



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4593

Introduced 02/04/04, by Robert Rita

SYNOPSIS AS INTRODUCED:

New Act

Creates the Toxic and Pathogenic Mold Protection Act. Requires the Department of Public Health to consider adopting permissible exposure limits for molds. Requires the Department to adopt standards for reducing the occurrence of mold contamination in indoor environments. Requires the Department to adopt mold identification guidelines. Requires the Department to develop mold abatement standards. Requires a seller of residential, commercial, or industrial real property to disclose to prospective buyers the existence of mold in the indoor environment. Authorizes enforcement of the Department's standards and guidelines by local health authorities and others. Provides for implementation of the Act only to the extent that the Department determines that funds are available for its implementation. Effective immediately.

LRB093 14773 DRJ 41519 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to public health.

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

4 Section 1. Short title. This Act may be cited as the Toxic
5 and Pathogenic Mold Protection Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires:

8 "Authoritative body" means any recognized national or
9 international entity with expertise on mold identification and
10 remediation or on environmental or public health, including,
11 but not limited to, health departments of other states, the
12 United States Environmental Protection Agency, the World
13 Health Organization, the American Conference of Governmental
14 Industrial Hygienists, the New York City Department of Health,
15 the Centers for Disease Control and Prevention, and the
16 American Industrial Hygiene Association.

17 "Certified industrial hygienist" means an individual who
18 has been granted a certificate as a certified industrial
19 hygienist by the American Board of Industrial Hygiene as
20 defined by the Industrial Hygienists Licensure Act.

21 "Code enforcement officer" means a city, village,
22 municipal or county employee who is authorized to issue
23 citations for code violations and to conduct inspections of
24 public or private real property to determine whether code
25 violations exist.

26 "Department" means the Illinois Department of Public
27 Health.

28 "Indoor environment" means the environmental conditions in
29 a dwelling unit or residential, municipal, commercial, or
30 industrial building.

31 "Licensed environmental health practitioner" means a
32 person who (i) by virtue of education and experience in the

1 physical, chemical, biological, or environmental health
2 sciences, or any combination of those sciences, is especially
3 trained to organize, implement, and manage environmental
4 health programs and to carry out education and enforcement
5 activities for the promotion and protection of the public
6 health and environment and (ii) is licensed as an environmental
7 health practitioner under the Environmental Health
8 Practitioner Licensing Act.

9 "Local health authority" means an official health
10 department or board of health, as recognized by the Illinois
11 Department of Public Health.

12 "Mold" means any form of multicellular fungus. Types of
13 mold include, but are not limited to, Cladosporium,
14 Penicillium, Alternaria, Aspergillus, Fuarim, Trichoderma,
15 Memnoniella, Mucor, and Stachybotrys chartarum.

16 "Mold abatement" means the removal or cleaning of mold
17 contaminated materials in a way that prevents the emission of
18 fungi and dust contaminated with fungi from leaving an area and
19 entering another, while protecting the health of workers
20 performing the removal or cleaning. Mold abatement methods can
21 differ dependant upon the level of contamination and the
22 affected material or indoor environment.

23 "Permissible exposure limits for molds" means a standard or
24 series of standards on the amount or concentration of mold or a
25 particular mold species in an indoor environment.

26 "Person" means an individual or a corporation, company,
27 association, partnership, limited liability company,
28 municipality, public utility, or other legal entity or
29 institution.

30 Section 8. Department as lead agency. The Department is
31 designated as the lead agency in the adoption of permissible
32 exposure limits to mold in indoor environments, mold
33 identification and remediation efforts, and the development of
34 guidelines for the determination of what constitutes mold
35 contamination.

1 Section 10. Illinois Administrative Procedure Act. All
2 standards that the Department develops pursuant to this Act
3 must be developed in accordance with the Illinois
4 Administrative Procedure Act.

5 Section 15. Permissible exposure limits for molds.

6 (a) The Department shall consider the feasibility of
7 adopting permissible exposure limits for molds. If the
8 Department finds that adopting permissible exposure limits for
9 molds is feasible, the Department shall do the following:

10 (1) Adopt permissible exposure limits for molds that
11 avoid adverse effects on the health of the general
12 population, with an adequate margin of safety, and avoid
13 any significant risk to public health.

14 (2) Notwithstanding paragraph (1), balance the
15 protection of public health with technological and
16 economic feasibility when it adopts permissible exposure
17 limits for molds.

