

108TH CONGRESS
1ST SESSION

H. R. 1268

To amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2003

Mr. CONYERS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “United States Toxic Mold Safety and Protection Act of
6 2003” or the “Melina Bill”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

TITLE I—RESEARCH AND PUBLIC EDUCATION

- Sec. 101. Definitions.
 Sec. 102. Health effects study and report.
 Sec. 103. Standards for preventing, detecting and remediating indoor mold growth.
 Sec. 104. Public education program.

TITLE II—HOUSING AND REAL PROPERTY PROVISIONS

- Sec. 201. Inspection of residential property.
 Sec. 202. Sale or lease of residential property.
 Sec. 203. Inspection requirements for existing public housing.
 Sec. 204. Construction requirements for new public housing.
 Sec. 205. Building codes.
 Sec. 206. Inspection requirement in connection with federally made or insured mortgages.

TITLE III—INDUSTRY STANDARDS DEVELOPMENT

- Sec. 301. Industry Standards Development.

TITLE IV—INDOOR MOLD HAZARD ASSISTANCE

- Sec. 401. Grants for remediation of public buildings.

TITLE V—TAX PROVISIONS

- Sec. 501. Tax credit for toxic mold inspection and remediation.

TITLE VI—NATIONAL TOXIC MOLD HAZARD INSURANCE PROGRAM

Subtitle A—Insurance Program

- Sec. 601. Program authority.
 Sec. 602. Scope of program and priorities.
 Sec. 603. Nature and limitation of insurance coverage.
 Sec. 604. Estimates of premium rates.
 Sec. 605. Establishment of chargeable premium rates.
 Sec. 606. National toxic mold hazard insurance fund.
 Sec. 607. Operating costs and allowances.
 Sec. 608. Payment of claims.
 Sec. 609. Dissemination of insurance information.
 Sec. 610. Coordination with other programs.
 Sec. 611. Reports.

Subtitle B—Organization and Administration of Insurance Program

- Sec. 621. Implementation.

PART 1—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

- Sec. 631. Industry insurance pool.
- Sec. 632. Agreements with insurance pool.
- Sec. 633. Adjustment and payment of claims and judicial review.
- Sec. 634. Premium equalization payments.
- Sec. 635. Emergency implementation of program.

PART 2—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

- Sec. 641. Federal operation of program.
- Sec. 642. Adjustment and payment of claims and judicial review.

PART 3—PROVISIONS OF GENERAL APPLICABILITY

- Sec. 651. Services by insurance industry.
- Sec. 652. Use of insurance pool, companies, or other private organizations for certain payments.
- Sec. 653. Settlement and arbitration.
- Sec. 654. Records and audits.

Subtitle C—Miscellaneous Provisions

- Sec. 661. Definitions.
- Sec. 662. Payments.
- Sec. 663. Government corporation control act.
- Sec. 664. Finality of certain transactions.
- Sec. 665. Authorization of appropriations.

TITLE VII—HEALTH CARE PROVISIONS

- Sec. 701. Medicaid waiver.

1 **TITLE I—RESEARCH AND** 2 **PUBLIC EDUCATION**

3 **SEC. 101. DEFINITIONS.**

4 For purposes of this Act—

5 (1) the term “mold” means any furry growth of
6 minute fungi occurring in moist conditions;

7 (2) the term “toxic mold” means any indoor
8 mold growth capable of creating toxins that can
9 cause pulmonary, respiratory, neurological or other
10 major illnesses after minimal exposure, as such ex-
11 posure is defined by the Environmental Protection
12 Agency, Center for Disease Control, National Insti-

1 tute of Health or other Federal, State or local agen-
2 cy organized in part to study and/or protect human
3 health;

4 (3) the term “toxic mold risk assessor” means
5 a person who establishes the level of risk to public
6 health associated with toxic mold; and

7 (4) the term “mold inspection” means an in-
8 spection of real property that is designed to discover
9 indoor mold growth, toxic mold growth, conditions
10 that facilitate indoor mold growth and/or indicia of
11 conditions that are likely to facilitate indoor mold
12 growth.

13 **SEC. 102. RESEARCH AND REPORTING.**

14 (a) The Centers for Disease Control and Prevention,
15 the Environmental Protection Agency, and the National
16 Institutes of Health shall jointly undertake a comprehen-
17 sive study of the health effects of indoor mold growth and
18 toxic mold. The results of the aforementioned study shall
19 be submitted to the Congress, the President and the gen-
20 eral public. The study should ascertain among other
21 things—

22 (1) detailed information about harmful and/or
23 toxic strains of mold;

24 (2) methods of detecting harmful and/or toxic
25 mold;

1 (3) potential dangers of prolonged exposure to
2 indoor mold growth;

3 (4) minimum levels of exposure at which indoor
4 mold growth is harmful to human health; and

5 (5) the hazards involved in mold remediation.

6 (b) The Department of Housing and Urban Develop-
7 ment shall study and report the impact of construction
8 standards on indoor mold growth.

9 (c) All research and study conducted pursuant to this
10 Act shall be ongoing with updated reports published as
11 needed to adequately inform the public and protect human
12 health.

13 **SEC. 103. STANDARDS FOR PREVENTING, DETECTING, AND**
14 **REMEDiating INDOOR MOLD GROWTH.**

15 (a) After appropriate research and study as required
16 by this Act, but not later than one year after the effective
17 date of this Act, the Environmental Protection Agency,
18 in conjunction with appropriate Federal agencies, shall
19 promulgate national standards that include, among other
20 things—

21 (1) standards for mold inspection, mold remedi-
22 ation, testing the toxicity of mold, and protection of
23 mold remediators;

24 (2) standards for certification of mold inspec-
25 tors, mold remediators, mold testing labs, mold risk

1 assessors and industrial hygienist involved with mold
2 remediation planning; and

3 (3) standards for the design, installation, and
4 maintenance of air ventilation and/or air-condi-
5 tioning systems to prevent mold growth or creation
6 of conditions that foster mold growth.

7 (b) After appropriate research and study as required
8 by this Act, but not later than one year after the effective
9 date of this Act, the Department of Housing and Urban
10 Development shall promulgate guidelines identifying con-
11 ditions created prior to and during construction that facili-
12 tate the growth of indoor mold and recommending appro-
13 priate means of eliminating those conditions.

14 (c) To the maximum extent possible, the standards,
15 guidelines and recommendations established under this
16 section shall be developed with the assistance of organiza-
17 tions involved in establishing national building construc-
18 tion standards representatives of State or local authorities
19 responsible for building inspections and issuance of certifi-
20 cates of occupancy.

21 (d) The Environmental Protection Agency and the
22 Department of Housing and Urban Development shall
23 make drafts of their respective documents available for
24 public review and comment 30 days prior to publication.
25 The Environmental Protection Agency and the Depart-

1 ment of Housing and Urban Development shall make final
2 model standards and techniques available to the public no
3 later than one year after the effective date of this Act.

4 (e) The Environmental Protection Agency shall take
5 such actions as may be necessary to inform appropriate
6 State and local government agencies and authorities of the
7 model standards and techniques with the goal of ensuring
8 that such agencies and authorities adopt such standards
9 and techniques by June 1, 2004.

10 (f) All standards and guidelines promulgated pursu-
11 ant to this Act shall be updated and published as needed
12 to adequately inform the public and protect human health.

13 **SEC. 104. PUBLIC EDUCATION.**

14 (a) The Environmental Protection Agency, the Cen-
15 ters for Disease Control and Prevention, the National In-
16 stitutes of Health, and the Department of Housing and
17 Urban Development, and other relevant agencies shall
18 sponsor public education programs to promote and in-
19 crease public awareness of the dangers of indoor mold
20 growth or toxic mold.

