

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 115

(The Speaker)(By Request - Department of Legislative Services)

Economic Matters

Education, Health, and Environmental Affairs

Mold Remediation Services Providers - Licensure and Program Evaluation

This bill extends the deadline by which a company or firm providing mold remediation services must be licensed by the Maryland Home Improvement Commission (MHIC) from July 1, 2013, to July 1, 2019. The termination date of the mold remediation licensure program is *not* extended and remains July 1, 2019. As the licensure requirement for mold remediation firms is scheduled to terminate, the requirement that the Department of Legislative Services (DLS) evaluate the program under the Maryland Program Evaluation Act is repealed.

Fiscal Summary

State Effect: To the extent that MHIC would have licensed mold remediation businesses prior to FY 2020, general fund revenues decrease minimally in FY 2018 and 2019. However, as MHIC has not licensed these businesses in the past due to lack of funding, despite the statutory requirement to do so, general fund revenues are unaffected. Repealing the evaluation requirement by DLS does not affect department operations or finances; any staff resources devoted to future evaluations are redirected.

Local Effect: None.

Small Business Effect: Meaningful. Small businesses that provide mold remediation services benefit from the extension of the licensure deadline to July 1, 2019, allowing these businesses to continue operating without technically violating the law.

Analysis

Current Law/Background:

Maryland Program Evaluation Act

The mold remediation licensure program is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most entities evaluated are also subject to termination, including the program, which is scheduled to terminate July 1, 2019. The sunset review process traditionally begins with a preliminary evaluation conducted by DLS on behalf of the Legislative Policy Committee (LPC), although a few entities are subject to direct full evaluation. LPC decides whether to waive an entity from further (or full) evaluation. If waived, legislation to reauthorize the entity typically is enacted. Otherwise, a full evaluation usually is undertaken the following year.

DLS conducted a preliminary sunset [evaluation](#) of the licensure program in 2016, which can be found on the department’s website. DLS recommended that authorization for the program be allowed to terminate as scheduled on July 1, 2019, without further evaluation under the Maryland Program Evaluation Act or further action by the General Assembly, if funding is not provided to implement the program. If funding is provided prior to the scheduled termination date, the Department of Labor, Licensing, and Regulation (DLLR) should submit departmental legislation to reauthorize the program. DLS also recommended that the deadline for licensure as a mold remediation business be extended to July 1, 2019, as discussed below, which will allow these firms to operate without technically violating the law.

Program Unfunded Since Inception in 2008, No Licenses Issued

Chapter 537 of 2008 required companies or firms that provide mold remediation services to be licensed by MHIC in DLLR. Statute defines mold remediation, in part, as “the removal, cleaning, sanitizing, demolition, or other treatment of mold or mold-contaminated matter.” It does not include mold assessments to detect the presence of mold, nor does it include the repair of structures damaged by mold following remediation.

Chapter 537 was never implemented because funding to do so was not provided to MHIC. The Act originally required that all companies or firms providing mold remediation services be licensed by June 1, 2010, which was later extended to July 1, 2013, as part of legislation implementing recommendations of the 2010 sunset evaluation of MHIC. In the absence of a licensing process, the extensions allowed companies or firms to operate without violating the law.

The July 1, 2013 deadline passed, yet no funding was provided to implement the mold remediation licensure program. As a result, firms currently providing mold remediation services are technically in violation of the statutory licensing requirement.

Implementation Costs an Ongoing Concern

DLS originally estimated the licensure program would require start-up funding of \$61,900 in fiscal 2009 to support a new position, one-time consulting services, and ongoing operating expenses. The revised estimate from the 2016 preliminary evaluation was approximately \$72,700 in fiscal 2018 for the equivalent services. Both estimates also assumed out-year ongoing costs associated with the program.

During the sunset review process, MHIC advised that it could not implement the licensure program without the start-up funding because it lacked staff to administer the program and required expert consultants to advise it on appropriate licensing standards for the mold remediation industry. Moreover, in its written comments provided to DLS for the preliminary evaluation, MHIC indicated that “the cost of implementing the program is disproportionate to the demand for implementation and far surpasses the initial fiscal note estimate.”

Mold Remediation Regulation without Chapter 537

Absent implementation of Chapter 537, “mold remediation services” are provided in Maryland with no regulation by the State. The cleaning and demolition aspects of mold remediation require expertise and knowledge of best practices in order to ensure that the mold has been removed safely and effectively. The licensure program is meant to serve as a consumer protection measure by ensuring that contractors providing these services are certified by an accreditation body and insured. Otherwise, damaging mold may not be adequately removed and consumers may pay for unnecessary or excessive repairs.

The preliminary evaluation noted, however, that MHIC reportedly did not receive any substantive consumer complaints regarding inadequate mold remediation services in the eight years since Chapter 537 was enacted.

The licensure program covers the demolition and cleaning aspects of a mold remediation project but not the reconstruction of structures damaged or infected by mold. MHIC currently licenses and regulates all home improvement contractors for work that includes alteration, remodeling, repair, and replacement of those damaged structures. Any home improvement work done over the course of a mold remediation project is already regulated under the MHIC contractor license. This remains unchanged by the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 183 (The President)(By Request - Department of Legislative Services) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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