

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2746

SPONSOR: Regulated Industries Committee and Senator Bennett

SUBJECT: Mold Remediation Registration Act

DATE: April 15, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Imhof	RI	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates a statutory section that regulates individuals and companies who hold themselves out to the public as qualified to perform mold-related activities. Engineers, persons engaging in the business of pest control, and contractors, who are licensed under chs. 471, 482, and 489, F.S., are exempt from the provisions of the section when acting within the scope of their respective licenses.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Presently, an individual or company that engages or offers to engage in the business or profession of performing any mold-related activity for compensation is not regulated in the state. However, engineers, persons engaging in the business of pest control, and contractors licensed under chs. 471, 482, and 489, F.S., who perform mold regulated activities in the scope of their licensure, are regulated.

Licensed engineers practicing engineering is defined, in part, by s. 471.005, F.S., to mean a person engaged in any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services, insofar as they involve safeguarding life, health, or property.

Persons engaged in the business of pest control are defined in s. 482.021, F.S. as a “licensee” regulated by the Department of Agriculture and Consumer Services. “Pest- control” includes all phases of fumigation to treat various different pests including fungi.

The term “contractor” is defined, in part, by s. 489.105, F.S., to mean a person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others.

III. Effect of Proposed Changes:

Section 1

The bill provides that sections 1-7 of the act may be cited as the “Mold Remediation Act”

Section 2

Legislative Purpose

The bill states that the Legislature finds it necessary in the interest of the public safety and welfare, in order to prevent damage to the real and personal property of the residents of the state and to avert economic injury to the resident of the state, to regulate individuals and companies that hold themselves out to the public as qualified to perform mold-related activities.

Section 3

Scope of Act

The bill applies to any individual or company that engages or offers to engage in the business or profession of performing any mold-related activity for compensation. It does not apply to licensed engineers, persons engaging in the business of pest control, or contractors licensed under chs. 471, 482, and 489, F.S., acting within the scope of their respective licenses.

Section 4

Definitions section

The bill defines certain terms including “mold assessment” and “mold remediation.” “Mold assessment” means the performance of mold assessments or mold-related assessments, investigations, or surveys; the development of mold management plans or response actions; or the collection or analysis of mold samples. “Mold remediation” means the removal, cleaning or other treatment of mold or mold-contaminated matter, live or dead, which was not intended to be grown, or purposely grown, at the location.

Section 5

Registration Required

The bill requires that an individual or company who purports to be engaged in a specified list of any mold related activity must hold a registration issued by the department. The registrations available are as follows:

- A mold assessment company;
- A mold assessment consultant;
- A mold remediation company;
- A mold remediation contractor; or
- A mold trainer provider.

The individual or company must complete all training required by board rule. It also provides that a registrant must annually complete 15 hours of continuing education. A registrant may perform either mold or mold related analysis or assessment or mold remediation, but not both. The section provides that the fee for each of the required registrations may not exceed \$600 and must be deposited into the Professional Regulation Trust Fund.

The bill provides qualifications for registration including that the individual must:

- Be at least 18 years of age;
- Be of good moral character;
- Have successfully met the requirements for registration established under this act;
- Meet the eligibility requirements set by the American Industrial Hygiene Association, The Indoor Air Quality Association; The American Society of Safety Engineers; or an equivalent education program as determined by the board; and
- If the applicant is a mold assessment company, a mold assessment consultant, or an individual performing mold assessments for a mold assessment company, demonstrate accreditation from a nationally recognized accrediting body or authority.

Section 6

Reprimand, modification, suspension, or revocation of registration

This section provides the penalties the department may impose for violations of this act. It provides that at a minimum, the criteria must require disciplinary action against a registrant who:

- Commits fraud or deception in obtaining or attempting to obtain a registration or a contract to perform mold- related activities
- Fails at any time to meet the qualifications for a registration;
- Violates a rule adopted under this act;
- Violates an applicable federal or state standard for performance of mold related activities; or
- Fails to maintain the records required by this act or rule of the board or fails to provide such records on request by the department.

Section 7

Rules

This section provides that the department shall adopt rules necessary to administer this act.

Section 8

This section provides that the act will take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the department, the bill will have a fiscal impact on the department of approximately \$1 million the first year of implementation, and \$649,857 and \$616,979 the second and third years respectively. The registration and application fees will need to be set at a level to cover the start-up costs as well as normal operating expenditures. The department expects to set the registration fee at the cap of \$600 for the first two years and set the application fee at \$150, which is similar to other boards, for each licensee. In the third year (or first renewal period) the registration fee could be lowered to \$350 per licensee. The department suggests that the registration fees be maintained at the cap through the second year to allow the Mold Remediation Board to build-up a positive cash-flow within the Professional Regulation Trust Fund to avoid a deficit in the third or fourth year of regulation.

According to the department, five additional positions are needed to implement and carry out the provisions of the bill. The department estimates that other costs will include the development of testing and exams for licensure, data procession (licensing database) and departmental indirect overhead expenditures, which are spread to each board or profession, based on time usage of services of each board or profession.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides for regulation by the Construction Industry Licensing Board. According to the department, mold assessment and remediation do not relate to contracting as set forth in ch. 489, F.S. The department points out that the bill provides that the act does not apply to licensees under ch. 489, F.S. and therefore, it does not appear that regulation should come under the jurisdiction of the board.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
