

# SENATE, No. 1787

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 8, 2006

**Sponsored by:**  
**Senator JOSEPH CONIGLIO**  
**District 38 (Bergen)**

### **SYNOPSIS**

Establishes Toxic Mold Commission; requires mold inspection as condition of sale of residential property.

### **CURRENT VERSION OF TEXT**

As introduced.



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1 AN ACT concerning mold inspections, and supplementing Title 26  
2 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. a. There is established in the Department of Health and  
8 Senior Services, a Toxic Mold Commission. The commission shall  
9 consist of seven members, two of whom shall be the Commissioner  
10 of Health and Senior Services and the Commissioner of  
11 Environmental Protection, or their designees, who shall serve ex  
12 officio; and five public members, three of whom shall represent the  
13 academic scientific community, and two of whom shall represent  
14 the health community, with backgrounds in environmental health  
15 issues. The public members shall be appointed by the Governor,  
16 with the advice and consent of the Senate. The Governor shall  
17 designate a chairman and vice chairman of the commission from the  
18 public members.

19 b. Of the public members first appointed, three shall serve for  
20 terms of three years, and two shall serve for terms of two years.  
21 Thereafter, all terms shall be for three years. Each appointed  
22 member shall serve after the expiration of their terms until their  
23 respective successors are appointed and qualified. Any vacancy  
24 shall be filled in the same manner as the original appointment for  
25 the unexpired term.

26 c. Members of the commission shall serve without compensation,  
27 but the commission may, within the limits of funds appropriated or  
28 otherwise made available to it for such purposes, reimburse its  
29 members for necessary expenses incurred in the discharge of their  
30 official duties.

31 d. The commission shall meet at such times and places as may  
32 be determined by its chairman. A majority of the membership of  
33 the commission shall constitute a quorum for the transaction of  
34 business. Action may be taken and motions and resolutions adopted  
35 by the commission at any meeting by the affirmative vote of a  
36 majority of the full membership of the commission.

37 e. Within 1 year of the effective date of this section, the  
38 commission shall make recommendations for the implementation of  
39 the mold inspection program by the department. These  
40 recommendations shall consist of:

41 (1) The development of a list of household molds for which  
42 testing shall be required;

43 (2) The development of maximum household limits for mold  
44 exposure;

45 (3) The development of a two-tiered testing protocol to a)  
46 identify the existence of mold that exceeds the initial household  
47 maximum limit for mold exposure, and b) locate the extent, source,  
48 and location of the mold in the residence;

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1       (4) The development of methods and procedures for the  
2 identification of the presence of mold that may include procedures  
3 for the collection of air, surface and bulk samples, visual and  
4 olfactory identification, laboratory analysis, and any other  
5 recognized analytical method for the identification of mold;

6       (5) The review of all activities undertaken pursuant to this act  
7 and any amendments or supplements thereto.

8       f. The Toxic Mold Commission shall have the authority to call  
9 to its assistance and avail itself of the services of the employees of  
10 any State, county or municipal department, board, commission or  
11 agency that may be required and made available for such purposes.  
12

13       2. a. Every contract of sale of residential real property  
14 containing less than five units of residential dwelling space shall  
15 include a provision requiring, as a condition of the sale, the  
16 inspection for the presence of a mold hazard as prescribed pursuant  
17 to section 3 of this act.