21 (b) The public education programs should include,
22 among other things, information regarding the conditions
23 that facilitate indoor mold growth; guidelines for remedi-
24 ating indoor mold growth; dangers of exposure to indoor
25 mold growth in public buildings; risk assessment and in-

1 spection methods for toxic mold; and other necessary in-
2 formation as determined by—

3 (1) the public education programs shall provide
4 education and information through modes of com-
5 munication that are commonly utilized and able to
6 be easily consumed by relevant individuals or organi-
7 zations;

8 (2) public education programs should be de-
9 signed to reach health professionals; the general
10 public; homeowners, prospective homeowners, land-
11 lords, and tenants; consumers of home improvement
12 products; the real estate industry; the home con-
13 struction and renovation industry, including the
14 heating and air conditioning industry; and other in-
15 dividuals and organizations with an interest in the
16 use and/or occupancy of real property.

17 (c) Notwithstanding the foregoing, the Environ-
18 mental Protection Agency, in consultation with appro-
19 priate agencies, shall publish, and periodically revise, a
20 pamphlet regarding indoor mold hazards. Among other
21 things this pamphlet should—

22 (1) contain information regarding the health
23 risks associated with exposure to indoor mold
24 growth;

1 (2) provide information on the hazards of in-
2 door mold growth in federally assisted and federally
3 owned housing;

4 (3) describe the risks of mold exposure for per-
5 sons residing in a dwelling with toxic mold;

6 (4) provide information on approved methods
7 for evaluating and reducing mold growth and their
8 effectiveness in identifying, reducing, eliminating, or
9 preventing mold growth;

10 (5) advise persons how to obtain a list of per-
11 sons certified to inspect or remediate mold growth in
12 the area in which the pamphlet is to be used;

13 (6) state that a risk assessment or inspection
14 for mold growth is recommended prior to the pur-
15 chase, lease, or renovation of target housing;

16 (7) state that certain State and local laws im-
17 pose additional requirements related to mold growth
18 in housing and provide a listing of Federal, State,
19 and local agencies in each State, including address
20 and telephone number, that can provide information
21 about applicable laws and available governmental
22 and private assistance and financing; and

23 (8) provide information deemed appropriate
24 and/or necessary to promote awareness of the haz-
25 ards posed by indoor mold.

1 (d) There is authorized to be appropriated such sums
2 as may be necessary to carry out this section.

3 **TITLE II—HOUSING PROVISIONS**
4 **FOR INDOOR MOLD HAZARD**
5 **PREVENTION AND DETEC-**
6 **TION**

7 **SEC. 201. INSPECTIONS OF RESIDENTIAL PROPERTY.**

8 Beginning with the calendar year 2004, the lessor of
9 each unit of rental property shall conduct an annual in-
10 spection of such property in accordance with the model
11 standards and techniques set forth in section 103 and
12 shall promptly notify the occupants of such property of
13 the results of such inspection.

14 **SEC. 202. SALE OR LEASE OF RESIDENTIAL PROPERTY.**

15 (a) Not later than 2 years after the date of enactment
16 of this Act, the Secretary of Housing and Urban Develop-
17 ment and the Administrator of the Environmental Protec-
18 tion Agency shall promulgate regulations under this sec-
19 tion for the disclosure of mold hazards in housing which
20 is offered for sale or lease.

21 (b) The regulations shall require that, before the sale
22 or lease of real property a mold inspection be conducted
23 by a State-certified mold inspector and, within a reason-
24 able time prior to the effective date of the purchase or
25 lease, the seller or lessor shall clearly and accurately dis-

1 close to the purchaser or lessee the results of the inspec-
2 tion required under this subsection.

3 (c) Regulations promulgated under this section shall
4 provide that every contract for the sale or lease of any
5 interest in housing shall contain a statement signed by
6 both the seller or lessor and by the purchaser or lessee
7 that acknowledges the result of the mold inspection re-
8 quired by subsection (b).

9 (d)(1) Any person who knowingly misrepresents the
10 results of a mold inspection or causes the results of a mold
11 inspection to be inaccurate shall be subject to civil money
12 penalties in accordance with the provisions of section 102
13 of the Department of Housing and Urban Development
14 Reform Act of 1989 (42 U.S.C. 3545).

15 (2) Any person who knowingly violates the provisions
16 of this section shall be jointly and severally liable to the
17 purchaser or lessee in an amount equal to 3 times the
18 amount of damages incurred by such individual.

19 (3) In any civil action brought for damages, the ap-
20 propriate court may award court costs to the party com-
21 mencing such action, together with reasonable attorney
22 fees and any expert witness fees, if that party prevails.

23 (e) The regulations under this section shall take ef-
24 fect 3 years after the date of the enactment of this Act.

1 **SEC. 203. INSPECTION REQUIREMENTS FOR EXISTING PUB-**
2 **LIC HOUSING.**

3 (a) IN GENERAL.—The Secretary of Housing and
4 Urban Development shall establish procedures to elimi-
5 nate, as far as practicable, the hazards of indoor mold
6 with respect to any existing public housing which may
7 present such hazards, in accordance with this section.
8 Such procedures shall provide for appropriate measures
9 to conduct risk assessments, inspections, interim controls,
10 and abatement of indoor mold hazards.

11 (b) PROCEDURES.—At a minimum, such procedures
12 shall require—

13 (1) the provision of indoor mold hazard infor-
14 mation pamphlets to tenants;

15 (2) periodic risk assessments and interim con-
16 trols in accordance with a schedule determined by
17 the Secretary;

18 (3) mold inspections;

19 (4) abatement of indoor mold hazards identi-
20 fied;

21 (5) where risk assessment, inspection, or reduc-
22 tion activities have been undertaken, the provision of
23 notice to occupants describing the nature and scope
24 of such activities and the actual risk assessment or
25 inspection reports; and

1 (6) such other measures as the Secretary deems
2 appropriate.

3 (c) TRANSITIONAL TESTING AND ABATEMENT.—

4 (1) PUBLIC HOUSING RECEIVING CAPITAL FUND
5 ASSISTANCE.—The inspection required under this
6 section for public housing assisted with amounts
7 from the Capital Fund under section 9(d) of the
8 United States Housing Act of 1937 (42 U.S.C.
9 1437g(d)) shall be conducted with respect to—

10 (A) a random sample of dwellings and
11 common areas in all public housing projects as-
12 sisted under such section; and

13 (B) each dwelling in any public housing
14 project in which there is a dwelling determined
15 under subparagraph (A) to have indoor mold
16 hazards.

17 (2) INSPECTION.—The Secretary shall require
18 the inspection of all housing subject to this sub-
19 section in accordance with the modernization sched-
20 ule. A public housing agency may elect to test for in-
21 door mold hazards and may elect to abate such haz-
22 ards under standards more stringent than those es-
23 tablished under this section by the Secretary, and
24 such abatement shall qualify for assistance from the
25 Capital Fund. The Secretary shall require abatement

1 of indoor mold hazards in housing in which the test
2 results equal or exceed the standard established
3 under this Act. Final inspection and certification
4 after abatement shall be made by a certified mold
5 inspector, industrial hygienist, or local public health
6 official.

7 (d) SCHEDULE.—Three years after the date of enact-
8 ment of this Act, the Secretary shall require the inspection
9 of all housing subject to this section for mold. The Sec-
10 retary may prioritize, within such period, inspections on
11 the basis of vacancy, age of housing, or projected mod-
12 ernization or rehabilitation. The Secretary shall require
13 abatement and final inspection and certification of such
14 housing.

15 (e) REPORT.—Not later than three and one-half
16 years after the enactment of this Act, the Secretary shall
17 submit a report to the Congress describing the results of
18 the activities under this section.

19 (f) FUNDING.—The Secretary shall use amounts
20 available under the Capital Fund under section 9(d) of
21 the United States Housing Act of 1937 to carry out this
22 section. The Secretary shall submit annually to the Con-
23 gress an estimate of the funds required to carry out the
24 provisions of this section.

