



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2471

Introduced 2/19/2021, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.935 new
765 ILCS 605/34 new

Amends the Condominium Property Act. Provides that no seller of a unit subject to a declaration and association, property manager, board of managers, or any other association created by the governing recorded declaration and bylaws for the unit, shall fail to disclose to any prospective buyer the existence of measured toxic mold in any indoor residential living space. Provides that any provision between a unit owner and a property manager or a unit owner and a condominium association that seeks to prohibit, limit, or otherwise restrict disclosure of measured toxic mold in a unit by a seller to a buyer is against public policy and is void and unenforceable. Provides that if there exists measured toxic mold and a resident suffers from symptoms associated with measured toxic mold, and adequate notice has been provided by the unit owner to the board of managers, the unit owner may file an action in court against the board of managers for specific performance to have the mold removed and preventive measures taken to ensure that the mold will not return. Provides that the Attorney General, or a local county public health department, shall have authority to investigate complaints of unremediated measured toxic mold. Provides that if, after one year following notice of noncompliance, the affected area has not been subjected to reasonable remedial efforts, penalties may be assessed in an amount up to \$5,000 per month, but shall not exceed 50% of the value of the unit subject to the complaint. Provides that the penalties shall be used for mold remediation and to repair and remediate housing stock. Makes a corresponding change in the State Finance Act.

LRB102 14066 LNS 19418 b

FISCAL 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 5.935 as follows:

6 (30 ILCS 105/5.935 new)

7 Sec. 5.935. The Condominium Mold Remediation Fund.

8 Section 10. The Condominium Property Act is amended by
9 adding Section 34 as follows:

10 (765 ILCS 605/34 new)

11 Sec. 34. Mold disclosures and remediation.

12 (a) As used in this Section:

13 "Adjacent unit" means any unit that shares a common
14 wall with another unit, has a floor immediately above the
15 ceiling of the unit, has a ceiling immediately below the
16 floor of the unit, is across a common hallway from a unit,
17 or is tied to the same ventilation system as the unit.

18 "Association" and "board of managers" include any
19 association of owners of units in a condominium or common
20 interest community acting pursuant to the declaration,
21 whether through a master association or a subset thereof.

1 "Declaration" means any duly recorded instruments,
2 however designated, that have subjected the property to
3 this Act or the Common Interest Community Association Act.

4 "Measured toxic mold" includes culture-based
5 measurement levels, if measurements are compared against
6 at least an outdoor air quality standard, or quantitative
7 PCR levels obtained in accordance with the standards of
8 the Environmental Relative Moldiness Index.

9 "Residential real property" means real property
10 improved with not less than one nor more than 4
11 residential dwelling units, units in residential
12 cooperatives, or condominium units, including the limited
13 common elements allocated to the exclusive use thereof
14 that form an integral part of a condominium unit or common
15 interest property.

16 "Seller" means every person or entity who is an owner,
17 beneficiary of a trust, contract purchaser or lessee of a
18 ground lease, who has an interest, legal or equitable, in
19 residential real property.

20 "Tendency to produce severe adverse health effects"
21 includes symptoms of asthma, respiratory distress, acute
22 idiopathic pulmonary hemorrhage in infants, or symptoms
23 documented as having a causal link to symptoms in
24 peer-reviewed medical literature.

25 "Unit" means a physical portion of the property that
26 is subject to the declaration that has been designated by

1 separate ownership or occupancy by boundaries that are
2 described in the declaration.

3 "Toxic mold" includes stachybotrys chartarum,
4 penicillum, aspergillus flavus, and aspergillus
5 parasiticus, or any other mold that can be seen or
6 smelled, and that further excretes a sufficient amount of
7 mycotoxin that has a tendency to produce severe adverse
8 health effects, which may include aflatoxin, macrocyclic
9 trochothecenes, trichodermin, sterigmatocystin, and
10 satratoxin G.

11 (b) After the effective date of this amendatory Act of the
12 102nd General Assembly, no seller of a unit subject to a
13 declaration and association, property manager, board of
14 managers, or any other association created by the governing
15 recorded declaration and bylaws for the unit, shall fail to
16 disclose to any prospective buyer, or his or her agent, the
17 existence of measured toxic mold in any indoor residential
18 living space that includes:

19 (1) the unit proposed to be purchased by the buyer;

20 (2) any adjacent unit;

21 (3) in common elements, whether general or limited
22 common elements; or

23 (4) remediation efforts, if any, taken in response to
24 the presence of measured toxic mold.

25 (c) Any provision between a unit owner and a property
26 manager or a unit owner and a condominium association that

1 seeks to prohibit, limit, or otherwise restrict disclosure of
2 measured toxic mold in a unit by a seller to a buyer, including
3 any confidentiality agreements, is against the public policy
4 of this State and is void and unenforceable. A buyer may waive
5 disclosure requirements under this Act if the waiver is in
6 writing or if property is being purchased by the buyer "as is".

7 (d) If there exists measured toxic mold and a resident
8 suffers from symptoms associated with measured toxic mold, and
9 adequate notice has been provided by the unit owner to the
10 board of managers under this Act, the unit owner may file an
11 action in court against the board of managers for specific
12 performance to have the mold removed and preventive measures
13 taken to ensure that the mold will not return, particularly if
14 the source of mold is tied to a common element, structural
15 element within the property, or source of water moisture or
16 dampness within the authority of the board of managers to
17 repair. It is presumed that appropriate remediation requires
18 removal and replacement of all affected areas, particularly if
19 prior cleaning efforts led to the return of toxic mold growth.
20 A board of managers may assess the costs of the remediation
21 through a special assessment on the owners.

22 (e) The Attorney General, or a local county public health
23 department, shall have authority to investigate complaints of
24 unremediated measured toxic mold. If, after one year following
25 notice of noncompliance, the affected area has not been
26 subjected to reasonable remedial efforts, penalties may be

1 assessed in an amount up to \$5,000 per month, but shall not
2 exceed 50% of the value of the unit subject to the complaint.
3 All penalties collected under this subsection shall be
4 deposited into the Condominium Mold Remediation Fund, a
5 special fund in the State treasury that is hereby created. All
6 money in the Condominium Mold Remediation Fund shall be paid
7 as grants for mold remediation and to repair and remediate
8 housing stock. Grant priority shall be given to residents
9 whose annual or household income is 75% or less of the Area
10 Median Income.

11 (f) The Attorney General may adopt rules to implement this
12 amendatory Act of the 102nd General Assembly.