



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2911

by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act to create the Mold Remediation Registration Fund. Amends the Mold Remediation Registration Act. Provides that the Department of Public Health must (instead of may) adopt rules to implement a program for parties that provide mold inspection and mold remediation services to register with the State. Provides that registered mold inspectors and mold remediation service providers shall meet certain criteria. Provides that the Department must submit emergency rules to the Joint Committee on Administrative Rules to implement the registration of mold inspection and remediation professionals. Provides that the Department may charge a registration fee to cover the costs of administering and enforcing the Act, which shall be deposited into the Mold Remediation Registration Fund. Amends the Residential Real Property Disclosure Act. Defines "toxic mold" and adds to the items in the disclosure list a statement concerning whether the owner is aware of the existence of toxic mold on the property. Amends the Landlord and Tenant Act. Provides that if a landlord of residential real estate knows or has reason to believe that toxic mold is present, the landlord shall provide written disclosure to prospective and current residents of the units affected by the toxic mold. Provides that if toxic mold is discovered, a lessee of residential real estate may terminate a lease without penalty, or, alternatively, withhold payment of rent until the mold is remediated by a registered mold remediation service. Provides that the lessor shall pay for the mold remediation. Makes a corresponding change in the Forcible Entry and Detainer Article of the Code of Civil Procedure.

LRB100 06037 HEP 16068 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.878 as follows:

6 (30 ILCS 105/5.878 new)

7 Sec. 5.878. The Mold Remediation Registration Fund.

8 Section 10. The Mold Remediation Registration Act is
9 amended by changing Section 20 as follows:

10 (410 ILCS 105/20)

11 Sec. 20. Rules.

12 (a) The Department ~~must~~ ~~may~~ adopt rules, under the Illinois
13 Administrative Procedure Act, to implement a program
14 establishing procedures for parties that provide mold
15 inspections or mold remediation services to register with the
16 State and provide evidence of financial responsibility.

17 (b) The rules implemented under this Section shall provide
18 that each registered mold inspector:

19 (1) is prohibited from performing mold inspections or
20 investigations unless he or she is registered under this
21 Section; and

1 (2) must either:
2 (i) pass a State test;
3 (ii) be a Certified Industrial Hygienist certified
4 by the American Board of Industrial Hygiene; or
5 (iii) be a Certified Microbial Consultant
6 certified by the American Indoor Air Quality Council.

7 (c) The rules implemented under this Section shall provide
8 that each individual or entity that provides mold remediation
9 services on residential property is prohibited from performing
10 mold remediation services unless the individual or entity is
11 registered under this Section. The rules shall require that the
12 individual or entity providing mold remediation services meet
13 industry standards as identified in the rules and shall require
14 that each person who performs mold remediation services must be
15 certified by an accreditation body as a microbial remediation
16 technician or supervisor.

17 (d) Not later than 3 months after the effective date of
18 this amendatory Act of the 100th General Assembly, the
19 Department must submit emergency rules to the Joint Committee
20 on Administrative Rules under the Illinois Administrative
21 Procedure Act to implement the registration of mold remediation
22 professionals. The Department may charge a registration fee to
23 cover the costs of administering and enforcing this Act. The
24 Mold Remediation Registration Fund is established as a special
25 fund in the State treasury. Moneys collected for registration
26 of persons under this Section shall be deposited into the Fund

1 and used for the purpose of administering and enforcing this
2 Act.

3 (Source: P.A. 95-456, eff. 1-1-08.)

4 Section 15. The Code of Civil Procedure is amended by
5 changing Section 9-102 as follows:

6 (735 ILCS 5/9-102) (from Ch. 110, par. 9-102)

7 Sec. 9-102. When action may be maintained.

8 (a) The person entitled to the possession of lands or
9 tenements may be restored thereto under any of the following
10 circumstances:

11 (1) When a forcible entry is made thereon.