1 **SEC. 204. CONSTRUCTION REQUIREMENTS FOR NEW PUB-**
2 **LIC HOUSING.**

3 The Secretary of Housing and Urban Development
4 shall take such actions and impose such standards and
5 conditions as may be necessary or appropriate to ensure
6 that public housing constructed after the date of the
7 issuance of the model construction standards and tech-
8 niques established under section 103, is constructed in ac-
9 cordance with such model standards and techniques.

10 **SEC. 205. BUILDING CODES.**

11 (a) IN GENERAL.—The Secretary of Housing and
12 Urban Development shall develop model construction
13 standards and techniques for preventing and controlling
14 mold within new buildings.

15 (b) CONTENTS.—The model standards and tech-
16 niques shall provide for geographic differences in construc-
17 tion types and materials, geology, weather, and other vari-
18 ables that may affect mold levels in new buildings.

19 (c) DEVELOPMENT AND PUBLICATION.—To the max-
20 imum extent possible, these standards and techniques
21 should be developed with the assistance of organizations
22 involved in establishing national building construction
23 standards and techniques. The Secretary shall make a
24 draft of the document containing the model standards and
25 techniques available for public review and comment. The
26 Secretary shall make final model standards and techniques

1 available to the public no later than one year after the
2 effective date of this Act.

3 **SEC. 206. INSPECTION REQUIREMENT IN CONNECTION**
4 **WITH FEDERALLY MADE OR INSURED MORT-**
5 **GAGES.**

6 (a) IN GENERAL.—After December 31, 2003, no
7 Federal agency (as such term is defined in section 551
8 of title 5, United States Code) may make, insure, or guar-
9 antee a mortgage or loan for purchase or lease of residen-
10 tial real property unless—

11 (1) there has been an inspection of the property
12 for the presence of indoor mold growth, toxic mold
13 and/or the conditions that facilitate indoor mold
14 growth hazards by a mold inspector certified in ac-
15 cordance with standards promulgated pursuant to
16 this Act within a reasonable time prior to the mak-
17 ing, insuring, or guaranteeing of the mortgage or
18 loan and the results of the inspection are clearly and
19 accurately disclosed to the purchaser, seller and
20 mortgagor; and

21 (2) the contract for purchase and sale of an in-
22 terest in residential real property for which such
23 mortgage or loan was made contains a statement
24 signed by the seller or lessor and by the purchaser
25 or lessee that paragraph (1) has been complied with.

1 (b) REGULATIONS.—The heads of each of the agen-
 2 cies that make, insure, or guarantee mortgages or loans
 3 for purchase or lease of residential real property shall, not
 4 later than September 30, 2003, issue such regulations as
 5 may be necessary to carry out this section.

6 **TITLE III—INDUSTRY** 7 **STANDARDS DEVELOPMENT**

8 **SEC. 301. INDUSTRY STANDARDS DEFVELOPMENT.**

9 (a) DEFINITIONS.—Section 2 of the National Cooper-
 10 ative Research and Production Act of 1993 (15 U.S.C.
 11 4301) is amended—

12 (1) in subsection (a) by adding at the end the
 13 following:

14 “(7) The term ‘standards development activity’
 15 means any action taken by a standards development
 16 organization for the purpose of developing, promul-
 17 gating, revising, amending, reissuing, interpreting,
 18 or otherwise maintaining a voluntary consensus
 19 standard for building products that are designed to
 20 retard the development of mold or the storage of
 21 those products or using such standard in conformity
 22 assessment activities.

23 “(8) The term ‘standards development organi-
 24 zation’ has the same meaning as the terms ‘vol-
 25 untary consensus standards body’ and ‘voluntary,

1 private sector consensus standards body’ as such
2 term are used in section 12(d) of the National Tech-
3 nology Transfer and Advancement Act of 1995 and
4 in Circular Number A–119, as revised February 10,
5 1998, of the Office of Management and Budget.

6 “(9) The term ‘technical standard’ has the
7 meaning given such term in section 12(d)(4) of the
8 National Technology Transfer and Advancement Act
9 of 1995.

10 “(10) The term ‘voluntary consensus standard’
11 has the meaning given such term in Circular Num-
12 ber A–119, as revised February 10, 1998, of the Of-
13 fice of Management and Budget.”; and

14 (2) by adding at the end the following:

15 “(c) The term ‘standards development activity’ ex-
16 cludes the following activities:

17 “(1) Exchanging information among competi-
18 tors relating to cost, sales, profitability, prices, mar-
19 keting, or distribution of any product, process, or
20 service that is not reasonably required for the pur-
21 pose of developing or promulgating a voluntary con-
22 sensus standard, or using such standard in con-
23 formity assessment activities.

1 “(2) Entering into any agreement or engaging
2 in any other conduct that would allocate a market
3 with a competitor.

4 “(3) Entering into any agreement or conspiracy
5 that would set or restrain prices of any good or serv-
6 ice.”.

7 (b) RULE OF REASON STANDARD.—Section 3 of the
8 National Cooperative Research and Production Act of
9 1993 (15 U.S.C. 4302) is amended by striking “of any
10 person in making or performing a contract to carry out
11 a joint venture shall” and inserting the following:

12 “of—

13 “(1) any person in making or performing a con-
14 tract to carry out a joint venture, or

15 “(2) a standards development organization
16 while engaged in a standards development activity,
17 including a standards development activity for build-
18 ing products that are designed to retard the develop-
19 ment of mold or the storage of those products
20 shall”.

21 (c) LIMITATION ON RECOVERY.—Section 4 of the
22 National Cooperative Research and Production Act of
23 1993 (15 U.S.C. 4303) is amended—

24 (1) in subsections (a)(1), (b)(1), and (c)(1) by
25 inserting “, for a standards development activity en-

1 gaged in by standards development organization
2 against which such claim is made” after “joint ven-
3 ture”, and

4 (2) in subsection (e)—

5 (A) by inserting “, or of a standards devel-
6 opment activity engaged in by a standards de-
7 velopment organization” before the period at
8 the end, and

9 (B) by redesignating such subsection as
10 subsection (f), and

11 (3) by inserting after subsection (d) the fol-
12 lowing:

13 “(e) Subsections (a), (b), and (c) shall not be con-
14 strued to modify the liability under the antitrust laws of
15 any person (other than a standards development organiza-
16 tion) who—

17 “(1) directly (or through an employee or agent)
18 participates in a standards development activity with
19 respect to which a violation of any of the antitrust
20 laws is found,

21 “(2) is not a fulltime employee of the standards
22 development organization that engaged in such ac-
23 tivity, and

24 “(3) is, or is an employee or agent of a person
25 who is, engaged in a line of commerce that is likely

1 to benefit directly from the operation of the stand-
2 ards development activity with respect to which such
3 violation is found.”.

4 (d) ATTORNEY FEES.—Section 5 of the National Co-
5 operative Research and Production Act of 1993 (15
6 U.S.C. 4304) is amended—

7 (1) in subsection (a) by inserting “, or of a
8 standards development activity engaged in by a
9 standards development organization (including an
10 organization developing standards for building prod-
11 ucts that are designed to retard the development of
12 mold or the storage of those products)” after “joint
13 venture”, and

14 (2) by adding at the end the following:

15 “(c) Subsections (a) and (b) shall not apply with re-
16 spect to any person who—

17 “(1) directly participates in a standards devel-
18 opment activity (including developing standards for
19 building products that are designed to retard the de-
20 velopment of mold or the storage of those products)
21 with respect to which a violation of any of the anti-
22 trust laws is found,

23 “(2) is not a fulltime employee of a standards
24 development organization (including an organization
25 developing standards for building products that are

1 designed to retard the development of mold or the
2 storage of those products) that engaged in such ac-
3 tivity, and

4 “(3) is, or is an employee or agent of a person
5 who is, engaged in a line of commerce that is likely
6 to benefit directly from the operation of the stand-
7 ards development activity with respect to which such
8 violation is found.”.