18 (3) Utilize and include the latest scientific data or
19 existing standards adopted by authoritative bodies.

20 (b) The Department shall consider all of the following
21 criteria when it adopts permissible exposure limits for molds:

22 (1) The adverse health effects of exposure to mold on
23 the general population, including specific effects on
24 members of subgroups that comprise a meaningful portion of
25 the general population, which may include infants,
26 children age 6 years and under, pregnant women, the
27 elderly, asthmatics, allergic individuals,
28 immune-compromised individuals, or other subgroups that
29 are identifiable as being at greater risk of adverse health
30 effects than the general population when exposed to mold.

31 (2) The permissible exposure limits for molds, if any,
32 adopted by authoritative bodies.

33 (3) The technological and economic feasibility of
34 compliance with the proposed permissible exposure limit

1 for molds. For the purposes of determining economic
2 feasibility pursuant to this paragraph (3), the Department
3 shall consider the costs of compliance to affected persons.

4 (4) Toxicological studies and any scientific evidence
5 related to mold.

6 (c) The Department may develop alternative permissible
7 exposure limits for molds applicable for specific indoor
8 environments, including, but not limited to, hospitals, child
9 care facilities, and nursing homes, the primary purpose of
10 which is to serve members of subgroups that comprise a
11 meaningful portion of the general population and are at greater
12 risk of adverse health effects from molds than the general
13 population. These subgroups may include infants, children age 6
14 years and under, pregnant women, the elderly, asthmatics,
15 allergic individuals, or immune-compromised individuals.

16 (d) The Department may review, and consider adopting by
17 reference, any information or permissible exposure limits for
18 molds prepared or adopted by or on behalf of the United States
19 Environmental Protection Agency or other authoritative bodies.

20 (e) The Department shall report to the General Assembly on
21 its progress in developing the permissible exposure limits for
22 molds by January 1, 2005.

23 Section 20. Notification of permissible exposure limits
24 for molds.

25 (a) At the time it commences preparation of the permissible
26 exposure limits for molds, the Department shall provide notice
27 electronically by posting on its internet web site a notice
28 that informs interested persons that the Department has
29 initiated work on the permissible exposure limits for molds.

30 (b) The notice shall include a brief description or
31 bibliography of the technical documents or other information
32 that the Department has identified, as of the date of the
33 notice, as relevant to the preparation of the permissible
34 exposure limits for molds.

35 (c) The notice shall inform persons who wish to submit

1 information concerning exposure to molds of (i) the name and
2 address of the person in the Department to whom the information
3 may be sent and (ii) the date by which the information must be
4 received in order for the Department to consider it in the
5 preparation of the permissible exposure limits for molds. The
6 notice must also state that all information submitted will be
7 made available to any member of the public who makes a request
8 for that information.

9 Section 25. Review of permissible exposure limits for
10 molds.

11 (a) At any time after adoption of the permissible exposure
12 limits for molds, the Department may amend those limits if the
13 Department shows by clear and convincing evidence that the
14 permissible exposure limits for molds should be amended and the
15 amendment is made consistent with Sections 15 and 20 of this
16 Act.

17 (b) At least once every 5 years, after adoption of
18 permissible exposure limits to molds, the Department shall
19 review the adopted limits and shall, consistent with the
20 criteria set forth in Sections 15 and 20 of this Act, amend the
21 permissible exposure limits if any of the following occur:

22 (1) Changes in technology or treatment techniques that
23 permit a materially greater protection of public health.

24 (2) Changes in technology or treatment techniques that
25 materially decrease the cost to maintain particular
26 exposure limits for molds.

27 (3) New scientific evidence that indicates that molds
28 may present a materially different risk to public health
29 than was previously determined.

30 Section 30. Standards for reduction and inhibition of mold
31 growth.

32 (a) The Department shall adopt feasible standards,
33 pursuant to subsection (c), as necessary for the reduction of
34 the occurrence of mold contamination in indoor environments.

1 The standards may include, but are not limited to, the
2 following:

3 (1) Standards related to the use of dry, non-damaged
4 building materials to reduce the incidence of mold growth.

5 (2) Standards related to the installation,
6 maintenance, and repair of plumbing systems in dwelling
7 units and residential, municipal, commercial, and
8 industrial buildings to reduce the incidence of water or
9 moisture intrusion and mold growth.

