

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1309

(Delegate McHale)

Economic Matters

Education, Health, and Environmental Affairs

Business Regulation - Mold Remediation Services - Licensing

This bill establishes licensure of mold remediation companies and firms by the Maryland Home Improvement Commission. These requirements do not apply to mold remediation on nonresidential property.

Fiscal Summary

State Effect: General fund expenditures could increase by \$61,900 in FY 2009 to staff the unit and develop licensing standards. General fund revenues could increase by \$105,800 beginning in FY 2010 to reflect licensing fees sufficient to cover expenditures. Potential additional minimal general fund revenues and expenditures could result from penalty provisions. Future years reflect annualization, inflation, and biennial licensing cycles.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	\$0	\$105,800	\$0	\$116,200	\$0
GF Expenditure	61,900	51,700	54,100	56,700	59,500
Net Effect	(\$61,900)	\$54,100	(\$54,100)	\$59,500	(\$59,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in revenues and expenditures due to the extension of existing civil and criminal penalty provisions to providers of mold remediation services.

Small Business Effect: Potential meaningful for providers of mold remediation services.

Analysis

Bill Summary: The bill requires the Maryland Home Improvement Commission to establish a licensing program for companies and firms that provide mold remediation services on residential property. A person may not use the titles “mold remediation license holder” or “registered mold remediation contractor” or otherwise portray himself as a provider of mold remediation services unless licensed by the board.

To qualify for licensure as a supervisor or a firm, an applicant must submit proof that each employee who provides mold remediation services is certified by an accreditation body as a microbial remediation supervisor or microbial remediation technician. An application for a firm license must be made by a representative member of the organization.

A person licensed by the commission must maintain insurance of at least \$1 million. A person licensed to provide mold remediation services is not required to pay assessments to the Home Improvement Guaranty Fund.

The commission may approve an application on receipt of an application fee, proof of employee certification, and proof of insurance. The commission is authorized to waive certain requirements for applicants licensed in another state.

A license is valid for a period of two years. An application for a renewal license must be accompanied by proof of active employee certification and proof of insurance. Licensees are required to conspicuously display their license and license number in their principal place of business and on any company vehicles.

The commission may deny a license to an applicant, reprimand any licensee, or suspend or revoke a license after public hearing if the commission finds that an applicant or licensee fraudulently obtained or used a license, disregarded the commission’s regulations or other laws, was convicted of certain crimes, performed inadequate work, misrepresented services, or otherwise violated the Maryland Mold Remediation Services Act. The commission may also take action against a licensee for a violation by the licensee’s agent or employee. Instead of or in addition to taking disciplinary action, the commission may impose a civil penalty of up to \$5,000. All penalties under these provisions are paid to the general fund.

A company or firm providing mold remediation services must be licensed by the commission by June 1, 2010 to continue to provide services. Mold remediation service licensing is subject to evaluation and reestablishment under the Maryland Program Evaluation Act, with a termination date of July 1, 2016.

Current Law: In general, a person must be licensed by the Maryland Home Improvement Commission before acting as a contractor, subcontractor, or salesperson in the State. Services regulated by the commission include addition, replacement, repair, or replacement of a building used as a residence and improvements to the land adjacent to the building.

An individual must pass an examination prior to submitting an application for licensure. In addition to the required application and fee, applicants for a contractor license must also meet experience requirements, submit proof of compliance with insurance requirements, submit a credit report, and contribute to the Home Improvement Guaranty Fund.

A person who violates the Maryland Home Improvement Law is guilty of a misdemeanor and is subject to a fine of up to \$1,000 and imprisonment of six months. The commission is also authorized to impose a civil penalty of up to \$5,000.

The commission is subject to evaluation and reestablishment under the Maryland Program Evaluation Act, with a termination date of October 1, 2012.

Background: The bill requires the employees of a licensed mold remediation company or firm to be certified by an accreditation body as a microbial remediation supervisor or microbial remediator. The American Indoor Air Quality Council, which is recognized as an accreditation body in the bill, is one such organization that establishes standards for these professionals.

To qualify for council certification as a microbial remediation supervisor, an applicant must have a combination of five years of education and relevant field experience, including abatement, mitigation, and remediation. The applicant must demonstrate familiarity with basic concepts of microbial remediation as established by the Environmental Protection Agency, the Occupational Safety and Health Administration, and other industry manuals and reference guides. An applicant must also achieve a minimum 75% passing score on the council's 120-question examination to qualify for a two-year certification; 40 hours of recertification credits are required for renewal.

Microbial remediators are subject to similar requirements, but must instead attain two years of combined education and experience to qualify for certification. An applicant must also achieve a minimum 75% passing score on a 100-question examination administered by the board and meet recertification requirements.

State Revenues: The bill requires all companies and firms performing mold remediation services in the State to be licensed by the commission beginning in fiscal 2010. The

commission is required to set reasonable fees for its services, with revenues equal to or greater than the level of expenditures. Assuming that no licensing activity begins prior to fiscal 2010, expenditures are estimated at \$105,849 in the fiscal 2010-2011 licensing cycle. The commission would be required to generate fees sufficient to cover at least this amount in the first biennial licensing cycle.

The total number of mold remediation companies or firms that would qualify for licensure under this bill is unknown. *For illustrative purposes only*, the commission would be required to assess fees of at least \$1,058 if 100 companies or firms pursued licensure in the first licensing cycle. Until the actual number is known, the commission would have to be conservative in its licensing estimates to ensure that revenues met or equaled expenditures, as required by the bill. For purposes of this analysis, it is assumed that revenues would equal expenditures over each biennial licensing period.

The civil and criminal penalties authorized under the Maryland Home Improvement Law would be extended to providers of mold remediation services under this bill; however, the potential number of persons subject to these penalties is expected to be minimal. State revenues should not materially be affected by these provisions.

State Expenditures: General fund expenditures could increase by an estimated \$61,853 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring one office secretary to prepare for licensure and regulation and answer inquiries. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes the services of a consultant with specialized knowledge of mold remediation services to advise the commission in developing appropriate licensing standards.

Positions	1
Salary and Fringe Benefits	\$31,805
Mold Remediation Consulting Services	20,000
Operating Expenses	<u>10,048</u>
Total FY 2009 State Expenditures	\$61,853

Future year expenditures reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

The criminal penalties authorized under the Maryland Home Improvement Law would be extended to providers of mold remediation services under this bill; however, the potential

number of persons subject to these penalties is expected to be minimal. State prosecution and incarceration expenditures should not materially be affected.

Local Fiscal Effect: The number and amount of civil and criminal infractions under Maryland Home Improvement Law are not expected to increase significantly as a result of the expansion of licensing requirements; therefore, this bill should have no significant fiscal impact on units of local government.

Small Business Effect: Providers of mold remediation services could be meaningfully impacted by the new licensing guidelines, including certification, insurance, and fee requirements. The bill does not include a grandfathering provision; current providers of mold remediation services who do not meet the certification requirements of an authorized accreditation body would be unable to provide these services as of June 1, 2010.

Additional Comments: Licensure of mold remediation technicians would represent a departure for the commission, which does not currently provide separate credentials for specialized home improvement services. To the extent that mold remediators make structural changes to a home, current licensing requirements already apply.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Maryland Insurance Administration; Department of Labor, Licensing, and Regulation; American Indoor Air Quality Council; Department of Legislative Services

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