12 (2) When a peaceable entry is made and the possession
13 unlawfully withheld.

14 (3) When entry is made into vacant or unoccupied lands
15 or tenements without right or title.

16 (4) When any lessee of the lands or tenements, or any
17 person holding under such lessee, holds possession without
18 right after the termination of the lease or tenancy by its
19 own limitation, condition or terms, or by notice to quit or
20 otherwise.

21 (5) When a vendee having obtained possession under a
22 written or verbal agreement to purchase lands or tenements,
23 and having failed to comply with the agreement, withholds
24 possession thereof, after demand in writing by the person

1 entitled to such possession; provided, however, that any
2 such agreement for residential real estate as defined in
3 the Illinois Mortgage Foreclosure Law entered into on or
4 after July 1, 1987 where the purchase price is to be paid
5 in installments over a period in excess of 5 years and the
6 amount unpaid under the terms of the contract at the time
7 of the filing of a foreclosure complaint under Article XV,
8 including principal and due and unpaid interest, is less
9 than 80% of the original purchase price shall be foreclosed
10 under the Illinois Mortgage Foreclosure Law.

11 This amendatory Act of 1993 is declarative of existing
12 law.

13 (6) When lands or tenements have been conveyed by any
14 grantor in possession, or sold under the order or judgment
15 of any court in this State, or by virtue of any sale in any
16 mortgage or deed of trust contained and the grantor in
17 possession or party to such order or judgment or to such
18 mortgage or deed of trust, after the expiration of the time
19 of redemption, when redemption is allowed by law, refuses
20 or neglects to surrender possession thereof, after demand
21 in writing by the person entitled thereto, or his or her
22 agent.

23 (7) When any property is subject to the provisions of
24 the Condominium Property Act, the owner of a unit fails or
25 refuses to pay when due his or her proportionate share of
26 the common expenses of such property, or of any other

1 expenses lawfully agreed upon or any unpaid fine, the Board
2 of Managers or its agents have served the demand set forth
3 in Section 9-104.1 of this Article in the manner provided
4 for in that Section and the unit owner has failed to pay
5 the amount claimed within the time prescribed in the
6 demand; or if the lessor-owner of a unit fails to comply
7 with the leasing requirements prescribed by subsection (n)
8 of Section 18 of the Condominium Property Act or by the
9 declaration, by-laws, and rules and regulations of the
10 condominium, or if a lessee of an owner is in breach of any
11 covenants, rules, regulations, or by-laws of the
12 condominium, and the Board of Managers or its agents have
13 served the demand set forth in Section 9-104.2 of this
14 Article in the manner provided in that Section.

15 (8) When any property is subject to the provisions of a
16 declaration establishing a common interest community and
17 requiring the unit owner to pay regular or special
18 assessments for the maintenance or repair of common areas
19 owned in common by all of the owners of the common interest
20 community or by the community association and maintained
21 for the use of the unit owners or of any other expenses of
22 the association lawfully agreed upon, and the unit owner
23 fails or refuses to pay when due his or her proportionate
24 share of such assessments or expenses and the board or its
25 agents have served the demand set forth in Section 9-104.1
26 of this Article in the manner provided for in that Section

1 and the unit owner has failed to pay the amount claimed
2 within the time prescribed in the demand.

3 (b) The provisions of paragraph (8) of subsection (a) of
4 Section 9-102 and Section 9-104.3 of this Act shall not apply
5 to any common interest community unless (1) the association is
6 a not-for-profit corporation or a limited liability company,
7 (2) unit owners are authorized to attend meetings of the board
8 of directors or board of managers of the association in the
9 same manner as provided for condominiums under the Condominium
10 Property Act, and (3) the board of managers or board of
11 directors of the common interest community association has,
12 subsequent to the effective date of this amendatory Act of 1984
13 voted to have the provisions of this Article apply to such
14 association and has delivered or mailed notice of such action
15 to the unit owners or unless the declaration of the association
16 is recorded after the effective date of this amendatory Act of
17 1985.