10 (3) Standards related to the ventilation of building
11 spaces to reduce the moisture within dwelling units and
12 residential, municipal, commercial, and industrial
13 buildings and inhibit mold growth.

14 (4) Standards related to temperature control in
15 dwelling units and residential, municipal, commercial, and
16 industrial buildings to reduce the incidence of water or
17 moisture intrusion and inhibit mold growth.

18 (5) Standards related to the installation,
19 maintenance, and repair of heating, ventilation, and air
20 conditioning systems in dwelling units and residential,
21 municipal, commercial, and industrial buildings to reduce
22 the incidence of water or moisture intrusion and mold
23 growth. The standards must include a requirement for the
24 sealing of heating, ventilation, and air conditioning
25 ductwork in new construction, in additions to existing
26 construction, and in the addition or replacement of
27 heating, ventilation, or air conditioning equipment or
28 systems.

29 (b) The standards adopted under this Section may be imposed
30 on or apply to any person, industry, or group in the business
31 of or having control of or responsibility for any of the
32 following:

33 (1) Building and construction of residential,
34 commercial, or industrial buildings.

35 (2) Maintenance of residential, commercial, or
36 industrial buildings.

1 (3) Installation, maintenance, and repair of heating,
2 ventilation, and air conditioning systems in residential,
3 commercial, or industrial buildings.

4 (4) Installation, maintenance, and repair of plumbing
5 systems in residential, commercial, or industrial
6 buildings.

7 (5) Energy production or distribution.

8 (6) Leasing of residential, commercial, and industrial
9 real property.

10 (7) Insuring residential, commercial, or industrial
11 buildings.

12 (c) The Department shall consider all of the following
13 criteria when it adopts standards for reduction and inhibition
14 of mold growth:

15 (1) The adverse health effects of exposure to mold on
16 the general population, including specific effects on
17 members of subgroups that comprise a meaningful portion of
18 the general population, which may include infants,
19 children age 6 years and under, pregnant women, the
20 elderly, asthmatics, allergic individuals,
21 immune-compromised individuals, or other subgroups that
22 are identifiable as being at greater risk of adverse health
23 effects than the general population when exposed to mold.

24 (2) The standards for reduction and inhibition of mold
25 growth, if any, adopted by authoritative bodies.

26 (3) The technological and economic feasibility of
27 compliance with the proposed standards permissible for
28 reduction and inhibition of mold growth. For the purposes
29 of determining economic feasibility pursuant to this
30 subsection (3), the Department shall consider the costs of
31 compliance to affected persons.

32 (4) Toxicological studies and any scientific evidence
33 related to mold.

34 (d) The Department may develop alternative standards for
35 reduction and inhibition of mold growth applicable to specific
36 indoor environments, including, but not limited to, hospitals,

1 child care facilities, and nursing homes, the primary purpose
2 of which is to serve members of subgroups that comprise a
3 meaningful portion of the general population and are at greater
4 risk of adverse health effects from molds than the general
5 population. These subgroups may include infants, children age 6
6 years and under, pregnant women, the elderly, asthmatics,
7 allergic individuals, or immune-compromised individuals.

8 (e) The Department may review, and consider adopting by
9 reference, any information or standards for reduction and
10 inhibition of mold growth prepared or adopted by or on behalf
11 of the United States Environmental Protection Agency or other
12 authoritative bodies.

13 (f) The Department shall report to the General Assembly on
14 its progress in developing standards for reduction and
15 inhibition of mold growth by January 1, 2005.

16 Section 35. Notification of standards for reduction and
17 inhibition of mold growth.

18 (a) At the time it commences preparation of the standards
19 for reduction and inhibition of mold growth, the Department
20 shall provide notice electronically by posting on its internet
21 web site a notice that informs interested persons that the
22 Department has initiated work on the standards for reduction
23 and inhibition of mold growth.

24 (b) The notice shall include a brief description or
25 bibliography of the technical documents or other information
26 that the Department has identified, as of the date of the
27 notice, as relevant to the preparation of the standards for
28 reduction and inhibition of mold growth.

29 (c) The notice shall inform persons who wish to submit
30 information concerning exposure to molds of (i) the name and
31 address of the person in the Department to whom the information
32 may be sent and (ii) the date by which the information must be
33 received in order for the Department to consider it in the
34 preparation of the standards for reduction and inhibition of
35 mold growth. The notice must also state that all information

1 submitted will be made available to any member of the public
2 who makes a request for that information.

