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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 18. Toxic Mold [26100 - 26157] (*Chapter 18 added by Stats. 2001, Ch. 584, Sec. 2.*)

ARTICLE 4. Disclosures [26140 - 26153] (*Article 4 added by Stats. 2001, Ch. 584, Sec. 2.*)

26140. (a) Subject to subdivisions (b), (c), and (d), a seller or transferor of commercial or industrial real property shall provide written disclosure to prospective buyers as soon as practicable before the transfer of title when the seller or transferor knows of the presence of mold, both visible and invisible or hidden, that affects the unit or building and the mold either exceeds permissible exposure limits to molds established by subdivisions (a), (b), and (c) of Section 26103 or poses a health threat, according to the department's guidelines as developed pursuant to Section 26105.

(b) A seller or transferor of commercial or industrial real property shall be exempt from providing written disclosure pursuant to this subdivision if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.

(c) A commercial or industrial real property seller shall not be required to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103.

(d) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(*Amended by Stats. 2002, Ch. 386, Sec. 2. Effective January 1, 2003.*)

26141. (a) Subject to subdivisions (c), (d), and (e), commercial and industrial landlords shall provide written disclosure to prospective and current tenants of the affected units as specified in subdivision (b), when the landlord knows that mold, both visible and invisible or hidden, is present that affects the unit or the building and the mold either exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103 or poses a health threat according to the department's guidelines as developed pursuant to Section 26105.

(b) The written notice required by subdivision (a) shall be provided:

- (1) To prospective tenants as soon as practicable and prior to entering into the rental agreement.
- (2) To current tenants in affected units as soon as is reasonably practical.

(c) A commercial and industrial landlord shall be exempt from providing written disclosure to prospective tenants pursuant to this section if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.

(d) A commercial or industrial landlord shall not be required to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103.

(e) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(*Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.*)

26142. (a) Any tenant of a commercial or industrial real property who knows that mold is present in the building, heating system, ventilating or air-conditioning system, or appurtenant structures, or that there is a condition of chronic water intrusion or flood, shall inform the landlord of this knowledge in writing within a reasonable period of time. The tenant shall make the property available to the landlord or his or her agents for appropriate assessment or remedial action as soon as is reasonably practicable if the landlord is

responsible for maintenance of the property. Nothing in this section is intended to any way affect existing duties and obligations of residential tenants and landlords.

(b) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(Amended by Stats. 2002, Ch. 386, Sec. 3. Effective January 1, 2003.)

26143. (a) Commercial and industrial landlords, who know or have notice that mold is present in the building, heating system, ventilating or air-conditioning system, or appurtenant structures, or that there is a condition of chronic water intrusion or flood, have an affirmative duty, within a reasonable period of time, to assess the presence of mold or condition likely to result in the presence of mold and conduct any necessary remedial action.

(b) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(Amended by Stats. 2002, Ch. 386, Sec. 4. Effective January 1, 2003.)

26144. The requirements of this article shall not apply to properties where the tenant is contractually responsible for maintenance of the property, including any remedial action.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26145. (a) Any tenant of a commercial or industrial real property who knows or is informed that mold is present in the building, heating system, ventilating or air-conditioning system, or appurtenant structures, or that there is a condition of chronic water intrusion or flood, and is responsible for maintenance of the property shall inform the landlord in writing of that knowledge as soon as is reasonably practicable and shall correct the condition in compliance with the terms of the contract with the landlord.

(b) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(Amended by Stats. 2002, Ch. 386, Sec. 5. Effective January 1, 2003.)

26146. (a) A public entity that owns, leases, or operates a building shall provide written disclosure to all building occupants and prospective tenants as specified in subdivision (b) when the public entity knows, or has reasonable cause to believe, that a condition of chronic water intrusion or flood exists, or that mold, both visible and invisible or hidden, is present that affects the building or unit and the mold either exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103, or poses a health threat according to the department's guidelines developed pursuant to Section 26105.

(b) The written notice required by subdivision (a) shall be provided:

- (1) To prospective tenants as soon as practicable and prior to entering into the rental agreement.
- (2) To current building occupants in affected units or buildings as soon as is reasonably practical.

(c) A public entity shall be exempt from providing written disclosure to prospective tenants pursuant to subdivision (a) if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.

(d) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26147. (a) Subject to subdivisions (b), (d), and (e), residential landlords shall provide written disclosure to prospective and current tenants of the affected units as specified in subdivision (b) when the residential landlord knows, or has reasonable cause to believe, that mold, both visible and invisible or hidden, is present that affects the unit or the building and the mold either exceeds the permissible exposure limits to molds established by subdivisions (a), (b), and (c) of Section 26103 or poses a health threat according to the department's guidelines as developed pursuant to Section 26105.

(b) Notwithstanding subdivision (a), a residential landlord shall not be required to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103.

(c) The written disclosure required by subdivision (a) shall be provided:

- (1) To prospective tenants prior to entering into the rental or lease agreement.
- (2) To current tenants in affected units as soon as is reasonably practical.

(d) A residential landlord shall be exempt from providing written disclosure to prospective tenants pursuant to this section if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.

(e) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26148. (a) Residential landlords shall provide written disclosure to prospective tenants of the potential health risks and the health impact that may result from exposure to mold by distributing a consumer-oriented booklet developed and disseminated by the department.

(b) The requirements of this section shall be provided to prospective residential tenants prior to entering the rental or lease agreement.

(c) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department approves the consumer-oriented booklet, as described in subdivision (a).

(Amended by Stats. 2002, Ch. 664, Sec. 134. Effective January 1, 2003.)

26149. (a) Nothing in this article shall relieve a seller, transferor, lessor, agent, landlord, or tenant from any responsibility for compliance with other obligations, laws, ordinances, codes, or regulations, including but not limited to the duties outlined in Sections 1941 and 1941.1 of the Civil Code and any other duties provided for under common law.

(b) Nothing in this article shall alter or modify any right, remedy, or defense otherwise available under law.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26150. (a) Nothing in this article shall affect the existing obligations of the parties or transferor to a real estate contract, or their agents, to disclose any facts materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a of the Civil Code.

(b) Nothing in this article shall be construed to change the existing inspection and disclosure duties of a real estate broker or salesperson including, but not limited to, those duties imposed by Section 2079 of the Civil Code.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26151. The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law, or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26152. All items subject to disclosure requirements pursuant to this article shall be subject to enforcement pursuant to Article 5 (commencing with Section 26154).

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)

26153. Neither the transferor nor any listing or selling agent shall be held liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor, or the listing or selling agent, or was based on information timely provided by public agencies, 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 the professional's license or expertise, and ordinary care was exercised in obtaining and transmitting it.

(Added by Stats. 2001, Ch. 584, Sec. 2. Effective January 1, 2002.)