9 (e) DISCLOSURE OF STANDARDS DEVELOPMENT AC-
10 TIVITY.—Section 6 of the National Cooperative Research
11 and Production Act of 1993 (15 U.S.C. 4305) is amend-
12 ed—

13 (1) in subsection (a)—

14 (A) by redesignating paragraphs (1), (2),
15 and (3) as subparagraphs (A), (B), and (C), re-
16 spectively,

17 (B) by inserting “(1)” after “(a)”, and

18 (C) by adding at the end the following:

19 “(2) A standards development organization (includ-
20 ing an organization developing standards for building
21 products that are designed to retard the development of
22 mold or the storage of those products) may, not later than
23 90 days after commencing a standards development activ-
24 ity engaged in for the purpose of developing or promul-
25 gating a voluntary consensus standards or not later than

1 90 days after the date of the enactment of the Standards
2 Development Organization Advancement Act of 2002,
3 whichever is later, file simultaneously with the Attorney
4 General and the Commission, a written notification dis-
5 closing—

6 “(A) the name and principal place of business
7 of the standards development organization, and

8 “(B) documents showing the nature and scope
9 of such activity.

10 Any standards development organization (including an or-
11 ganization developing standards for building products that
12 are designed to retard the development of mold or the
13 storage of those products) may file additional disclosure
14 notifications pursuant to this section as are appropriate
15 to extend the protections of section 4 to standards develop-
16 ment activities that are not covered by the initial filing
17 or that have changed significantly since the initial filing.”,

18 (2) in subsection (b)—

19 (A) in the 1st sentence by inserting “, or
20 a notice with respect to such standards develop-
21 ment activity that identifies the standards de-
22 velopment organization engaged in such activity
23 and that describes such activity in general
24 terms” before the period at the end, and

1 (B) in the last sentence by inserting “or
2 available to such organization, as the case may
3 be” before the period,

4 (3) in subsection (d)(2) by inserting “, or the
5 standards development activity,” after “venture”,

6 (4) in subsection (e)—

7 (A) by striking “person who” and inserting
8 “person or standards development organization
9 that”, and

10 (B) by inserting “or any standards devel-
11 opment organization (including an organization
12 developing standards for building products that
13 are designed to retard the development of mold
14 or the storage of those products)” after “per-
15 son” the last place it appears, and

16 (5) in subsection (g)(1) by inserting “or stand-
17 ards development organization (including an organi-
18 zation developing standards for building products
19 that are designed to retard the development of mold
20 or the storage of those products)” after “person”.

TITLE IV—INDOOR MOLD HAZARD ASSISTANCE

SEC. 401. GRANTS FOR REMEDIATION OF PUBLIC BUILDINGS AND SEVERELY IMPACTED HOMES.

The Administrator of the Environmental Protection Agency shall make grants available to State and local governments to cover—

(1) costs associated with remediating mold growth in buildings owned or leased by such governments, including but not limited to schools and multifamily dwellings; and

(2) the costs of temporary housing, food, and moving costs for periods not in excess of 6 months for individuals severely impacted by toxic mold in their residences who are without insurance coverage for toxic mold and who do not have financial resources to obtain alternative housing, as determined on a case by case basis by the State or local government.

TITLE V—TAX PROVISIONS

SEC. 501. TAX CREDIT FOR TOXIC MOLD INSPECTION AND REMEDIATION.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 30B. CREDIT FOR MOLD INSPECTION AND REMEDI-**
4 **ATION.**

5 “(a) GENERAL RULE.—There shall be allowed as a
6 credit against the tax imposed by this chapter for the tax-
7 able year an amount equal to 60 percent of mold inspec-
8 tion and remediation expenses paid or incurred by the tax-
9 payer during such taxable year.

10 “(b) LIMITATION.—The amount of the credit allowed
11 under subsection (a) for any taxable year shall not exceed
12 \$50,000.

13 “(c) MOLD INSPECTION AND REMEDIATION EX-
14 PENSES.—For purposes of this section, the term ‘mold in-
15 spection and remediation expenses’ means expenses paid
16 or incurred by the taxpayer (and not reimbursed by insur-
17 ance or otherwise) to carry out—

18 “(1) a risk assessment or inspection of housing
19 for the presence of indoor mold hazards under sec-
20 tion 202 of the United States Toxic Mold Safety and
21 Protection Act,

22 “(2) a risk assessment or inspection of any
23 other building for the presence of mold (as defined
24 in section 101(2) of the United States Toxic Mold
25 Safety and Protection Act), or

1 “(3) a remediation of mold growth in housing
2 or any other building.

3 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
4 or credit under any other provision of this chapter shall
5 be allowed with respect to mold inspection and remedi-
6 ation expenses taken into account for the credit under this
7 section.

8 “(e) CERTAIN RULES MADE APPLICABLE.—All per-
9 sons treated as one employer under subsection (a) or (b)
10 of section 52 shall be treated as 1 taxpayer for purposes
11 of this section.

12 “(f) APPLICATION WITH OTHER CREDITS.—The
13 credit allowed by subsection (a) for any taxable year shall
14 not exceed the excess (if any) of—

15 “(A) the regular tax for the taxable year,
16 reduced by the sum of the credits allowable
17 under subpart A and the preceding sections of
18 this subpart, over

19 “(B) the tentative minimum tax for the
20 taxable year.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for subpart B of part IV of subchapter A of chapter 1
23 of the Internal Revenue Code of 1986 is amended by add-
24 ing at the end the following:

“Sec. 30B. Credit for mold inspection and remediation.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after December 31, 2003.

4 **TITLE VI—NATIONAL TOXIC**
5 **MOLD HAZARD INSURANCE**
6 **PROGRAM**

7 **Subtitle A—Insurance Program**

8 **SEC. 601. PROGRAM AUTHORITY.**

9 (a) IN GENERAL.—The Director of the Federal
10 Emergency Management Agency shall establish and carry
11 out a national toxic mold insurance program to enable in-
12 terested persons to purchase insurance against losses re-
13 sulting from mold hazards in real properties located in the
14 United States.

15 (b) PARTICIPATION.—In carrying out the toxic mold
16 hazard insurance program under this title, the Director
17 shall, to the maximum extent practicable, encourage and
18 arrange for—

19 (1) appropriate financial participation and risk
20 sharing in the program by insurance companies and
21 other insurers; and

22 (2) other appropriate participation on other
23 than a risk-sharing basis, by insurance companies
24 and other insurers, insurance agents and brokers,

1 and insurance adjustment organizations, in accord-
2 ance with the provisions of subtitle B.

3 **SEC. 602. SCOPE OF PROGRAM AND PRIORITIES.**

4 (a) PRIORITY OF PROGRAM SCOPE.—In carrying out
5 the toxic mold hazard insurance program, the Director
6 shall afford a priority to making toxic mold hazard insur-
7 ance available to cover residential properties which are de-
8 signed for the occupancy of from one to four families.

9 (b) ADDITIONAL SCOPE.—If, pursuant to studies and
10 investigations pursuant to section 604 or such other infor-
11 mation as the Director considers appropriate, the Director
12 determines that it would be feasible to extend the insur-
13 ance program under this title to cover other properties,
14 the Director may take such action under this title as may
15 be necessary to make insurance available to cover, on such
16 basis as may be feasible, any types and classes of—

17 (1) other residential properties;

18 (2) church properties, and business properties
19 which are owned or leased and operated by small
20 business concerns;

21 (3) other business properties;

22 (4) properties occupied by private nonprofit or-
23 ganizations; and

24 (5) properties owned by State and local govern-
25 ments and agencies thereof;

1 and any such extensions of the program to any types and
 2 classes of these properties shall from time to time be pre-
 3 scribed in regulations.