3 Section 40. Review of standards for reduction and
4 inhibition of mold growth.

5 (a) At any time after adoption of the standards for
6 reduction and inhibition of mold growth, the Department may
7 amend those standards if the Department shows by clear and
8 convincing evidence that the standards for reduction and
9 inhibition of mold growth should be amended and the amendment
10 is made consistent with Sections 30 and 35 of this Act.

11 (b) At least once every 5 years, after adoption of
12 standards for reduction and inhibition of mold growth, the
13 Department shall review the adopted limits and shall,
14 consistent with the criteria set forth in Sections 30 and 35 of
15 this Act, amend the standards for reduction and inhibition of
16 mold growth if any of the following occur:

17 (1) Changes in technology or treatment techniques that
18 permit a materially greater protection of public health.

19 (2) Changes in technology or treatment techniques that
20 materially decrease the cost to maintain particular
21 standards for reduction and inhibition of mold growth.

22 (3) New scientific evidence that indicates that molds
23 may present a materially different risk to public health
24 than was previously determined.

25 Section 45. Mold identification guidelines.

26 (a) The Department shall adopt mold identification
27 guidelines for the recognition and identification of molds and
28 microbial volatile organic compounds, or the accumulation of
29 moisture or water in indoor environments, or both. The mold
30 identification guidelines shall include scientifically valid
31 methods to identify the presence of mold, including collection
32 of air, surface, and bulk samples, visual identification,
33 olfactory identification, laboratory analysis, measurements of
34 amounts of moisture, and other recognized analytical methods

1 used for the identification of molds and microbial volatile
2 organic compounds, or the accumulation of moisture or water in
3 indoor environments, or both.

4 (b) Identification guidelines developed by the Department
5 shall do all of the following:

6 (1) Avoid adverse effects on the health of the general
7 population, with an adequate margin of safety, and avoid
8 any significant risk to public health.

9 (2) Notwithstanding paragraph (1), balance the
10 protection of public health with technological and
11 economic feasibility.

12 (3) Utilize and include the latest scientific data or
13 existing standards for the identification of molds adopted
14 by authoritative bodies.

15 (c) The Department shall consider all of the following
16 criteria when it develops identification guidelines for mold:

17 (1) Permissible exposure limits for molds adopted by
18 the Department pursuant to subsections (a) and (b) of
19 Section 15.

20 (2) Standards for mold identification, if any, adopted
21 by authoritative bodies.

22 (3) Professional judgment and practicality.

23 (4) Toxicological reports or additional scientific
24 evidence.

25 (d) The Department shall develop a reporting form for
26 building inspections that may be used to document recognition
27 and identification of molds and microbial volatile organic
28 compounds, or the accumulation of moisture or water in indoor
29 environments, or both.

30 (e) The Department shall report to the General Assembly on
31 its progress in developing identification guidelines for mold
32 by January 1, 2005.

33 (f) The Department may review, and consider adopting by
34 reference, any information prepared by or on behalf of the
35 United States Environmental Protection Agency or other
36 authoritative bodies for the purpose of adopting national

1 identification guidelines for molds.

2 Section 50. Notification of mold identification
3 guidelines. At the time it commences preparation of
4 identification guidelines for mold, the Department shall
5 electronically post on its internet web site a notice that
6 informs interested persons that it has initiated work on the
7 identification guidelines. The notice shall include a brief
8 description or bibliography of the technical documents or other
9 information that the Department has identified, as of date of
10 the notice, as relevant to the preparation of the
11 identification guidelines for mold. The notice shall inform
12 persons who wish to submit mold identification information of
13 (i) the name and address of the person in the office to whom
14 the information may be sent and (ii) the date by which the
15 information must be received for the Department to consider it
16 in the preparation of the identification guidelines. The notice
17 must also state that all information submitted will be made
18 available to any member of the public who makes a request for
19 that information.

20 Section 55. Review of mold identification guidelines. All
21 mold identification guidelines published by the Department
22 shall be reviewed at least once every 5 years and revised, as
23 necessary, based on the availability of new scientific data or
24 information on effective mold identification.

25 Section 60. Mold abatement standards.

26 (a) The Department shall develop and disseminate standards
27 for mold abatement.

28 (b) Standards for mold abatement developed by the
29 Department shall do all of the following:

30 (1) Provide practical requirements for mold abatement,
31 taking into consideration the differing methods of mold
32 abatement.

33 (2) Include requirements for quality-assurance

1 testing.