18 (c) For purposes of this Article:

19 (1) "Common interest community" means real estate
20 other than a condominium or cooperative with respect to
21 which any person by virtue of his or her ownership of a
22 partial interest or unit therein is obligated to pay for
23 maintenance, improvement, insurance premiums, or real
24 estate taxes of other real estate described in a
25 declaration which is administered by an association.

26 (2) "Declaration" means any duly recorded instruments,

1 however designated, that have created a common interest
2 community and any duly recorded amendments to those
3 instruments.

4 (3) "Unit" means a physical portion of the common
5 interest community designated by separate ownership or
6 occupancy by boundaries which are described in a
7 declaration.

8 (4) "Unit owners' association" or "association" means
9 the association of all owners of units in the common
10 interest community acting pursuant to the declaration.

11 (d) If the board of a common interest community elects to
12 have the provisions of this Article apply to such association
13 or the declaration of the association is recorded after the
14 effective date of this amendatory Act of 1985, the provisions
15 of subsections (c) through (h) of Section 18.5 of the
16 Condominium Property Act applicable to a Master Association and
17 condominium unit subject to such association under subsections
18 (c) through (h) of Section 18.5 shall be applicable to the
19 community associations and to its unit owners.

20 (e) The right to recover possession or rent under this
21 Article is limited as provided in Section 17 of the Landlord
22 and Tenant Act.

23 (Source: P.A. 99-41, eff. 7-14-15.)

24 Section 20. The Residential Real Property Disclosure Act is
25 amended by changing Sections 5 and 35 as follows:

1 (765 ILCS 77/5)

2 Sec. 5. Definitions. As used in this Act, unless the
3 context otherwise requires, the following terms have the
4 meaning given in this Section.

5 "Residential real property" means real property improved
6 with not less than one nor more than 4 residential dwelling
7 units; units in residential cooperatives; or, condominium
8 units, including the limited common elements allocated to the
9 exclusive use thereof that form an integral part of the
10 condominium unit. The term includes a manufactured home as
11 defined in subdivision (53) of Section 9-102 of the Uniform
12 Commercial Code that is real property as defined in the
13 Conveyance and Encumbrance of Manufactured Homes as Real
14 Property and Severance Act.

15 "Seller" means every person or entity who is an owner,
16 beneficiary of a trust, contract purchaser or lessee of a
17 ground lease, who has an interest (legal or equitable) in
18 residential real property. However, "seller" shall not include
19 any person who has both (i) never occupied the residential real
20 property and (ii) never had the management responsibility for
21 the residential real property nor delegated such
22 responsibility for the residential real property to another
23 person or entity.

24 "Prospective buyer" means any person or entity negotiating
25 or offering to become an owner or lessee of residential real

1 property by means of a transfer for value to which this Act
2 applies.

3 "Toxic mold" means stachybotrys chartarum, penicillium,
4 aspergillus, or any other mold that excretes a significant
5 amount of toxic compounds called mycotoxins and that has a
6 tendency to produce severe adverse health effects.

7 (Source: P.A. 98-749, eff. 7-16-14; 99-78, eff. 7-20-15.)

8 (765 ILCS 77/35)

9 Sec. 35. Disclosure report form. The disclosures required
10 of a seller by this Act shall be made in the following form:

