

**Selected Legislative Approaches for the Development of
Non-Mandatory Guidelines Concerning Mold Assessment and Remediation**

*Submitted to the
Georgia Senate Mold and Mildew Remediation Contractor Study Committee*

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Respectfully submitted by

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To Senator Donzella J. James and esteemed members of the Senate Mold and Mildew Remediation Contractor Study Committee:

I am Christopher J. Bowers, Counsel in the Environmental and Sustainability Practices of the law firm of Smith Gambrell & Russell, LLP. As some of you know, I appeared before this Committee previously to provide a summary of federal and state regulation of mold-related activities, and at that time summarized my credentials and experience concerning the subject of mold, so I will not repeat that experience here.

I understand that this Committee has considered certain legislative action taken by states other than Georgia relating to the subject of mold abatement, and that it has been in the interest of this Committee to examine these issues with particular consideration towards safeguarding against those who may seek to perform poor quality, unnecessary, overly costly, or even harmful work. In this regard, I understand that the Committee is interested in suggested approaches for the establishment of voluntary, publicly-available guidelines concerning the assessment and remediation of indoor residential mold, taking into consideration approaches that have been taken in other states.

Accordingly, I present today two alternatives to accomplish these objectives for this Committee's consideration. In the first, I describe the establishment of an advisory board to further investigate these issues and publish voluntary guidelines concerning the subjects of mold assessment and cleanup, as well as the selection and evaluation of professional mold assessors and cleanup contractors. In the second alternative approach, I examine a more direct path, whereby the State Department of Public Health, alone or possibly in conjunction with other agencies, would be directed to publish guidelines establishing mold assessment and mold abatement protocols, including industry-approved methods for performing mold assessment and remediation in the home and/or the workplace, as well as consumer guidelines addressing the selection and evaluation of professional mold assessors and cleanup contractors.

A. Creation of a Mold Advisory Board

In my prior appearance before this Committee on September 18, 2014, I reported that many states have passed laws to convene a special *task force*, *working group*, *study committee*, or *advisory board*, with varying purposes including examination of existing laws or standards involving residential mold assessment and remediation, and addressing the state of scientific and medical knowledge concerning the potential health effects of human exposure to indoor mold.

In this context, I reported that in 2011, Arkansas Senate Bill 531 was passed as Arkansas Act 341 of 2011, creating the Arkansas Mold Investigation Advisory Board. This Advisory Board was charged with studying: (1) the effects on the public health and safety of existing statutes and rules regarding mold investigations and remediation; and (2) approaches to changing existing state statutes to better meet the needs of that state's citizens. To provide greater detail, by law, the Arkansas Mold Advisory Board consisted of nine members, including:

One member of the Senate, one member of the House of Representatives; and an additional seven members appointed by the Governor of Arkansas, comprising:

One member representing the State Plant Board;
One member to represent the State Department of Health;
One member to represent the State Department of Labor;
One member to represent the Arkansas Realtors Association;
One member to represent the Arkansas Association of Real Estate Inspectors;
One member to represent the Arkansas Pest Management Association; and
One member who held a professional license as a mold inspector.

After a great deal of work performed by that Board over the course of a year, consisting of regular meetings, solicitation of input from stakeholders, and technical evaluations, the Arkansas Mold Advisory Board issued a report in November of 2012. In that 2012 report, the Mold Advisory Board concluded that it would NOT recommend the passage of new laws to address the issues associated with the assessment and remediation of indoor mold environments. Instead, the Mold Advisory Board recommended that the state's resources be channeled toward informing and educating the public about molds that they may encounter in their homes, as well as providing better guidance to professionals who performed mold-related work in the state.

To that end, the Board developed a "**Mold Information Sheet**" that sought to address common questions that the public may have concerning human exposure to mold in indoor environments. These "common questions" which this "**Mold Information Sheet**" sought to address will strike many of us as familiar, such as:

- Why is mold growing inside my residence/office?
- What is "black" or "toxic" mold?
- How will exposures to these indoor molds affect my health?
- Who is most vulnerable to molds found inside buildings?
- Should I have my house or office tested for mold?
- How do I get rid of mold?
- Will the mold come back?
and
- Can I do the cleanup myself or do I have to hire a contractor?

With regard to this last question, the Mold Advisory Board also developed a guidance document entitled "**Arkansas Guidelines for Mold Abatement Contractors**", which was intended to provide professionals in related industries with *best available technology* and *best practices* guidelines for mold assessment and remediation in the absence of mandatory laws governing mold-related work in that state.