4 **SEC. 603. NATURE AND LIMITATION OF INSURANCE COV-**
 5 **ERAGE.**

6 The Director shall from time to time, after consulta-
 7 tion with interested parties (including the insurance au-
 8 thorities of the States), provide by regulation for general
 9 terms and conditions of insurability which shall be applica-
 10 ble to properties eligible for toxic mold hazard insurance
 11 coverage under section 602, including—

12 (1) the types, classes, and locations of any such
 13 properties which shall be eligible for such insurance;

14 (2) the nature and limits of loss or damage that
 15 may be covered by such insurance, which shall in-
 16 clude costs of property damage and loss, remedi-
 17 ation, relocation (during remediation or perma-
 18 nently), and rental of an alternative dwelling during
 19 remediation;

20 (3) the classification, limitation, and rejection
 21 of any risks that may be appropriate;

22 (4) appropriate minimum premiums;

23 (5) appropriate loss-deductibles;

1 (6) appropriate limits on aggregate liability
2 under such coverage, based on the type of property
3 insured; and

4 (7) any other terms and conditions relating to
5 insurance coverage or exclusion which may be nec-
6 essary to carry out the purposes of this title.

7 **SEC. 604. ESTIMATES OF PREMIUM RATES.**

8 The Director shall undertake and carry out such
9 studies and investigations and receive or exchange such
10 information as may be necessary to estimate, and shall
11 from time to time estimate the following premium rates
12 for toxic mold hazard insurance coverage under this title:

13 (1) ACTUARIAL RATES.—The risk premium
14 rates that would be required to make such insurance
15 available on an actuarial basis for any types and
16 classes of properties for which insurance coverage is
17 available under section 602 and which—

18 (A) are based on consideration of the risk
19 involved and accepted actuarial principles;

20 (B) include the applicable operating costs
21 and allowances set forth in the schedules pre-
22 scribed under section 607 and reflected in such
23 rates; and

1 (C) include any administrative expenses of
 2 carrying out the insurance program under this
 3 title.

4 (2) SUBSIDIZED RATES.—The risk premium
 5 rates that—

6 (A) are less than the rates estimated under
 7 paragraph (1);

8 (B) would be reasonable;

9 (C) would encourage prospective insureds
 10 to purchase toxic mold hazard insurance cov-
 11 erage;

12 (D) would be consistent with the purposes
 13 of this title; and

14 (E) include any administrative expenses in-
 15 curred in carrying out the insurance program
 16 under this title.

17 **SEC. 605. ESTABLISHMENT OF CHARGEABLE PREMIUM**
 18 **RATES.**

19 (a) IN GENERAL.—On the basis of estimates made
 20 under section 604 and such other information as may be
 21 necessary, the Director shall from time to time, after con-
 22 sultation with the interested parties (including the insur-
 23 ance authorities of the States), prescribe by regulation—

24 (1) chargeable premium rates for any types and
 25 classes of properties for which insurance coverage

1 shall be available under section 602 (at less than the
2 estimated risk premium rates under section 604(1),
3 where necessary), and

4 (2) the terms and conditions under which, and
5 the areas within which, such rates shall apply.

6 (b) FACTORS.—Such rates shall, insofar as prac-
7 ticable, be—

8 (1) based on a consideration of the respective
9 risks involved, including differences in risks due to
10 construction types and materials, building systems,
11 geology, climate, and other factors that may affect
12 mold levels in buildings;

13 (2)(A) adequate, on the basis of accepted actu-
14 arial principles, to provide reserves for anticipated
15 losses; or

16 (B) if less than such amount consistent with
17 the objective of making toxic mold hazard insurance
18 coverage available where necessary at reasonable
19 rates so as to encourage prospective insureds to pur-
20 chase such insurance and with the purposes of this
21 title;

22 (3) adequate to provide for any administrative
23 expenses of the insurance programs under this title;
24 and

1 (4) stated so as to reflect the basis for such
2 rates, including the differences (if any) between the
3 estimated actuarial risk premium rates under section
4 604(1) and the estimated subsidized risk premium
5 rates under section 604(2).

6 (c) FULL ACTUARIAL RATES FOR COMMUNITIES NOT
7 IN COMPLIANCE WITH BUILDING INSPECTION, CERTIFI-
8 CATE OF OCCUPANCY, AND PUBLIC DISCLOSURE PROVI-
9 SIONS.—Subject only to the limitation under subsection
10 (d), the chargeable rate with respect to any property that
11 is located within a jurisdiction that the Director deter-
12 mines has not adopted adequate toxic mold control meas-
13 ures, with effective enforcement provisions, that the Direc-
14 tor determines are consistent with the model standards
15 and techniques for inspection and certification of occu-
16 pancy issued under section 201 and with the model stand-
17 ards for public disclosure issued under section 202, shall
18 not be less than the applicable estimated risk premium
19 rate for such area (or subdivision thereof) under section
20 604(1), except that such premium rate for such properties
21 shall be affordable and reasonably priced.

22 (d) ANNUAL LIMITATION ON PREMIUM IN-
23 CREASES.—Notwithstanding any other provision of this
24 title, the chargeable risk premium rates for toxic mold
25 hazard insurance under this title for any properties within

1 any single risk classification may not be increased by an
2 amount that would result in the average of such rate in-
3 creases for properties within the risk classification during
4 any 12-month period exceeding 10 percent of the average
5 of the risk premium rates for properties within the risk
6 classification upon the commencement of such 12-month
7 period.

8 (e) \$200 MAXIMUM PREMIUM FOR SINGLE FAMILY
9 DWELLINGS.—The chargeable risk premium rate for toxic
10 mold hazard insurance under this title for a single family
11 dwelling shall be affordable and reasonably priced.

12 **SEC. 606. NATIONAL TOXIC MOLD HAZARD INSURANCE**
13 **FUND.**

14 (a) ESTABLISHMENT AND USES.—To carry out the
15 toxic mold hazard insurance program under this title, the
16 Director shall establish in the Treasury of the United
17 States a National Toxic Mold Hazard Insurance Fund,
18 which shall be an account separate from any other ac-
19 counts or funds available to the Director and shall be
20 available as described in subsection (f), without fiscal year
21 limitation (except as otherwise provided in this section)—

22 (1) for making such payments as may, from
23 time to time, be required under section 634;

1 (2) to repay to the Secretary of the Treasury
2 such sums as may be borrowed (together with inter-
3 est) pursuant to subsection (e);

4 (3) to the extent approved in appropriation
5 Acts, to pay any administrative expenses of the toxic
6 mold hazard insurance program; and

7 (4) for the purposes specified in subsection (d)
8 under the conditions provided therein.

9 (b) CREDITS.—The Fund shall be credited with—

10 (1) any amounts borrowed under subsection (e);

11 (2) any amounts as may be appropriated for
12 the Fund;

13 (3) interest which may be earned on invest-
14 ments of the Fund pursuant to subsection (c);

15 (4) receipts from any other operations under
16 this title (including premiums under the conditions
17 specified in subsection (d)); and

18 (5) such other amounts as may be credited to
19 the Fund.

20 (c) INVESTMENT.—If the Director determines that
21 the amounts in the Fund are in excess of current needs,
22 the Director may request the investment of such amounts
23 as the Director deems advisable by the Secretary of the
24 Treasury in obligations issued or guaranteed by the
25 United States.