18       b. Closing of title on the sale of real property subject to the  
19 provisions of this section shall not occur unless both the buyer and  
20 the seller have received and reviewed a copy of the mold inspection  
21 results. At closing, the buyer and seller both shall certify in writing  
22 that they have received and reviewed the mold inspection results.  
23

24       3. Every mold inspection conducted in accordance with this act  
25 shall include an inspection that conforms to the protocol and  
26 procedures established by the Department of Health and Senior  
27 Services pursuant to section 4 of this act. The inspection shall  
28 identify whether mold is present in the residence at a level that  
29 exceeds the initial household maximum limit for mold exposure.  
30 Upon a finding by a mold inspector that mold is present in the  
31 residence at a level that exceeds the initial household maximum  
32 limit for mold exposure, an inspection to locate the extent, source,  
33 and location of the mold in the residence shall be conducted by a  
34 certified industrial hygienist.  
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36       4. a. The Department of Health and Senior Services, in  
37 consultation with the Toxic Mold Commission established pursuant  
38 to section 1 of this act, shall develop, by rule or regulation adopted  
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
40 (C.52:14B-1 et seq.);

- 41       (1) a list of household molds for which testing shall be required,  
42       (2) maximum household limits for mold exposure,  
43       (3) a two-tiered testing protocol to a) identify the existence of  
44 mold that exceeds the initial household maximum limit for mold  
45 exposure, and b) locate the extent, source, and location of the mold  
46 in the residence, and

47       (4) methods and procedures for the identification of the presence  
48 of mold that may include procedures for the collection of air,

1 surface and bulk samples, visual and olfactory identification,  
2 laboratory analysis, and any other recognized analytical method for  
3 the identification of mold.

4 b. The Department of Health and Senior Services shall conduct  
5 an annual review to determine if there are a sufficient number of  
6 laboratories available to perform the services required pursuant to  
7 this act at a reasonable cost within 10 days of a request for testing.  
8 This review shall be based upon the projected number of  
9 transactions for which the test is required. The department shall  
10 publish its findings in the New Jersey Register.

11 c. The Department of Health and Senior Services shall establish,  
12 by rule or regulation adopted pursuant to the "Administrative  
13 Procedure Act," a maximum time period for which a test result shall  
14 remain valid for the purposes of section 2 of this act without  
15 necessitating retesting. A reinspection shall not be required  
16 pursuant to section 2 of this act if the contract of sale is entered into  
17 within the period of test validity established pursuant to this  
18 subsection. Notwithstanding any provision of this subsection to the  
19 contrary, a buyer and seller subject to the provisions of section 2 of  
20 this act may mutually agree to reinspect even though the maximum  
21 time period for test validity established pursuant to this subsection  
22 has not expired.

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24 5. This act shall take effect immediately, except that section 2  
25 shall take effect on the 540th day following the date of enactment of  
26 this act.

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STATEMENT

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31 This bill would require that every contract of sale of residential  
32 real property containing less than five units of residential dwelling  
33 space include a provision requiring, as a condition of the sale, the  
34 inspection for the presence of a mold hazard. The inspection would  
35 identify whether mold is present in the residence that exceeds the  
36 initial household maximum limit for mold exposure. Upon a  
37 finding by a mold inspector that mold is present in the residence  
38 that exceeds the initial household maximum limit for mold  
39 exposure, an inspection to locate the extent, source, and location of  
40 the mold in the residence would be required to be conducted by a  
41 certified industrial hygienist.

42 The bill would establish in the Department of Health and Senior  
43 Services, a Toxic Mold Commission. The commission would make  
44 recommendations to the department for the implementation of the  
45 mold inspection program required by the bill. These  
46 recommendations would include:

47 (1) The development of a list of household molds for which  
48 testing shall be required;

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- 1       (2) The development of maximum household limits for mold  
2 exposure;
- 3       (3) The development of a two-tiered testing protocol to a)  
4 identify the existence of mold that exceeds the initial household  
5 maximum limit for mold exposure, and b) locate the extent, source,  
6 and location of the mold in the residence; and
- 7       (4) The development of methods and procedures for the  
8 identification of the presence of mold that may include procedures  
9 for the collection of air, surface and bulk samples, visual and  
10 olfactory identification, laboratory analysis, and any other  
11 recognized analytical method for the identification of mold.
- 12       The Department of Health and Senior Services would adopt rules  
13 and regulations establishing the mold inspection program based  
14 upon the commission's recommendations.