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## **An Act To Implement the Recommendations of the Working Group Studying Mold in Buildings**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 10 MRSA c. 217-A** is enacted to read:

### **CHAPTER 217-A**

### **MOLD ASSESSMENT AND REMEDIATION SERVICES**

#### **§ 1480. Disclosure statement required**

A person may not provide both mold assessment and remediation services on a building project unless the person has provided to the owner of the building or the owner's agent a signed disclosure statement regarding the potential for conflict of interest in providing both mold assessment and remediation services. For purposes of this section, "person" means an individual, a partnership, a corporation or any other legal entity.

**Sec. 2. 10 MRSA §1487, sub-§13**, as enacted by PL 2005, c. 619, §3 and affected by §6, is amended to read:

**13. Consumer protection information.** As an addendum to the contract, a copy of the Attorney General's consumer protection information on home construction and repair, which includes information on contractors successfully sued by the State, as provided on the Attorney General's publicly accessible website; and

**Sec. 3. 10 MRSA §1487, sub-§14**, as enacted by PL 2005, c. 619, §4 and affected by §6, is amended to read:

**14. Attorney General's publicly accessible website.** A clear and conspicuous notice that states that consumers are strongly advised to visit the Attorney General's publicly accessible website to gather current information on how to enforce their rights when constructing or repairing their homes, as well as the Attorney General's publicly accessible website address and telephone number.; and

**Sec. 4. 10 MRSA §1487, sub-§15** is enacted to read:

**15. Training and certifications.** Any training received and certifications held by the person supervising the building, remodeling or repair.

**Sec. 5. 10 MRSA §9701, sub-§1**, as enacted by PL 2003, c. 580, §1, is amended to read:

**1. Maine Model Building Code.** Except as provided in section 9703, "Maine Model Building Code" includes:

- A. The 2003 version of the International Residential Code; and
- B. The 2003 version of the International Building Code.; and
- C. The following mandatory moisture control provisions:

(1) Mandatory placement of flashing around all doors and windows in accordance with the door and window manufacturer's installation instructions;

(2) Mandatory insulating and waterproofing of basement concrete; and

(3) Mandatory placement of vapor diffusion retarders.

**Sec. 6. 14 MRSA §6021, sub-§8** is enacted to read:

**8. Landlord-tenant mold dispute mediation.** The mold dispute resolution program is established to provide tenants with a prompt, independent and inexpensive forum for mediation of disputes concerning mold or excess moisture in rental properties.

A. The Court Alternative Dispute Resolution Service created in Title 4, section 18-B shall provide mediation services under this subsection. The Court Alternative Dispute Resolution Service shall:

(1) Assign mediators under this subsection who are knowledgeable in residential building construction;

(2) Establish a simple and expedient application process; and

(3) Establish a fee for services in an amount not to exceed \$85 for every 2 hours of mediation services provided. The tenant is responsible for the costs of the first 2 hours of mediation and for the costs of providing notice as required under this subsection.

B. Before a tenant may apply for mediation under this subsection the tenant must:

(1) Make a complaint to the landlord of the dwelling unit regarding mold or excessive moisture in the dwelling unit; and

(2) Submit a claim in writing to the landlord or the person who customarily collects rent on behalf of the landlord, afford the landlord at least 10 business days to respond, and fail to reach a satisfactory agreement of settlement with the landlord within that time period.

C. A tenant may apply for mediation under this subsection by:

(1) Submitting to the Superior Court clerk all necessary fees at the time of application; and

(2) Filing an application for mediation with the Superior Court clerk in the county in which the dwelling unit that is the subject of the conflict is located. The Superior Court clerk shall forward the application to the Court Alternative Dispute Resolution Service under Title 4, section 18-B.

D. The mediator of a dispute under this subsection, whenever possible and appropriate, shall conduct the mediation in the county in which the dwelling unit that is the subject of the conflict is located and shall attempt to facilitate a solution to the dispute that is mutually acceptable to the tenant and landlord.

E. The mediator of a dispute under this subsection is responsible for scheduling all mediation sessions. The mediator shall provide the names and addresses of the tenant and the landlord and a copy of the notice of the mediation schedule to the Superior Court clerk, who shall mail the notices.

F. Participation in the mediation process under this subsection is mandatory for the landlord of the dwelling unit.

G. The admissibility in court of conduct or statements made during mediation, including offers of settlement, is governed by the Maine Rules of Evidence, Rule 408(a) for matters subsequently heard in a state court.

H. A mediated agreement under this subsection must be in writing. The tenant and the landlord must sign the agreement as participants and the mediator must sign as the mediator.

I. Within 90 days after a tenant files an application for mediation under paragraph C, the mediator shall file a report with the Superior Court clerk. The report must contain:

(1) The names of the mediation participants;

(2) The nature of any agreements reached during the course of mediation and what further action is required of any person;

(3) The nature of any issues remaining unresolved and the mediation participants involved in those unresolved issues; and

(4) A copy of any written agreement under paragraph H.

J. The terms of a mediated agreement under this subsection are enforceable in the Superior Court. If the parties fail to reach a mediated settlement, a party may file an appropriate civil action for remedies in accordance with applicable law.

