

BILL ANALYSIS

Senate Research Center

H.B. 1328
By: Naishtat (Fraser)
Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 78th Legislature, Regular Session, 2003, enacted H.B. 329, which directed the Texas Department of Health to develop a program to train and license mold assessors and remediators. The program has been implemented. During the interim, it was pointed out that there was a contradiction in the bill. Section 1958.154, Occupations Code, provides that if a mold assessment license holder determines that the underlying cause of the mold has been remediated so that it is "reasonably certain" that the mold will not return, the license holder is required to indicate on the certificate that the underlying cause of the mold has been remediated.

The section of the bill that amended the Insurance Code to prohibit an insurer from making an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage provides that the assessor issuing the certificate of mold remediation to the property owner "must establish that the underlying cause of the mold at the property has been remediated."

H.B. 1328 corrects the contradiction by amending Article 21.21-11, Insurance Code, to make clear that an assessor must establish with reasonable certainty that the cause of mold has been remediated. H.B. 1328 also limits the number of years for which a property owner would be required to pass on the certificate of remediation to a future buyer to five years from the date the mold was remediated.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3, Article 21.21-11, Insurance Code, to prohibit an insurer from making an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if the property was remediated, as evidenced by a certificate of mold remediation that establishes with reasonable certainty that the underlying cause of the mold at the property has been remediated.

SECTION 2. Amends Section 1958.154(b), Occupations Code, to require a property owner, if the property owner sells property, to provided to the buyer a copy of each certificate issued for the property under this section during the five years preceding the date the property owner sells the property.

SECTION 3. Effective date: upon passage or September 1, 2005.