

**ACT No. 1123**

Regular Session, 2003

HOUSE BILL NO. 1681

BY REPRESENTATIVE FLAVIN

AN ACT

To amend and reenact R.S. 37:1449(A) and (B) and to enact R.S. 37:1431(33) and 1470, relative to real estate; to require registrants to provide copies of certain documents to parties of real estate transactions; to provide for definitions; to provide relative to the Louisiana Real Estate Commission; to provide for the adoption and distribution of certain pamphlets; to provide relative to the duties of the licensee; to provide relative to liability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1449(A) and (B) are hereby amended and reenacted and R.S. 37:1431(33) and 1470 are hereby enacted to read as follows:

§1431. Definitions

As used in this Chapter the following words have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

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(33) Mold means any form of multicellular fungi that live on plant or animal matter and in indoor or outdoor environments. Types of

mold often found in water-damaged building materials include but are not limited to cladosporium, penicillium, alternaria, aspergillus, fuarium, trichoderma, memnoniella, mucor, and strachybotrys chartarum.

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§1449. Broker to insure provision of contract; retention of records

A. Licensees acting in the capacity of an agent or subagent, and registrants shall insure that their respective principal party signing any document in a real estate transaction is provided a copy of the document immediately after the signing of the document.

B. Licensees and registrants shall insure that persons signing any document in a real estate transaction which pertains to more than one party are provided with a copy of the completed document bearing the signatures of all parties to the transaction within five days after the final signature is affixed to the document.

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§1470. Mold informational pamphlet; liability of licensees

A.(1) By April 1, 2004, the commission shall, by rule, in accordance with the Administrative Procedure Act, approve a mold informational pamphlet, which may be distributed to buyers by licensees in connection with any real estate transaction entered into on and after July 1, 2004.

(2) If the licensee delivers the mold informational pamphlet to the buyer, he shall do so at or before the time a lease, rental agreement, or contract for sale is entered into by the parties.

B. If the licensee delivers the mold informational pamphlet to the buyer, the licensee is not required to provide any additional information concerning mold. The information contained in the mold informational pamphlet shall be deemed to be adequate to inform the buyer regarding common mold-related hazards that can affect real property.

C. The licensee shall not be held liable for any error, inaccuracy, or omission of any information contained in the mold informational pamphlet delivered pursuant to this Section, if either of the following applies:

(1) The error, inaccuracy, or omission was not within the personal knowledge of the licensee.

(2) The error, inaccuracy, or omission was based on information provided to the licensee by the commission, a public agency, or by other persons providing relevant information by delivery of a report or opinion prepared by an expert dealing with matters within the relevant scope of his professional license, and ordinary care was exercised by the licensee in obtaining and transmitting such information.

D. Nothing in this Section shall alter or affect the existing disclosure duties of any party to a real estate transaction, or their agents, including but not limited to the duty of a licensee to disclose any known material defect regarding the condition of the property.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and

subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_