2 (3) Protect the public's health.

3 (4) Notwithstanding paragraph (3), balance the
4 protection of public health with technological and
5 economic feasibility.

6 (5) Utilize and include toxicological reports, the
7 latest scientific data, or existing standards for mold
8 abatement adopted by authoritative bodies.

9 (6) Include requirements for personal protective
10 equipment.

11 (7) Not require a landlord or owner, seller, or
12 transferor of real property to be specially trained or
13 certified or to utilize the services of a specially
14 qualified professional to conduct mold abatement, so long
15 as the abatement is within the standards.

16 (c) The Department shall consider all of the following
17 criteria when it develops mold abatement standards:

18 (1) Permissible exposure limits for molds developed by
19 the Department pursuant to subsections (a) and (b) of
20 Section 15.

21 (2) Guidelines for mold abatement, if any, adopted by
22 authoritative bodies.

23 (d) The Department may review, and consider adopting by
24 reference, any information or mold abatement standards
25 prepared by or on behalf of the United States Environmental
26 Protection Agency or other authoritative bodies.

27 (e) The Department shall report to the General Assembly on
28 its progress in developing standards for mold abatement by
29 January 1, 2005.

30 Section 65. Notification of mold abatement standards. At
31 the time it commences preparation of standards for mold
32 abatement, the Department shall electronically post on its
33 internet web site a notice that informs interested persons that
34 it has initiated work on the standards for mold abatement. The
35 notice shall include a brief description or bibliography of the

1 technical documents or other information that the Department
2 has identified, as of the date of the notice, as relevant to
3 the preparation of standards for mold abatement. The notice
4 shall inform persons who wish to submit information concerning
5 mold abatement of (i) the name and the address of the person in
6 the Department to whom the information may be sent and (ii) the
7 date by which the information must be received in order for the
8 Department to consider it in the preparation of remediation
9 standards. The notice must also state that all information
10 submitted will be made available to any member of the public
11 who makes a request for that information.

12 Section 70. Review of mold abatement standards.

13 (a) At any time after adoption of the standards for mold
14 abatement, the Department may amend those standards if the
15 Department shows by clear and convincing evidence that the
16 standards for mold abatement should be amended and the
17 amendment is made consistent with Sections 60 and 65 of this
18 Act.

19 (b) At least once every 5 years, after adoption of the
20 standards for mold abatement, the Department shall review the
21 adopted standards and shall, consistent with the criteria set
22 forth in Sections 60 and 65 of this Act, amend the standards
23 for mold abatement if any of the following occur:

24 (1) Changes in technology or treatment techniques that
25 permit a materially greater protection of public health.

26 (2) Changes in technology or treatment techniques that
27 materially decrease the cost to maintain particular
28 standards for mold abatement.

29 (3) New scientific evidence that indicates that molds
30 may present a materially different risk to public health
31 than was previously determined.

32 Section 75. Information concerning mold and mold
33 abatement.

34 (a) The Department shall make available to the public, upon

1 request, information about permissible exposure limits for
2 molds, reduction and inhibition of mold growth, or mold
3 abatement, or any combination of those, including all of the
4 following:

5 (1) Recommended steps to take when contracting with a
6 company to identify mold or conduct mold abatement.

7 (2) Recommended steps to take to reduce or inhibit mold
8 growth in residential, commercial, and industrial
9 buildings.

10 (3) Existing laws, rules, standards, and guidelines
11 pertaining to permissible exposure limits for molds,
12 reduction and inhibition of mold, mold abatement, or
13 disclosure.

14 (4) Basic health information as contained in existing
15 mold publications.

16 (b) The Department shall develop (i) public education
17 materials and resources to inform the public about the health
18 effects of molds, permissible exposure limits for molds,
19 reduction and inhibition of mold growth, or mold abatement,
20 (ii) resources to obtain information about molds, and (iii)
21 contact information for individuals, organizations, or
22 government entities to assist with public concerns about molds.
23 The Department shall make its public education materials
24 available to environmental groups, licensed environmental
25 health practitioners, commercial and residential landlord
26 organizations, homeowners' organizations, and tenants'
27 organizations and to the general public. The materials shall be
28 produced in Spanish as well as in English to accommodate the
29 growing Latino population in Illinois. The materials shall be
30 made available on the Department's internet web site.