Each of the "**Mold Information Sheet**" and the "**Guidelines for Mold Abatement Contractors**" prepared by the Arkansas Mold Advisory Board are made available free to the public from the websites of the *Arkansas Department of Health*, the *Arkansas Plant Board*, the *Arkansas Department of Labor*, and the *Arkansas Realtor's Association*.¹ I have previously

¹ Copies of these guidelines are appended as Attachments A and B to the Arkansas Mold Advisory Board's 2012 Report, a copy of which I have previously submitted to this Committee.

provided this Committee with a copy of the Arkansas Mold Advisory Board's 2012 Report featuring these guidelines.

To summarize, in 2011, the State of Arkansas passed Arkansas Act 341 of 2011, convening an Advisory Board comprised of those from the state legislature, interested state agencies, and industry stakeholders to jointly address whether changes to existing state laws concerning mold assessment and abatement were desirable, concluding that in lieu of passing new *laws* on the subject, attention and resources were best directed towards the development and public dissemination of non-mandatory *guidance*. Should this Committee elect to proceed in a manner similar to the approach taken by the State of Arkansas in convening such an advisory board – *either* with a broad investigative mandate to further study these issues *or* a specific directive to publish guidelines, the State of Georgia could conceivably avail itself of the benefit of many hours and a tremendous amount of financial resources expended by those in private industry and by state agencies nationwide who have recently addressed these issues. In this regard, it is noteworthy that the Arkansas Mold Advisory Board Report advised that many of its observations, conclusions and recommendations were consistent with or nearly identical to those made by advisory boards and task forces in other states that preceded it, such as New York, California and Colorado.

For this Committee's consideration, I attach a copy of Arkansas Senate Bill 531, which was passed as Arkansas Act 341 of 2011, creating the Arkansas Mold Advisory Board. ([See Attachment 1](#)).

B. Directive to State Department of Health to Publish Guidelines

As an alternative to creation of an advisory board or task force to conduct additional studies and prepare guidelines addressing the subject of mold assessment, mold remediation and considerations in evaluating and selecting professionals who might perform this work, I previously reported to this Committee that the State of Connecticut directed its state department of health to publish voluntary guidelines addressing at least some of these topics. On June 7, 2006, the Governor of Connecticut signed into law Public Act No. 06-195, revising certain portions of that state's Public Health Statutes, including a section addressing the subject of mold.² In a new Section 40, the Connecticut Public Health Statutes were amended to read, in pertinent part:

Sec. 40. (NEW) (*Effective from passage*) On or before October 1, 2006, the Department of Public Health shall publish guidelines establishing mold abatement protocols that include acceptable methods for performing mold remediation or abatement work. Such guidelines shall not be deemed to be regulations, as defined in section 4-166 of the general statutes.

A copy of this Report is available at:

<http://plantboard.arkansas.gov/PlantIndustry/Documents/Mold%20Advosiry%20Board%20Final%20Report.pdf>.

² The full text of Connecticut Public Act No. 06-195 is available at:

<http://www.cga.ct.gov/2006/ACT/PA/2006PA-00195-R00SB-00317-PA.htm>

For this Committee's convenience, I attach a copy of an excerpted portion of Connecticut Public Act No. 06-195, containing this language.³ (*See Attachment 2*) I also attach a copy of the Connecticut Department of Health "Guidelines for Mold Abatement Contractors", which was developed by that agency in compliance with this law. (*See Attachment 3*)

Should this Committee elect to proceed in a manner similar to the approach taken by the State of Connecticut, this Committee might consider whether state agencies *in addition* to the State Department of Health should also be charged with at least some responsibility for developing guidelines related to the subject of mold, as the focus of this Committee includes *both* the subject of proper **mold assessment and cleanup** (which implicates at least partially human health issues) – as well as the **selection and evaluation of professional mold assessors and cleanup contractors** (which are subjects likely implicating the duties and expertise of other state agencies as well).

Similarly, should this Committee elect to proceed in this manner, it might consider expanding the scope of the requested guidelines to be developed by the responsible agencies, so as to include guidelines for the selection and evaluation of professional mold assessors and cleanup contractors. In this regard, I note that the guidelines published by the Arkansas Mold Investigation Advisory Board as I have described previously address both sets of topics.

C. Conclusion

Thank you once again for allowing me to appear before you today.

³ The full text of Connecticut Public Act No. 06-195 is available at:
<http://www.cga.ct.gov/2006/ACT/PA/2006PA-00195-R00SB-00317-PA.htm>