1 (d) FEDERAL OPERATION OF PROGRAM.—In the
2 event the Director makes a determination under section
3 641 that operation of the toxic mold hazard insurance pro-
4 gram, in whole or in part, should be carried out through
5 the facilities of the Federal Government, the Fund shall
6 be available for all purposes incident thereto, including—

7 (1) costs incurred in the adjustment and pay-
8 ment of any claims for losses, and

9 (2) payment of applicable operating costs set
10 forth in the schedules prescribed under section 607,
11 for so long as the program is so carried out, and in such
12 event any premiums paid shall be deposited by the Direc-
13 tor to the credit of the Fund.

14 (e) BORROWING.—

15 (1) AUTHORITY.—To the extent that the
16 amounts in the Fund are insufficient to pay claims
17 and expenses under the toxic mold hazard insurance
18 program, the Director may issue such obligations of
19 the Fund as may be necessary to cover the insuffi-
20 ciency and the Secretary of the Treasury shall pur-
21 chase any such obligations issued.

22 (2) PUBLIC DEBT TRANSACTION.—For the pur-
23 pose of purchasing any such obligations, the Sec-
24 retary may use as a public debt transaction the pro-
25 ceeds from the sale of any securities issued under

1 chapter 31 of title 31, United States Code, and the
2 purposes for which securities are issued under such
3 chapter are hereby extended to include any purchase
4 by the Secretary of such obligations under this sub-
5 section.

6 (3) CHARACTERISTICS OF OBLIGATIONS.—Obli-
7 gations issued under this subsection shall be in such
8 forms and denominations, bear such maturities, bear
9 interest at such rate, and be subject to such other
10 terms and conditions, as the Secretary shall deter-
11 mine.

12 (4) TREATMENT.—All redemptions, purchases,
13 and sales by the Secretary of obligations under this
14 subsection shall be treated as public debt trans-
15 actions of the United States.

16 (f) AVAILABILITY.—The Fund shall be available, with
17 respect to any fiscal year only to the extent approved in
18 appropriation Acts; except that the Fund shall be available
19 for the purpose described in subsection (d)(1) without
20 such approval.

21 **SEC. 607. OPERATING COSTS AND ALLOWANCES.**

22 (a) IN GENERAL.—The Director shall from time to
23 time negotiate with appropriate representatives of the in-
24 surance industry for the purpose of establishing—

1 (1) a current schedule of operating costs appli-
2 cable both to risk-sharing insurance companies and
3 other insurers and to insurance companies and other
4 insurers, insurance agents and brokers, and insur-
5 ance adjustment organizations participating on other
6 than a risk-sharing basis, and

7 (2) a current schedule of operating allowances
8 applicable to risk-sharing insurance companies and
9 other insurers,

10 which may be payable in accordance with the provisions
11 of subtitle B, and such schedules shall from time to time
12 be prescribed in regulations.

13 (b) DEFINITIONS.—For purposes of subsection (a),
14 the following definitions shall apply:

15 (1) OPERATING ALLOWANCES.—The term “op-
16 erating allowances” includes amounts for profit and
17 contingencies that the Director determines are rea-
18 sonable and necessary to carry out the purposes of
19 this title.

20 (2) OPERATING COSTS.—The term “operating
21 costs” includes—

22 (A) expense reimbursements covering the
23 direct, actual, and necessary expenses incurred
24 in connection with selling and servicing toxic
25 mold hazard insurance coverage;

1 (B) reasonable compensation payable for
2 selling and servicing such coverage, or commis-
3 sions or service fees paid to producers;

4 (C) loss adjustment expenses; and

5 (D) other direct, actual, and necessary ex-
6 penses which the Director finds are incurred in
7 connection with selling or servicing such insur-
8 ance coverage.

9 **SEC. 608. PAYMENT OF CLAIMS.**

10 The Director shall prescribe regulations establishing
11 the general method or methods by which proved and ap-
12 proved claims for losses may be adjusted and paid for any
13 losses or damages covered by toxic mold hazard insurance
14 made available under this title.

15 **SEC. 609. DISSEMINATION OF INSURANCE INFORMATION.**

16 The Director shall from time to time take such action
17 as may be necessary in order to make information avail-
18 able to the public, and to any State or local agency or
19 official, with regard to—

20 (1) the toxic mold hazard insurance program,
21 its coverage, and objectives; and

22 (2) estimated and chargeable insurance pre-
23 mium rates under the program, including the basis
24 for and differences between such rates in accordance
25 with the provisions of this subtitle.

1 **SEC. 610. COORDINATION WITH OTHER PROGRAMS.**

2 In carrying out this title, the Director shall consult
3 with other departments and agencies of the Federal Gov-
4 ernment, and with interstate, State, and local agencies
5 having responsibilities for toxic mold inspection and pre-
6 vention, in order to ensure that the programs of such
7 agencies and the program under this title are mutually
8 consistent.

9 **SEC. 611. REPORTS.**

10 The Director shall annually submit a report of oper-
11 ations under this title to the Congress.

12 **Subtitle B—Organization and Ad-**
13 **ministration of Insurance Pro-**
14 **gram**

15 **SEC. 621. IMPLEMENTATION.**

16 Following such consultation with representatives of
17 the insurance industry as may be necessary, the Director
18 shall implement the toxic mold hazard insurance program
19 under subtitle A in accordance with the provisions of part
20 1 of this subtitle, and, if a determination is made by the
21 Director under section 641, under part 2 of this subtitle.

22 **PART 1—INDUSTRY PROGRAM WITH**
23 **FEDERAL FINANCIAL ASSISTANCE**

24 **SEC. 631. INDUSTRY INSURANCE POOL.**

25 (a) FORMATION.—The Director may encourage and
26 otherwise assist any insurance companies and other insur-

1 ers that meet the requirements prescribed under sub-
2 section (b) to form, as associate, or otherwise join together
3 in a pool—

4 (1) in order to provide the insurance coverage
5 authorized under subtitle A; and

6 (2) for the purpose of assuming, on such terms
7 and conditions as may be agreed upon, such finan-
8 cial responsibility as will enable such companies and
9 other insurers, with the Federal financial and other
10 assistance available under this title, to assure a rea-
11 sonable proportion of responsibility for the adjust-
12 ment and payment of claims for losses under the
13 toxic mold hazard insurance program.

14 (b) REQUIREMENTS.—To promote the effective ad-
15 ministration of the toxic mold hazard insurance program
16 under this part, and to ensure that the objectives of this
17 title are furthered, the Director may prescribe appropriate
18 requirements for insurance companies and other insurers
19 participating in such pool, including minimum require-
20 ments for capital or surplus or assets.

21 **SEC. 632. AGREEMENTS WITH INSURANCE POOL.**

22 (a) AUTHORITY.—The Director may enter into such
23 agreements with the pool formed or otherwise created
24 under this part as the Director deems necessary to carry
25 out the purposes of this title.

1 (b) CONTENTS.—Such agreements shall specify—

2 (1) the terms and conditions under which risk
3 capital will be available for the adjustment and pay-
4 ments of claims;

5 (2) the terms and conditions under which the
6 pool (and the companies and other insurers partici-
7 pating therein) shall participate in premiums re-
8 ceived and profits or losses realized or sustained;

9 (3) the maximum amount of profit, established
10 by the Director and set forth in the schedules pre-
11 scribed under section 607, which may be realized by
12 such pool (and the companies and other insurers
13 participating therein);

14 (4) the terms and conditions under which oper-
15 ating costs and allowances set forth in the schedules
16 prescribed under section 607 may be paid; and

17 (5) the terms and conditions under which pre-
18 mium equalization payments under section 634 will
19 be made.

20 (c) PARTICIPATION.—In addition, such agreements
21 shall contain such provisions as the Director finds nec-
22 essary to ensure that—

23 (1) no insurance company or other insurer that
24 meets the requirements prescribed under section
25 631(b) and has indicated an intention to participate

1 in the toxic mold hazard insurance program on a
2 risk-sharing basis, will be excluded from partici-
3 pating in the pool;

4 (2) the insurance companies and other insurers
5 participating in the pool will take whatever action
6 may be necessary to provide continuity of toxic mold
7 hazard insurance coverage by the pool; and

8 (3) any insurance companies and other insur-
9 ers, insurance agents, and brokers and insurance ad-
10 justment organizations will be permitted to cooper-
11 ate with the pool as fiscal agents or otherwise, on
12 other than a risk-sharing basis, to the maximum ex-
13 tent practicable.