31 Section 80. Disclosures in connection with sale or transfer
32 of real property.

33 (a) Subject to subsections (b), (c), and (d) of this
34 Section, a seller or transferor of residential, commercial, or
35 industrial real property shall provide written disclosure to a

1 prospective buyer of the property as soon as reasonably
2 practicable before the transfer of title when the seller or
3 transferor knows or reasonably should know of the existence of
4 mold in the indoor environment that either exceeds permissible
5 exposure limits for molds developed by the Department pursuant
6 to Section 15 or poses any significant risk to health.

7 (b) A seller or transferor of residential, commercial, or
8 industrial real property is exempt from providing written
9 disclosure pursuant to this Section if mold abatement was
10 performed, after the discovery of mold as described in
11 subsection (a), in accordance with the standards developed by
12 the Department pursuant to Section 60 of this Act.

13 (c) The requirements of this Section do not apply until the
14 first January 1 or July 1 that occurs at least 6 months after
15 the Department adopts standards pursuant to Section 15, 30, or
16 60 or develops guidelines pursuant to Section 45 of this Act.

17 Section 85. Disclosures to commercial and industrial
18 tenants.

19 (a) Subject to subsections (c) and (d), a lessor of
20 commercial or industrial real property shall provide written
21 disclosure to tenants occupying that property, as soon as
22 reasonably practicable, when the lessor knows or reasonably
23 should know of the existence of mold in the indoor environment
24 of the leased building or space that either exceeds permissible
25 exposure limits for molds developed by the Department pursuant
26 to Section 15 of this Act or poses any significant risk to
27 health.

28 (b) Subject to subsections (c) and (d), a lessor of
29 commercial or industrial real property shall provide written
30 disclosure to prospective tenants of the property, as soon as
31 reasonably practicable, prior to entering into a lease of the
32 property to those tenants, when the lessor knows or reasonably
33 should know of the existence of mold in the indoor environment
34 of the building or space to be leased that either exceeds
35 permissible exposure limits for molds developed by the

1 Department pursuant to Section 15 of this Act or poses any
2 significant risk to health.

3 (c) A lessor of commercial or industrial real property is
4 exempt from providing written disclosure pursuant to this
5 Section if mold abatement was performed, after the discovery of
6 mold as described in subsection (a) or (b), in accordance with
7 the standards developed by the Department pursuant to Section
8 60 of this Act.

9 (d) The requirements of this Section do not apply until the
10 first January 1 or July 1 that occurs at least 6 months after
11 the Department adopts standards pursuant to Section 15, 30, or
12 60 or develops guidelines pursuant to Section 45.

13 (e) A commercial or industrial landlord shall not be
14 required to conduct mold identification testing to determine
15 whether the presence of molds exceeds any permissible exposure
16 limits for molds or poses a significant health risk unless
17 there is reasonable cause for such testing, including, but not
18 limited to, any of the following:

19 (1) Discovery of visible mold in the leased building or
20 in or around the leased space.

21 (2) Unremediated or chronic moisture or water intrusion
22 into the leased building or in or around the leased space.

23 (3) Adverse health effects of individuals occupying
24 the leased building or space, determined by a licensed
25 health practitioner to be potentially or possibly related
26 to exposure to toxic mold.

27 Section 90. Notification by commercial or industrial
28 tenant. A tenant of commercial or industrial real property who
29 knows or reasonably should know (i) that the presence of molds
30 exceeds permissible exposure limits for molds adopted under
31 Section 15 or poses a significant health risk or (ii) that
32 there is a condition of chronic water or moisture intrusion or
33 flood in the leased building or space shall inform the landlord
34 of that knowledge within a reasonable period of time. The
35 tenant shall make the property available to the landlord or his

1 or her agents for appropriate assessment or remedial action as
2 soon as is reasonably practicable. Nothing in this Section is
3 intended to affect existing duties and obligations of
4 residential tenants and landlords in any way.

5 Section 95. Duty to conduct mold abatement with respect to
6 commercial or industrial building or building space.

7 (a) A commercial or industrial landlord who knows or has
8 notice that mold is present in the building, heating system,
9 ventilating or air-conditioning system, or appurtenant
10 structures, or that there is a condition of chronic water or
11 moisture intrusion or flood, has an affirmative duty, within a
12 reasonable period of time, to assess the presence of mold or
13 condition likely to result in the presence of mold, in
14 accordance with any guidelines adopted by the Department in
15 Section 45 of this Act and perform any necessary mold abatement
16 in accordance with the standards developed by the Department
17 pursuant to Section 60 of this Act.

