

BILL ANALYSIS

H.B. 1328
By: Naishtat
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

HB 329 (78th Regular Session) directed the Texas Department of Health, now the Texas Department of State Health Services, 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, Certificate of Mold Remediation; Duty of Property Owner, 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 shall indicate on the certificate that the underlying cause of the mold has been remediated.

The section of the bill which 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.”

HB 1328 corrects the contradiction by amending Article 21.21-11 of the Insurance Code to make clear that an assessor must establish with reasonable certainty that the cause of mold has been remediated.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1. Section 3, Article 21.21-11 (4)(A), Insurance Code, is amended to add with reasonable certainty.

Section 2: Effective date

EFFECTIVE DATE

Upon passage or, if the Act does not receive the necessary number of votes, the Act takes effect September 1, 2005.