**Sec. 7. 22 MRSA §454, sub-§1**, as enacted by PL 1997, c. 387, §1 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

**1. Reporting; action on complaints.** In a book kept for that purpose, the local health officer shall make and keep a record of all the proceedings, transactions, doings, orders and regulations of that local health officer. The local health officer shall assist in the reporting, prevention and suppression of diseases and conditions dangerous to health, and that local health officer is subject to the supervision and direction of the department.

The local health officer shall report promptly to the Commissioner of Health and Human Services, or the commissioner's designee, facts that relate to communicable diseases occurring within the limits of the health officer's jurisdiction, and shall report to the commissioner, or the commissioner's designee, every case of communicable disease as the rules of the department require. Those diseases that the rules of the department may require to be reported are known, under the terms of this Title, as notifiable diseases.

The local health officer shall receive and evaluate complaints made by any of the inhabitants concerning nuisances posing a potential public health threat and complaints made by tenants concerning issues with mold or excess moisture within the limits of the health officer's jurisdiction. With the consent of the owner, agent or occupant, the local health officer may enter upon or within any place or premises where nuisances or conditions posing a public health threat or where mold or excess moisture issues are known or believed to exist, and personally, or by appointed agents, inspect and examine the same. If entry is refused, the municipal health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection. When the local health officer has reasonable cause to suspect the presence of a communicable disease, the local health officer shall consult with the commissioner, or a designee. The health officer shall then order the suppression and removal of nuisances and conditions posing a public health threat found to exist within the limits of the health officer's jurisdiction. For purposes of this section, "public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

**Sec. 8. 22 MRSA §1695-A** is enacted to read:

**§ 1695-A. Review and recommendation of mold guidelines and standards**

The Maine Center for Disease Control and Prevention shall review and recommend guidelines and standards for:

- 1. Mold assessment.** The assessment of mold contamination in buildings in the State;
- 2. Mold remediation.** The remediation of mold contamination from buildings in the State;
- 3. Education.** The education and certification of mold assessment and remediation professionals; and
- 4. Worker protection.** Protection of workers from mold contamination.

In recommending guidelines and standards pursuant to this section, the Maine Center for Disease Control and Prevention shall give preference to accredited standards of the American National Standards Institute, independent 3rd-party certifications and federal guidelines and shall consider strategies to communicate the availability of the information to professionals and members of the general public.

**Sec. 9. 35-A MRSA §121, sub-§1**, as enacted by PL 2003, c. 645, §6, is amended to read:

**1. Development; rules.** The commission shall adopt by rule a model building energy code, including a ventilation code, that is consistent with any other model building codes adopted by the State and with the building energy standards established in Title 10, section 1415-C, subsection 3 and section 1415-D. The model building energy code must include mandatory moisture control provisions, including mandatory placement of flashing around all doors and windows in accordance with the door and window manufacturer's installation instructions and mandatory insulating and waterproofing of basement concrete. The commission shall ensure that the model code is not inconsistent with any other applicable state code or standard, including, but not limited to, any fire safety code, plumbing code, oil and solid fuel equipment standard, propane and natural gas equipment standard or boiler and pressure vessel standard.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF**

**Consumer Protection Division**

Initiative: Establishes one Attorney General Detective position to support investigation of complaints related to substandard construction and renovation and mold assessment and remediation practices.

<b>GENERAL FUND</b>	<b>2007-08</b>	<b>2008-09</b>
Personal Services	\$78,442	\$82,805
All Other	\$10,480	\$8,480
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GENERAL FUND TOTAL	\$88,922	\$91,285

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Maine Center for Disease Control and Prevention**

Initiative: Establishes one Comprehensive Health Planner I position in the Maine Center for Disease Control and Prevention to address mold issues in the State, including, but not limited to, reviewing and recommending guidelines, standards and certification and providing ongoing education and response to public concerns regarding mold.

<b>GENERAL FUND</b>	<b>2007-08</b>	<b>2008-09</b>
Personal Services	\$45,810	\$64,134
All Other	\$25,000	\$25,000
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GENERAL FUND TOTAL	\$70,810	\$89,134

## SUMMARY

This bill implements recommendations of the working group created pursuant to Resolve 2005, chapter 174 to study mold in buildings. Specifically, the bill:

1. Requires home construction contracts to contain the training received and certifications held by project supervisors;
2. Requires disclosure of the potential for conflict of interest if mold assessment and remediation services are provided by the same person or company;
3. Adds mandatory moisture control provisions to the Maine Model Building Code and the Maine model building energy code;
4. Establishes a mandatory mediation program for mold or excess moisture disputes between tenants and landlords;
5. Authorizes local health officers to evaluate complaints made by tenants concerning issues with mold or excess moisture;
6. Directs the Maine Center for Disease Control and Prevention to review and recommend guidelines and standards regarding assessment and remediation of mold; and
7. Establishes one position in the Department of the Attorney General, Consumer Protection Division to support investigations of complaints related to substandard construction, renovation and mold assessment and remediation practices. It also establishes one position in the Department of Health and Human Services, Maine Center for Disease Control and Prevention to support the reviewing and recommending of guidelines and standards in connection with mold in buildings in the State and to provide education and response to public concerns regarding mold.