11 RESIDENTIAL REAL PROPERTY DISCLOSURE REPORT

12 NOTICE: THE PURPOSE OF THIS REPORT IS TO PROVIDE
13 PROSPECTIVE BUYERS WITH INFORMATION ABOUT MATERIAL DEFECTS IN
14 THE RESIDENTIAL REAL PROPERTY. THIS REPORT DOES NOT LIMIT THE
15 PARTIES' RIGHT TO CONTRACT FOR THE SALE OF RESIDENTIAL REAL
16 PROPERTY IN "AS IS" CONDITION. UNDER COMMON LAW, SELLERS WHO
17 DISCLOSE MATERIAL DEFECTS MAY BE UNDER A CONTINUING OBLIGATION
18 TO ADVISE THE PROSPECTIVE BUYERS ABOUT THE CONDITION OF THE
19 RESIDENTIAL REAL PROPERTY EVEN AFTER THE REPORT IS DELIVERED TO
20 THE PROSPECTIVE BUYER. COMPLETION OF THIS REPORT BY THE SELLER
21 CREATES LEGAL OBLIGATIONS ON THE SELLER; THEREFORE THE SELLER
22 MAY WISH TO CONSULT AN ATTORNEY PRIOR TO COMPLETION OF THIS
23 REPORT.

24 Property Address:

25 City, State & Zip Code:

1 Seller's Name:

2 This Report is a disclosure of certain conditions of the
3 residential real property listed above in compliance with the
4 Residential Real Property Disclosure Act. This information is
5 provided as of ...(month) ...(day) ...(year), and does not
6 reflect any changes made or occurring after that date or
7 information that becomes known to the seller after that date.
8 The disclosures herein shall not be deemed warranties of any
9 kind by the seller or any person representing any party in this
10 transaction.

11 In this form, "am aware" means to have actual notice or
12 actual knowledge without any specific investigation or
13 inquiry. In this form, "material defect" means a condition that
14 would have a substantial adverse effect on the value of the
15 residential real property or that would significantly impair
16 the health or safety of future occupants of the residential
17 real property unless the seller reasonably believes that the
18 condition has been corrected.

19 The seller discloses the following information with the
20 knowledge that even though the statements herein are not deemed
21 to be warranties, prospective buyers may choose to rely on this
22 information in deciding whether or not and on what terms to
23 purchase the residential real property.

24 The seller represents that to the best of his or her actual
25 knowledge, the following statements have been accurately noted
26 as "yes" (correct), "no" (incorrect), or "not applicable" to

1 the property being sold. If the seller indicates that the
2 response to any statement, except number 1, is yes or not
3 applicable, the seller shall provide an explanation, in the
4 additional information area of this form.

5 YES NO N/A

- 6 1. Seller has occupied the property
7 within the last 12 months.
8 (No explanation is needed.)
9 2. I am aware of flooding or recurring
10 leakage problems in the crawl
11 space or basement.
12 3. I am aware that the property is
13 located in a flood plain or that I
14 currently have flood hazard
15 insurance on the property.
16 4. I am aware of material defects in
17 the basement or foundation
18 (including cracks and bulges).
19 5. I am aware of leaks or material
20 defects in the roof, ceilings, or
21 chimney.
22 6. I am aware of material defects in
23 the walls, windows, doors, or floors.
24 7. I am aware of material defects in
25 the electrical system.
26 8. I am aware of material defects in

1 the plumbing system (includes
2 such things as water heater, sump
3 pump, water treatment system,
4 sprinkler system, and swimming
5 pool).

6 9. I am aware of material defects in
7 the well or well equipment.

8 10. I am aware of unsafe conditions in
9 the drinking water.

10 11. I am aware of material defects in
11 the heating, air conditioning, or
12 ventilating systems.

13 12. I am aware of material defects in
14 the fireplace or woodburning
15 stove.

16 13. I am aware of material defects in
17 the septic, sanitary sewer, or
18 other disposal system.

19 14. I am aware of unsafe concentrations
20 of radon on the premises.

21 15. I am aware of unsafe concentrations
22 of or unsafe conditions relating
23 to asbestos on the premises.

24 16. I am aware of unsafe concentrations
25 of or unsafe conditions relating
26 to lead paint, lead water pipes,

1 lead plumbing pipes or lead in
2 the soil on the premises.

3 17. I am aware of mine subsidence,
4 underground pits, settlement,
5 sliding, upheaval, or other earth
6 stability defects on the
7 premises.