14 **SEC. 633. ADJUSTMENT AND PAYMENT OF CLAIMS AND JU-**
15 **DICIAL REVIEW.**

16 The insurance companies and other insurers that
17 form, associate, or otherwise join together in the pool
18 under this part may adjust and pay all claims for proved
19 and approved losses covered by toxic mold hazard insur-
20 ance in accordance with the provisions of this title and,
21 upon the disallowance by any such company or other in-
22 surer of any such claim, or upon the refusal of the claim-
23 ant to accept the amount allowed upon any such claim,
24 the claimant, within one year after the date of mailing
25 of notice of disallowance or partial disallowance of the

1 claim, may institute an action on such claim against such
2 company or other insurer in the United States district
3 court for the district in which the insured property or the
4 major part thereof shall have been situated, and original
5 exclusive jurisdiction is hereby conferred upon such court
6 to hear and determine such action without regard to the
7 amount in controversy.

8 **SEC. 634. PREMIUM EQUALIZATION PAYMENTS.**

9 (a) PAYMENTS.—The Director, on such terms and
10 conditions as the Director may from time to time pre-
11 scribe, shall make periodic payments to the pool formed
12 or otherwise created under section 631, in recognition of
13 such reductions in chargeable premium rates under section
14 605 below estimated premium rates under section 604(1)
15 as are required in order to make toxic mold hazard insur-
16 ance available on reasonable terms and conditions.

17 (b) PERIODS AND METHODS.—Designated periods
18 under this section and the methods for determining the
19 sum of premiums paid or payable during such periods
20 shall be established by the Director.

21 **SEC. 635. EMERGENCY IMPLEMENTATION OF PROGRAM.**

22 (a) AUTHORITY.—Notwithstanding any other provi-
23 sions of this title, for the purpose of providing toxic mold
24 hazard insurance coverage at the earliest possible time,
25 the Director may carry out the insurance program under

1 subtitle A during the period ending September 30, 2004,
 2 in accordance with the provisions of this part and the
 3 other provisions of this title insofar as they relate to this
 4 part, but subject to the modifications made by or under
 5 subsection (b).

6 (b) PREMIUM RATES AND PROCEDURES.—In car-
 7 rying out the toxic mold hazard insurance program pursu-
 8 ant to subsection (a), the Director—

9 (1) shall provide insurance coverage without re-
 10 gard to any estimated risk premium rates which
 11 would otherwise be determined under section 604;
 12 and

13 (2) shall utilize the provisions and procedures
 14 contained in or prescribed by this part (other than
 15 section 634) and sections 651 and 652 to such ex-
 16 tent and in such manner as the Director may con-
 17 sider necessary or appropriate to carry out the pur-
 18 pose of this section.

19 **PART 2—GOVERNMENT PROGRAM WITH** 20 **INDUSTRY ASSISTANCE**

21 **SEC. 641. FEDERAL OPERATION OF PROGRAM.**

22 (a) AUTHORITY.—If at any time, after consultation
 23 with representatives of the insurance industry, the Direc-
 24 tor determines that operation of the toxic mold hazard in-
 25 surance program as provided under part 1 cannot be car-

ried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for toxic mold insurance under this title (on a temporary or other basis), the Director shall promptly undertake any necessary arrangements to carry out the program of toxic mold hazard insurance under subtitle A through the facilities of the Federal Government, utilizing, for purposes of providing such insurance coverage—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States;

(2) such other officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the Director and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis; or

(3) both the alternatives specified in paragraphs (1) and (2).

(b) REPORT.—Upon making the determination referred to in subsection (a), the Director shall make a report to the Congress and, at the same time, to the private insurance companies participating in the toxic mold haz-

1 and insurance program under this title. Such report
2 shall—

3 (1) state the reason for such determinations;

4 (2) include findings that support such deter-
5 mination;

6 (3) indicate the extent to which it is anticipated
7 that the insurance industry will be utilized in pro-
8 viding toxic mold hazard insurance coverage under
9 the program; and

10 (4) contain such recommendations as the Direc-
11 tor considers appropriate.

12 The Director shall not implement the program of toxic
13 mold hazard insurance under subtitle A through the facili-
14 ties of the Federal Government before the expiration of
15 the 9-month period beginning upon the date of submission
16 of the report under this subsection unless it would be im-
17 possible to continue to effectively carry out the program
18 operations during such period.

19 **SEC. 642. ADJUSTMENT AND PAYMENT OF CLAIMS AND JU-**
20 **DICIAL REVIEW.**

21 If the program is carried out as provided in section
22 1341, the Director may adjust and make payment of any
23 claims for proved and approved losses covered by toxic
24 mold hazard insurance, and upon the disallowance by the
25 Director of any such claims, or upon the refusal of the

1 claimant to accept the amount allowed upon any such
2 claim, the claimant, within one year after the date of mail-
3 ing of notice of disallowance or partial disallowance by the
4 Director, may institute an action against the Director on
5 such claim in the United States district court for the dis-
6 trict in which the insured property or the major part
7 thereof shall have been situated, and original exclusive ju-
8 risdiction is hereby conferred upon such court to hear and
9 determine such action without regard to the amount in
10 controversy.

11 **PART 3—PROVISIONS OF GENERAL**
12 **APPLICABILITY**

13 **SEC. 651. SERVICES BY INSURANCE INDUSTRY.**

14 (a) **CONTRACTS AND AGREEMENTS.**—In admin-
15 istering the toxic mold hazard insurance program under
16 this subtitle, the Director may enter into any contracts,
17 agreements, or other appropriate arrangements which
18 may, from time to time, be necessary for the purpose of
19 utilizing, on such terms and conditions as may be agreed
20 upon, the facilities and services of any insurance compa-
21 nies or other insurers, insurance agents and brokers, or
22 insurance adjustment organizations; and such contracts,
23 agreements, or arrangements may include provision for
24 payment of applicable operating costs and allowances for

1 such facilities and services as set forth in the schedules
2 prescribed under section 607.

3 (b) EXEMPTION FROM COMPETITIVE BIDDING RE-
4 QUIREMENTS.—Any such contracts, agreements, or other
5 arrangements may be entered into without regard to the
6 provisions of section 3709 of the Revised Statutes (41
7 U.S.C. 5) or any other provisions of law requiring competi-
8 tive bidding and without regard to the provisions of the
9 Federal Advisory Committee Act (5 U.S.C. App.).

10 (c) LIABILITY.—The Director of the Federal Emer-
11 gency Management Agency shall hold any agent or broker
12 selling or undertaking to sell toxic mold insurance cov-
13 erage under this title harmless from any judgment for
14 damages against such agent or broker as a result of any
15 court action by a policyholder or applicant arising out of
16 an error or omission on the part of the Federal Emergency
17 Management Agency, and shall provide any such agent or
18 broker with indemnification, including court costs and rea-
19 sonable attorney fees, arising out of and caused by an
20 error or omission on the part of the Federal Emergency
21 Management Agency and its contractors. The Director of
22 the Federal Emergency Management Agency may not hold
23 harmless or indemnify an agent or broker for his or her
24 error or omission.