18 (b) Any tenant of commercial or industrial real property
19 who knows or is informed that mold is present in the building,
20 heating system, ventilating or air-conditioning system, or
21 appurtenant structures, or that there is a condition of chronic
22 water or intrusion or flood, and is responsible for all
23 maintenance, operation, and upkeep of the leased property shall
24 inform the landlord in writing of that knowledge as soon as is
25 reasonably practicable and shall (i) assess the presence of
26 mold or condition likely to result in the presence of mold, in
27 accordance with any guidelines adopted by the Department
28 pursuant to Section 45 of this Act, and (ii) perform any
29 necessary mold abatement in accordance with the standards
30 developed by the Department pursuant to Section 60 of this Act,
31 as required by the terms of the contract with the landlord.

32 Section 100. Disclosures by public entity.

33 (a) A public entity that owns, leases, or operates a
34 building shall provide written disclosure to all building

1 occupants, employees, and prospective tenants as specified in
2 subsection (b) when the public entity knows, or has reasonable
3 cause to believe, that a condition of chronic water or moisture
4 intrusion or flood exists, or that mold is present that either
5 exceeds the permissible exposure limits for molds developed by
6 the Department pursuant to Section 15 of this Act or poses any
7 significant risk to health.

8 (b) The written disclosures required by subsection (a)
9 shall be provided:

10 (1) To prospective tenants as soon as practicable and
11 prior to entering into rental agreements with those
12 tenants.

13 (2) To building occupants or employees in affected
14 buildings or building spaces as soon as is reasonably
15 practicable.

16 (c) A public entity is exempt from providing written
17 disclosure to prospective tenants pursuant to this Section if
18 mold abatement was performed, after the discovery of mold as
19 described in subsection (a), in accordance with the standards
20 developed by the Department pursuant to Section 60 of this Act.

21 (d) The requirements of this Section do not apply until the
22 first January 1 or July 1 that occurs at least 6 months after
23 the Department adopts standards pursuant to Section 15, 30, or
24 60 or develops guidelines pursuant to Section 45.

25 Section 105. Disclosure by residential landlord.

26 (a) Subject to subsections (c), (d), and (e), a lessor of
27 residential real property shall disclose in writing, to tenants
28 and prospective tenants of the property, the existence of mold
29 in the indoor environment of the leased building or unit that
30 either exceeds permissible exposure limits for molds developed
31 by the Department pursuant to Section 15 of this Act or poses
32 any significant risk to health.

33 (b) A lessor of residential real property shall conduct
34 mold identification testing to determine whether the presence
35 of molds exceeds any permissible exposure limits for molds or

1 poses a significant health risk if there is reasonable cause
2 for such testing, including, but not limited to any of the
3 following:

4 (1) Discovery of visible mold in the leased building or
5 in or around the leased space.

6 (2) Unremediated or chronic moisture or water intrusion
7 into the leased building or in or around the leased unit.

8 (3) Adverse health effects of individuals occupying
9 the leased building or unit, determined by a licensed
10 health practitioner to be potentially or possibly related
11 to exposure to toxic mold.

12 (c) The written disclosure required by subsection (a) shall
13 be provided:

14 (1) To prospective tenants prior to entering into
15 rental or lease agreements with those tenants.

16 (2) To tenants in affected units as soon as is
17 reasonably practicable.

18 (d) A lessor of residential real property is exempt from
19 providing written disclosure pursuant to this Section if mold
20 abatement was performed, after the discovery of mold as
21 described in subsection (a) or (b), in accordance with the
22 standards developed by the Department pursuant to Section 60 of
23 this Act.

24 (e) The requirements of this Section do not apply until the
25 first January 1 or July 1 that occurs at least 6 months after
26 the Department adopts standards pursuant to Section 15, 30, or
27 60 or develops guidelines pursuant to Section 45.

28 Section 110. Residential landlord's duty to disclose
29 health risks.

30 (a) A residential landlord shall disclose in writing, to
31 prospective tenants, the potential health risks and the health
32 impact that may result from exposure to mold. The landlord
33 shall make the disclosure by distributing a consumer-oriented
34 booklet developed and disseminated by the Department.

35 (b) The written disclosure as required by subsection (a)

1 shall be provided to prospective residential tenants prior to
2 entering into an agreement for the rental or lease of the
3 property to those tenants.