8 18. I am aware of current infestations
9 of termites or other wood boring
10 insects.

11 19. I am aware of a structural defect
12 caused by previous infestations
13 of termites or other wood boring
14 insects.

15 20. I am aware of underground fuel
16 storage tanks on the property.

17 21. I am aware of boundary or lot line
18 disputes.

19 22. I have received notice of violation
20 of local, state or federal laws
21 or regulations relating to this
22 property, which violation has not
23 been corrected.

24 23. I am aware that this property has
25 been used for the manufacture
26 of methamphetamine as

1 defined in Section 10 of
 2 the Methamphetamine Control
 3 and Community Protection Act.

4 24. I am aware of the presence of
 5 toxic mold.

6 Note: These disclosures are not intended to cover the
 7 common elements of a condominium, but only the actual
 8 residential real property including limited common elements
 9 allocated to the exclusive use thereof that form an integral
 10 part of the condominium unit.

11 Note: These disclosures are intended to reflect the current
 12 condition of the premises and do not include previous problems,
 13 if any, that the seller reasonably believes have been
 14 corrected.

15 If any of the above are marked "not applicable" or "yes",
 16 please explain here or use additional pages, if necessary:

17
 18
 19

20 Check here if additional pages used:

21 Seller certifies that seller has prepared this statement
 22 and certifies that the information provided is based on the
 23 actual notice or actual knowledge of the seller without any
 24 specific investigation or inquiry on the part of the seller.
 25 The seller hereby authorizes any person representing any
 26 principal in this transaction to provide a copy of this report,

1 and to disclose any information in the report, to any person in
2 connection with any actual or anticipated sale of the property.

3 Seller: Date:

4 Seller: Date:

5 THE PROSPECTIVE BUYER IS AWARE THAT THE PARTIES MAY CHOOSE
6 TO NEGOTIATE AN AGREEMENT FOR THE SALE OF THE PROPERTY SUBJECT
7 TO ANY OR ALL MATERIAL DEFECTS DISCLOSED IN THIS REPORT ("AS
8 IS"). THIS DISCLOSURE IS NOT A SUBSTITUTE FOR ANY INSPECTIONS
9 OR WARRANTIES THAT THE PROSPECTIVE BUYER OR SELLER MAY WISH TO
10 OBTAIN OR NEGOTIATE. THE FACT THAT THE SELLER IS NOT AWARE OF A
11 PARTICULAR CONDITION OR PROBLEM IS NO GUARANTEE THAT IT DOES
12 NOT EXIST. THE PROSPECTIVE BUYER IS AWARE THAT HE MAY REQUEST
13 AN INSPECTION OF THE PREMISES PERFORMED BY A QUALIFIED
14 PROFESSIONAL.

15 Prospective Buyer: Date: Time:

16 Prospective Buyer: Date: Time:

17 (Source: P.A. 98-754, eff. 1-1-15.)

18 Section 25. The Landlord and Tenant Act is amended by
19 adding Section 17 as follows:

20 (765 ILCS 705/17 new)

21 Sec. 17. Toxic mold.

22 (a) If a landlord of residential real estate knows or has
23 reason to believe that toxic mold is present, the landlord
24 shall provide written disclosure to prospective and current

1 residents of the units affected by the toxic mold.

2 (b) If toxic mold is discovered, a lessee of residential
3 real estate may terminate a lease without penalty, or,
4 alternatively, withhold payment of rent until the mold is
5 remediated by a registered mold remediation service. The lessor
6 shall pay for the mold remediation.

1 INDEX

2 Statutes amended in order of appearance

3 30 ILCS 105/5.878 new

4 410 ILCS 105/20

5 735 ILCS 5/9-102 from Ch. 110, par. 9-102

6 765 ILCS 77/5

7 765 ILCS 77/35

8 765 ILCS 705/17 new