1 **SEC. 652. USE OF INSURANCE POOL, COMPANIES, OR**
2 **OTHER PRIVATE ORGANIZATIONS FOR CER-**
3 **TAIN PAYMENTS.**

4 (a) **AUTHORITY.**—To provide for maximum efficiency
5 in the administration of the toxic mold hazard insurance
6 program and to facilitate the expeditious payment of any
7 Federal funds under such program, the Director may
8 enter into contracts with a pool formed or otherwise cre-
9 ated under section 631, or any insurance company or
10 other private organization, for the purpose of securing per-
11 formance by such pool, company, or organization or any
12 or all of the following responsibilities:

13 (1) Estimating and later determining any
14 amounts of payments to be made.

15 (2) Receiving from the Director, disbursing,
16 and accounting for funds in making such payments.

17 (3) Making such audits of the records of any
18 insurance company or other insurer, insurance agent
19 or broker, or insurance adjustment organization as
20 may be necessary to assure that proper payments
21 are made.

22 (4) Otherwise assisting in such manner as the
23 contract may provide to further the purposes of this
24 title.

25 (b) **TERMS AND CONDITIONS.**—Any contract with the
26 pool or an insurance company or other private organiza-

1 tion under this section may contain such terms and condi-
2 tions at the Director finds necessary or appropriate for
3 carrying out responsibilities under subsection (a), and may
4 provide for payment of any costs which the Director deter-
5 mines are incidental to carrying out such responsibilities
6 which are covered by the contract.

7 (c) EXEMPTION FROM COMPETITIVE BIDDING RE-
8 QUIREMENTS.—Any contract entered into under sub-
9 section (a) may be entered into without regard to section
10 3709 of the Revised Statutes (41 U.S.C. 5) or any other
11 provision of law requiring competitive bidding.

12 (d) EFFICIENCY AND EFFECTIVENESS.—No contract
13 may be entered into under this section unless the Director
14 finds that the pool, company, or organization will perform
15 its obligations under the contract efficiently and effec-
16 tively, and will meet such requirements as to financial re-
17 sponsibility, legal authority, and other matters as the Di-
18 rector finds appropriate.

19 (e) CERTIFICATION OF PAYMENTS.—

20 (1) BONDING.—Any such contract may require
21 the pool, company, or organization or any of its offi-
22 cers or employees certifying payments or disbursing
23 funds pursuant to the contract, or otherwise partici-
24 pating in carrying out the contract, to give surety

1 bond to the United States in such amount as the Di-
2 rector may deem appropriate.

3 (2) LIABILITY.—

4 (A) No individual designated pursuant to a
5 contract under this section to certify payments
6 shall, in the absence of gross negligence or in-
7 tent to defraud the United States, be liable with
8 respect to any payment certified by such indi-
9 vidual under this section.

10 (B) No officer disbursing funds shall in
11 the absence of gross negligence or intent to de-
12 fraud the United States, be liable with respect
13 to any payment by such officer under this sec-
14 tion if it was based upon a voucher signed by
15 an individual designated to certify payments as
16 provided in paragraph (2) of this subsection.

17 (f) CONTRACT TERM.—Any contract entered into
18 under this section shall be for a term of one year, and
19 may be made automatically renewable from term to term
20 in the absence of notice by either party of an intention
21 to terminate at the end of the current term; except that
22 the Director may terminate any such contract at any time
23 (after reasonable notice to the pool, company, or organiza-
24 tion involved) if the Director finds that the pool, company,
25 or organization has failed substantially to carry out the

1 contract, or is carrying out the contract in a manner in-
2 consistent with the efficient and effective administration
3 of the toxic mold hazard insurance program under this
4 title.

5 **SEC. 653. SETTLEMENT AND ARBITRATION.**

6 (a) **AUTHORITY.**—The Director may make final set-
7 tlement of any claims or demands which may arise as a
8 result of any financial transactions that the Director is
9 authorized to carry out under this subtitle, and may, to
10 assist the Director in making any such settlement, refer
11 any disputes relating to such claims or demands to arbi-
12 tration, with the consent of the parties concerned.

13 (b) **ARBITRATION.**—Such arbitration shall be advi-
14 sory in nature, and any award, decision, or recommenda-
15 tion which may be made shall become final only upon the
16 approval of the Director.

17 **SEC. 654. RECORDS AND AUDITS.**

18 (a) **MAINTENANCE OF RECORDS.**—The insurance
19 pool formed or otherwise created under part 1 of this sub-
20 title, and any insurance company or other private organi-
21 zation executing any contract, agreement, or other appro-
22 priate arrangement with the Director under part 2 of this
23 part, shall keep such records as the Director shall pre-
24 scribe, including records which fully disclose the total costs

1 of the program undertaken or the services being rendered,
2 and such other records as will facilitate an effective audit.

3 (b) ACCESS TO RECORDS.—The Director and the
4 Comptroller General of the United States, or any of their
5 duly authorized representatives, shall have access for the
6 purpose of audit and examination to any books, docu-
7 ments, papers and any such insurance company or other
8 private organization that are pertinent to the costs of the
9 program undertaken or the services being rendered.

10 **Subtitle C—Miscellaneous** 11 **Provisions**

12 **SEC. 661. DEFINITIONS.**

13 For purposes of this title, the following definitions
14 shall apply:

15 (1) DIRECTOR.—The term “Director” means
16 the Director of the Federal Emergency Management
17 Agency.

18 (2) FUND.—The term “Fund” means the Na-
19 tional Toxic Mold Hazard Insurance Fund estab-
20 lished under section 606.

21 (3) INSURANCE ADJUSTMENT ORGANIZATION.—
22 The term “insurance adjustment organization” in-
23 cludes any organizations and persons engaged in the
24 business of adjusting loss claims arising under insur-

1 ance policies issued by any insurance company or
2 other insurer.

3 (4) INSURANCE COMPANY; OTHER INSURER; IN-
4 SURANCE AGENT OR BROKER.—The terms “insur-
5 ance company”, “other insurer” and “insurance
6 agent or broker” include any organizations and per-
7 sons authorized to engage in the insurance business
8 under the laws of any State.

9 **SEC. 662. PAYMENTS.**

10 Any payments under this title may be made (after
11 necessary adjustment on account of previously made un-
12 derpayments or overpayments) in advance or by way of
13 reimbursement, and in such installments and on such con-
14 ditions, as the Director may determine.

15 **SEC. 663. GOVERNMENT CORPORATION CONTROL ACT.**

16 The provisions of chapter 91 of title 31, United
17 States Code, shall apply to the program under this title
18 to the same extent that such provisions apply to wholly
19 owned Government corporations.

20 **SEC. 664. FINALITY OF CERTAIN TRANSACTIONS.**

21 Notwithstanding any other provisions of law—

22 (1) any financial transaction authorized to be
23 carried out under this title, and

1 (2) any payment authorized to be made or to
2 be received in connection with any such financial
3 transaction,
4 shall be final and conclusive upon all officers of the Gov-
5 ernment.

6 **SEC. 665. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
8 as may from time to time be necessary to carry out this
9 title, including amounts—

10 (1) to reimburse the National Toxic Mold Haz-
11 ard Insurance Fund established under section 604
12 for premium equalization payments under section
13 634 which have been made from the Fund;

14 (2) for studies under this title; and

15 (3) to make such other payments as may be
16 necessary to carry out the purposes of this title.

17 Any amounts appropriate pursuant to this section shall
18 be available without fiscal year limitation.

19 **TITLE VII—HEALTH CARE**
20 **PROVISIONS**

21 **SEC. 701. MEDICAID WAIVER.**

22 Notwithstanding any other provision of law, a State
23 (as defined for purposes of title XIX of the Social Security
24 Act) may waive income, resource, and other requirements

1 otherwise applicable under such title in order to provide
2 medical assistance to individuals—

3 (1) whose health has been adversely impacted
4 (as certified by a physician) due to exposure to toxic
5 mold; and

6 (2) who do not have any health insurance cov-
7 erage, or lack adequate health insurance coverage, to
8 treat the physical harm due to toxic mold poisoning.

○