4 (c) The requirements of this Section do not apply until the
5 first January 1 or July 1 that occurs at least 6 months after
6 the Department develops and disseminates the consumer-oriented
7 booklet as described in subsection (a).

8 Section 115. Duty to conduct mold abatement of residential
9 building or unit. A lessor of a residential building or unit
10 who knows or has notice that mold is present in the building,
11 heating system, ventilating or air-conditioning system, or
12 appurtenant structures, or that there is a condition of chronic
13 water or moisture intrusion or flood, has an affirmative duty,
14 within a reasonable period of time, to assess the presence of
15 mold or condition likely to result in the presence of mold, in
16 accordance with any guidelines adopted by the Department in
17 Section 45 of this Act and perform any necessary mold abatement
18 in accordance with the standards developed by the Department
19 pursuant to Section 60 of this Act.

20 Section 120. Responsibilities imposed by other laws.

21 (a) Nothing in this Act relieves an owner, manager, seller,
22 transferor, lessor, agent, landlord, or tenant from any
23 responsibility for compliance with other obligations, laws,
24 ordinances, codes, rules, or regulations or with any duties
25 provided for under the common law.

26 (b) Nothing in this Act alters or modifies any right,
27 remedy, or defense otherwise available under law.

28 (c) Nothing in this Act affects the obligation under any
29 other law of a transferor or other party to a real estate
30 contract, or his or her agent, to disclose any facts materially
31 affecting the value and desirability of the property,
32 including, but not limited to, the physical condition of the
33 property and previously received reports of physical
34 inspections noted on the disclosure form.

1 (d) Nothing in this Act shall be construed to change the
2 inspection and disclosure duties of a real estate broker or
3 salesperson under other laws.

4 (e) The specification of items for disclosure in this Act
5 does not limit or abridge any obligation for disclosure that is
6 created by any other provision of law or that may exist in
7 order to avoid fraud, misrepresentation, or deceit in a
8 transaction for the transfer of real property.

9 Section 125. Inaccurate information. Neither the
10 transferor nor any listing or selling agent of the transferor
11 shall be held liable for any error, inaccuracy, or omission of
12 any information delivered pursuant to this Act if the error,
13 inaccuracy, or omission (i) was not within the personal
14 knowledge of the transferor or the listing or selling agent or
15 (ii) was based on information timely provided by a public
16 agency or by another person providing relevant information by
17 delivery of a report or opinion prepared by an expert dealing
18 with matters within the relevant scope of the expert's license
19 or expertise, and ordinary care was exercised in obtaining and
20 transmitting it.

21 Section 130. Enforcement. Local health authorities, code
22 enforcement officers, licensed environmental health
23 practitioners, city attorneys, and any other appropriate
24 government entities may respond to complaints about mold, may
25 enforce standards and guidelines adopted by the Department
26 pursuant to this Act, and may enforce the disclosure and
27 notification requirements of Sections 80 through 110 of this
28 Act. The Department shall adopt guidelines for such
29 enforcement. The guidelines shall include development of a form
30 for disclosure and the penalties, if any, that may be imposed
31 for failure to disclose information as required by this Act. A
32 penalty may not be assessed against an owner of residential
33 real property for failure to disclose under Section 105 if the
34 owner provides disclosure to the tenants in a form that

1 substantially conforms to the disclosure form developed by the
2 Department. The authority to enforce disclosure and
3 notification requirements pursuant to this Section does not
4 apply until the first January 1 or July 1 that occurs at least
5 6 months after the Department adopts guidelines for such
6 enforcement.

7 Section 132. Adjudication of ordinance violation. Nothing
8 in this Act, including the definition of "code enforcement
9 officer", shall be construed to allow for administrative
10 adjudication of an ordinance violation in a case where a State
11 statute or administrative rule provides for a specific method
12 or procedure, other than administrative adjudication, to be
13 followed in enforcing an ordinance.

14 Section 135. Adoption of additional standards. After the
15 Department, pursuant to the Illinois Administrative Procedure
16 Act, submits the proposed standards and guidelines developed
17 pursuant to this Act, the Department shall consider and report
18 to the General Assembly on the need for standards for
19 mold-testing professionals and mold-abatement specialists.

20 Section 140. Implementation. This Act shall be implemented
21 only to the extent that the Department determines that funds
22 are available for the Act's implementation.

23 Section 999. Effective date. This Act takes effect upon
24 becoming law.