

SENATE, No. 1701

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Establishes registration requirement for mold inspection and remediation contractors.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning mold inspection, abatement, and remediation,
2 and amending and supplementing P.L.2004, c.16.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 2 of P.L.2004, c.16 (C.56:8-137) is amended to read
8 as follows:

9 2. As used in this act:

10 "Contractor" means a person engaged in the business of making
11 or selling home improvements and includes a corporation,
12 partnership, association and any other form of business organization
13 or entity, and its officers, representatives, agents and employees.

14 "Director" means the Director of the Division of Consumer
15 Affairs in the Department of Law and Public Safety.

16 "Division" means the Division of Consumer Affairs in the
17 Department of Law and Public Safety.

18 "Home elevation" means any home improvement that involves
19 raising an entire residential or non-commercial structure to a higher
20 level above the ground.

21 "Home elevation contractor" means a contractor who engages in
22 the practice of home elevation.

23 "Home improvement" means the remodeling, altering,
24 renovating, repairing, restoring, modernizing, moving, demolishing,
25 or otherwise improving or modifying of the whole or any part of
26 any residential or non-commercial property. Home improvement
27 shall also include insulation installation, home elevation, and the
28 conversion of existing commercial structures into residential or
29 non-commercial property.

30 "Home improvement contract" means an oral or written
31 agreement for the performance of a home improvement between a
32 contractor and an owner, tenant or lessee, of a residential or
33 noncommercial property, and includes all agreements under which
34 the contractor is to perform labor or render services for home
35 improvements, or furnish materials in connection therewith.

36 "Mold" means any form of multicellular fungi that lives on plant
37 or animal matter and in indoor environments. Types of mold
38 include, but are not limited to, Cladosporium, Penicillium,
39 Alternaria, Aspergillus, Fusarium, Trichoderma, Memnoniella,
40 Mucor, and Stachybotrys chartarum, often found in water-damaged
41 building materials.

42 "Mold inspection" means the inspection and evaluation of the
43 interior of a building for the presence of mold.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Mold inspection and remediation contractor" means any person
2 engaged in the business of mold inspection or mold remediation or
3 abatement work.

4 "Mold remediation or abatement work" means any work
5 performed on a building to clean, remove, or contain mold hazards,
6 including demolition, removal, painting, repair, and prevention of
7 water intrusion and leaks.

8 "Residential or non-commercial property" means any single or
9 multi-unit structure used in whole or in part as a place of residence,
10 and all structures appurtenant thereto, and any portion of the lot or
11 site on which the structure is situated which is devoted to the
12 residential use of the structure.

13 (cf: P.L.2014, c.34, s.3)

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15 2. (New section) a. In addition to complying with any other
16 requirements of the "Contractors' Registration Act," P.L.2004, c.16
17 (C.56:8-136 et seq.), no person shall perform, or engage, or attempt
18 to engage in the business of mold inspection or mold remediation or
19 abatement work unless registered with the Director of the Division
20 of Consumer Affairs as a mold inspection and remediation
21 contractor.

22 b. Any person who performs mold inspection or mold
23 remediation or abatement work shall annually register with the
24 director. Application for registration shall be on a form provided by
25 the director and shall be accompanied by a reasonable fee, set by
26 the director in an amount sufficient to defray the division's expenses
27 incurred in administering and enforcing this section.

28 c. Every person required to register pursuant to this section
29 shall file an amended registration within 20 days after any change
30 in the information required to be included thereon. No fee shall be
31 required for the filing of an amendment.

32 d. A registered mold inspection and remediation contractor
33 who is not otherwise required to obtain commercial general liability
34 insurance pursuant to section 7 of P.L.2004, c.16 (C.56:8-142) shall
35 secure, maintain, and file with the director proof of a certificate of
36 commercial general liability insurance in a minimum amount of
37 \$500,000 per occurrence. A registered mold inspection and
38 remediation contractor whose commercial general liability
39 insurance policy is cancelled or nonrenewed shall submit to the
40 director a copy of the certificate of commercial general liability
41 insurance for a new or replacement policy which meets the
42 requirements of this subsection before the former policy is no
43 longer effective.

44 e. A registered mold inspection and remediation contractor is
45 prohibited from performing a mold inspection and any mold
46 remediation or abatement work at the same premises.

47 f. (1) A mold inspection and remediation contractor who
48 performs a mold inspection and mold remediation or abatement

1 work at the same premises shall be liable for a civil penalty of up to
2 \$5,000 for the first offense and for any subsequent offense a
3 revocation of registration.

4 (2) A mold inspection and remediation contractor who violates
5 any other provisions of this section shall be liable for a civil penalty
6 of up to \$5,000 for the first offense and up to \$10,000 for any
7 subsequent offense.

8 (3) In addition to any other civil or criminal penalty that may
9 apply, any person who makes a false statement in connection with
10 the process for registration as a mold inspection and remediation
11 contractor pursuant to this section or in regard to any statement
12 required to be made pursuant to subsection d. of this section shall
13 be liable for a civil penalty of not less than \$10,000 or more than
14 \$25,000.

15 (4) In addition to any other action that may be authorized by
16 law, the director may suspend or revoke the mold inspection and
17 remediation contractor registration of any person who violates any
18 provision of this section.

19 (5) The civil penalties may be imposed by the director and shall
20 be collected in a summary proceeding in accordance with the
21 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
22 et seq.).

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24 3. (New section) The Director of the Division of Consumer
25 Affairs shall adopt rules and regulations pursuant to the provisions
26 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
27 1 et seq.), to effectuate the provisions of P.L. , c.
28 (C.)(pending before the Legislature as this bill) with regard to
29 registration of mold inspection and remediation contractors, and
30 may establish fees for this purpose. Notwithstanding the provisions
31 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
32 1 et seq.) to the contrary, the Division of Consumer Affairs may
33 adopt immediately upon filing with the Office of Administrative
34 Law rules and regulations for this purpose, which shall be effective
35 for a period not to exceed 270 days following the date of enactment
36 of this act, and may thereafter be amended, adopted, or readopted,
37 by the division in accordance with the requirements of the
38 "Administrative Procedure Act."

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40 4. This act shall take effect on the 60th day after the date of
41 enactment.

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STATEMENT

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46 This bill would prohibit any person from performing mold
47 inspection or mold remediation or abatement work unless the
48 person is registered with the Director of the Division of Consumer

1 Affairs. A registration would be required to be submitted annually,
2 and any mold inspection and remediation contractor not otherwise
3 required to obtain commercial general liability insurance as a
4 registered contractor pursuant to section 7 of P.L.2004, c.16
5 (C.56:8-142) would be required to maintain commercial general
6 liability insurance.

7 The bill would also prohibit a mold inspection and remediation
8 contractor from performing a mold inspection and mold remediation
9 or abatement work at the same premises. A registered mold
10 inspection and remediation contractor who performs mold
11 inspection and mold remediation or abatement work at the same
12 premises would be subject to a civil penalty of up to \$5,000 for the
13 first offense and a revocation of registration for any subsequent
14 offense. In addition, the bill would impose a civil penalty of up to
15 5,000 for a first offense and up to \$10,000 for any subsequent
16 offense for any violation of the provisions of the bill. Any person
17 who makes a false statement in connection with the registration
18 process or the liability insurance requirements in the bill would be
19 liable for a civil penalty of not less than \$10,000 or more than
20 \$25,000.