

Regular Session, 2003

ACT No. 880

HOUSE BILL NO. 1328

BY REPRESENTATIVES PINAC AND NEVERS

AN ACT

To enact Chapter 24-A of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:2181 through 2192, relative to licensing; to provide for licensing for persons who perform mold remediation services; to provide relative to the State Licensing Board for Contractors; to provide for a purpose and scope; to provide for definitions; to provide for the board's powers and duties; to provide for qualifications, applications, and fees; to provide for exceptions; to provide relative to written reports; to prohibit certain activities; to provide for license renewals; to provide for administrative actions and penalties; to provide for cease and desist orders and injunctive relief; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 24-A of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:2181 through 2192, is hereby enacted to read as follows:

CHAPTER 24-A. MOLD REMEDIATION

§2181. Purpose

The legislature hereby declares that it is in the best interest of the citizens of the state to require the licensure and regulation of those

persons who perform mold remediation. The purpose of this Chapter is to require qualifying criteria in a professional field in which unqualified individuals may injure or mislead the public. The provisions of this Chapter shall contribute to the safety, health, and welfare of the people of this state.

§2182. Definitions

As used in this Chapter, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) "Applicant" means a person who seeks to be examined for licensure by the board.

(2) "Board" means the State Licensing Board for Contractors, as provided for in R.S. 37:2150 et seq.

(3) "Licensee" means any person who has been issued a license by the board in accordance with the provisions of this Chapter.

(4) "Mold remediation" means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter that was not purposely grown at that location.

§2183. Scope

This Chapter applies only to the regulation of mold-related activities that affect indoor air quality and does not apply to routine cleaning when not conducted for the purpose of mold remediation.

§2184. Powers and duties of the board

In addition to the powers and duties allocated to the board pursuant to Chapter 24 of this Title, the board shall also:

(1) Adopt rules and regulations, in accordance with the Administrative Procedure Act, as the board deems necessary to

administer and implement the provisions of this Chapter or to govern the practice of mold remediation in the state.

(2) Issue, suspend, modify, and revoke licenses to practice mold remediation.

(3) Report to the attorney general all persons who violate the provisions of this Chapter.

(4) Maintain an up-to-date list of all licensees.

(5) Adopt minimum standards of practice for persons licensed to conduct mold remediation.

§2185. Licensing required

A. Beginning July 1, 2004, no person shall engage in or conduct, or advertise or hold himself out as engaging in or conducting the business of, or acting in the capacity of a person who conducts mold remediation unless such person holds a mold remediation license as provided for in this Chapter.

B. The following persons shall not be required to obtain a license issued pursuant to this Chapter:

(1) A residential property owner who performs mold remediation on his own property.

(2) A nonresidential property owner, or the employee of such owner, who performs mold remediation on an apartment building owned by that person that has more than four dwelling units.

(3) An owner or tenant, or a managing agent or employee of an owner or tenant, who performs mold remediation on property owned or leased by the owner or tenant. This exemption does not apply if the managing agent or employee engages in the business of performing mold remediation for the public.

(4) An employee of a licensee who performs mold remediation while supervised by the licensee.

(5) A licensed residential building contractor who performs mold assessment or mold remediation services no more than twenty square feet when acting within the scope of his license.

§2186. Qualifications for licensure; application; fees

A. The board shall, by rule adopted in accordance with the Administrative Procedure Act, establish minimum qualifications for licensing. Applications for licenses and for renewal licenses shall be made in writing to the board on forms provided by the board.

B. An applicant for a license to perform mold remediation shall meet the following requirements:

(1) Attainment of eighteen years of age.

(2) Successful completion of high school or its equivalent.

(3) Present evidence to the board that he has satisfactorily completed at least the following board-approved course work:

(a) Twenty-four hours of training in mold remediation and basic mold assessment.

(b) Four hours of instruction in Louisiana's "Unfair Trade Practices and Consumer Protection Law".

(4) Payment of the appropriate fees.

(5) Submission of a license application as prescribed by the board.

(6) Has submitted insurance certificates evidencing workers' compensation coverage in compliance with Title 23 of the Louisiana Revised Statutes of 1950 and liability insurance in a minimum amount of fifty thousand dollars.

