2. Approve the criteria for accredited asbestos training programs, accredited lead training programs, accredited renovation training programs, training managers, and principal instructors;

3. Approve accredited asbestos training programs, accredited lead training programs, accredited renovation training programs, examinations and the grading system for testing applicants for asbestos, lead, and renovation licensure;

4. Promulgate regulations governing the licensing of and establishing performance criteria applicable to asbestos analytical laboratories;

5. Promulgate regulations governing the functions and duties of project monitors on asbestos projects, circumstances in which project monitors shall be required for asbestos projects, and training requirements for project monitors;

6. Promulgate, in accordance with the Administrative Process Act, regulations necessary to establish procedures and requirements for the: (i) approval of accredited lead training programs, (ii) licensure of individuals and firms to engage in lead-based paint activities, and (iii) establishment of standards for performing lead-based paint activities consistent with the Residential Lead-based Paint Hazard Reduction Act and United States Environmental Protection Agency regulations. If the United States Environmental Protection Agency (EPA) has adopted, prior to the promulgation of any related regulations by the Board, any final regulations relating to lead-based paint activities, then the related regulations of the Board shall not be more stringent than the EPA regulations in effect as of the date of such promulgation. In addition, if the EPA shall have outstanding any proposed regulations relating to lead-based paint activities (other than as amendments to existing EPA regulations), as of the date of promulgation of any related regulations by the Board, then the related regulations of the Board shall not be more stringent than the proposed EPA regulations. In the event that the EPA shall adopt any final regulations subsequent to the promulgation by the Board of related regulations, then the Board shall, as soon as practicable, amend its existing regulations so as to be not more stringent than such EPA regulations;

7. Promulgate regulations for certification of home inspectors not inconsistent with this chapter regarding the professional qualifications of home inspectors applicants, the requirements necessary for passing home inspectors examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the home inspectors certified by the Board, the implementation of exemptions from certifications requirements, and the proper discharge of its duties;

8. Promulgate, in accordance with the Administrative Process Act, regulations necessary to establish procedures and requirements for the (i) approval of accredited renovation training programs, (ii) licensure of individuals and firms to engage in renovation, and (iii) establishment of standards for performing renovation consistent with the Residential Lead-based Paint Hazard Reduction Act and United States Environmental Protection Agency (EPA) regulations. Such regulations of the Board shall be consistent with the EPA Lead Renovation, Repair, and Painting Program final rule; and

9. (Effective July 1, 2011) Promulgate regulations for licensing of mold inspectors and mold remediators not inconsistent with this chapter regarding the professional qualifications of such applicants, the requirements necessary for passing applicable examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the mold inspectors and mold remediators licensed by the

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59 Board, the implementation of exemptions from licensure requirements, and the proper discharge of its
60 duties. The Board shall have the discretion to impose different requirements for licensure for the
61 performance of mold inspections and mold remediation. *The requirements for licensure provided in this*
62 *chapter shall not apply to any person performing mold remediation in an area of a building where the*
63 *mold contamination in such area is less than 100 square feet.*

64 § 55-225.9. Relocation of tenant where mold remediation needs to be performed in the dwelling unit.

65 Where a mold condition in a dwelling unit materially affects the health or safety of any tenant or
66 authorized occupant, the landlord may require the tenant to temporarily vacate the dwelling unit in order
67 for the landlord to perform mold remediation in accordance with professional standards as defined in
68 § 55-225.8 for a period not to exceed 30 days. The landlord shall provide the tenant with either ~~(a)~~ (i) a
69 comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant, or ~~(b)~~ (ii) a
70 hotel room, as selected by the landlord, at no expense or cost to the tenant. The tenant shall continue to
71 be responsible for payment of rent under the rental agreement during the period of any temporary
72 relocation *and for the remainder of the term of the rental agreement following the remediation. Nothing*
73 *in this section shall be construed by a court of law or otherwise as entitling the tenant to a termination*
74 *of a tenancy where the landlord has remediated a mold condition in accordance with professional*
75 *standards as defined in § 55-225.8. The landlord shall pay all costs of the mold remediation, unless the*
76 *tenant is at fault for the mold condition.*

77 § 55-248.18:2. Relocation of tenant where mold remediation needs to be performed in the dwelling
78 unit.

79 Where a mold condition in the dwelling unit materially affects the health or safety of any tenant or
80 authorized occupant, the landlord may require the tenant to temporarily vacate the dwelling unit in order
81 for the landlord to perform mold remediation in accordance with professional standards as defined in
82 § 55-248.4 for a period not to exceed 30 days. The landlord shall provide the tenant with either ~~(a)~~ (i) a
83 comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant, or ~~(b)~~ (ii) a
84 hotel room, at no expense or cost to the tenant. The tenant shall continue to be responsible for payment
85 of rent under the rental agreement during the period of any temporary relocation *and for the remainder*
86 *of the term of the rental agreement following the remediation. Nothing in this section shall be construed*
87 *by a court of law or otherwise as entitling the tenant to a termination of a tenancy where the landlord*
88 *has remediated a mold condition in accordance with professional standards as defined in § 55-248.4.*
89 The landlord shall pay all costs of the mold remediation, unless the mold is a result of the tenant's
90 failure to comply with § 55-248.16.