C. An applicant shall furnish the board with a financial statement, current to within twelve months of the date of filing, prepared by an independent auditor and signed by the applicant and auditor before a notary public, stating the assets of the applicant, to be used by the board to determine the financial responsibility of the applicant to perform mold remediation services. Such assets shall include a net worth of at least ten thousand dollars. An applicant without the net worth required herein may furnish the board a bond, letter of credit, or other security acceptable to the board in the amount of such net worth requirement plus the amount of the applicant's negative net worth if any, and the furnishing of such bond, letter of credit, or other security shall be deemed satisfaction of such net worth requirement for all purposes.

D. The board may charge and collect fees not in excess of the following:

- (1) Application for license \$100.00
- (2) License renewal \$100.00
- (3) Delinquent renewal \$ 50.00

(4) The fee provided for in this Subsection shall not be charged to a licensed residential building contractor who performs mold remediation services when acting within the scope of his license.

§2187. Written reports; prohibited activities

A. A person who performs mold assessment services shall provide a written report to each person for whom he performs such services for compensation.

B.(1) No licensee shall perform both mold assessment and mold remediation on the same property.

(2) No person shall own an interest in both the entity which performs mold assessment services and the entity which performs mold remediation services on the same property.

§2188. License issuance and renewal

A. Licenses shall be issued for a period of one year and shall expire on the thirty-first day of December of the year in which they are issued. Licenses which are not renewed shall be considered to be expired, and any mold remediation activity which would require a license to perform which occurs after expiration of the license shall be deemed a violation of this Chapter.

B. Any licensee who fails to timely renew his license may thereafter renew upon payment of the appropriate renewal and delinquent fees and upon filing of a renewal application. The period for delinquent renewal of an expired license shall be limited to the six-month period immediately following the expiration date of the active license. Failure to renew an expired license during such six-month period shall result in forfeiture of renewal rights and shall require the former licensee to apply as an initial applicant and meet all requirements of an initial applicant.

C. Licenses shall be in a form prescribed by the board.

§2189. Prohibited acts; penalties

A. The board may suspend or revoke any license, or censure, fine, or impose probationary or other restrictions on any licensee for good cause shown which shall include but not be limited to the following:

(1) Conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony charge under the laws of the United States or any other state.

(2) Deceit or misrepresentation in obtaining a license.

(3) Providing false testimony before the board.

(4) Efforts to deceive or defraud the public.

(5) Professional incompetence or gross negligence.

(6) Rendering, submitting, subscribing, or verifying false, deceptive, misleading, or unfounded opinions or reports.

(7) Violating any rule or regulation adopted by the board or any provision of this Chapter.

(8) Aiding or abetting a person to evade the provisions of this Chapter or knowingly combining or conspiring with an unlicensed person with the intent to evade the provisions of this Chapter.

(9) Violating any standard of conduct adopted by the board.

(10) Engaging in conduct, advertising or holding oneself out as engaging in or conducting the business of, or acting in the capacity of a person who performs mold remediation services without possessing a valid license.

(11) Falsely representing oneself as being the holder of a valid license by using the title "licensed mold remediator" or any title, designation, or abbreviation deceptively similar or likely to create the impression that such person is licensed.

B. Violators of any of the provisions of this Section may be fined by the board in an amount not to exceed two thousand dollars per violation and ten thousand dollars for each subsequent violation.

C. All fines collected pursuant to this Section for violations shall annually, at each audit of the board, be transferred to a separate contractor's educational trust fund to be used for educational purposes as determined by the board.

§2190. Revocation or suspension; payment of costs of proceedings

A. Revocation of a license as a result of disciplinary action by the board may prohibit the reissuance of a license to such licensee for a period of up to one year from the date of revocation. The license of an applicant whose license has been revoked may be reissued by the board upon the submission of evidence by the applicant of satisfactory completion of the board-approved course work required for new applicants pursuant to R.S. 37:2186(B)(3).

B. The board, as a probationary condition or as a condition of a revocation or suspension, may require a licensee to pay all costs of the board proceedings, including but not limited to investigators', stenographers', and attorney fees, and costs.

§2191. Cease and desist orders; injunctive relief

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided for in this Chapter, the board may issue an order to any person engaged in any activity, conduct, or practice constituting a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter directing such person to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state under the official seal of the board.

B. If the person to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or

practice within two days of service of such order by certified mail, the board may seek a writ of injunction in any court of competent jurisdiction and proper venue enjoining such person from engaging in the activity, conduct, or practice.

§2192. Fees and other funds received

All fees and fines received by the board under this Chapter shall be used solely to effectuate the provisions of this Chapter and Chapter 24 of this Title.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____