

CHAMBER ACTION

1 The Insurance Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to mold assessment and remediation;  
7 creating s. 489.1134, F.S.; providing educational  
8 requirements and procedural requirements for mold  
9 remediation certification; providing for discipline;  
10 requiring review of mold remediation training programs;  
11 requiring a person certified under this section to be  
12 present on certain job sites; assigning responsibility for  
13 workforce compliance; requiring compliance; providing  
14 definitions; creating s. 501.933, F.S.; providing  
15 definitions; providing requirements for practice as a mold  
16 assessor; providing exemptions; providing prohibited acts  
17 and penalties; requiring that mold assessors maintain  
18 liability insurance; providing that mold assessors do not  
19 have a duty to provide repair cost estimates; providing  
20 limitations; providing for enforcement of violations;  
21 creating s. 501.934, F.S.; providing definitions;  
22 providing requirements for practice as a noncontracting  
23 mold remediator; providing exemptions; providing

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24 prohibited acts and penalties; requiring that  
 25 noncontracting mold remediators maintain liability  
 26 insurance; providing limitations; providing for  
 27 enforcement of violations; providing an effective date.

28

29 Be It Enacted by the Legislature of the State of Florida:

30

31 Section 1. Section 489.1134, Florida Statutes, is created  
 32 to read:

33 489.1134 Mold remediation certification.--

34 (1)(a) In addition to the certification or registration  
 35 required to engage in business as a contractor under this part,  
 36 any contractor who wishes to engage in business as a contractor  
 37 with a focus or emphasis on mold or mold remediation that is not  
 38 incidental to the scope of his or her license shall take the  
 39 courses or the number of course hours determined by the board.  
 40 Such courses or course hours may count as part of the  
 41 contractor's continuing education requirement and shall be given  
 42 by an instructional facility or teaching entity that has been  
 43 approved by the board. Upon successful completion of the course,  
 44 courses, or course hours, the instructional facility or teaching  
 45 entity that has been approved by the board shall report such  
 46 completion to the department and issue to the taker of the  
 47 course a certificate of completion, which shall be available for  
 48 inspection by any entity or person seeking to have the  
 49 contractor engage in business as a contractor with a focus or  
 50 emphasis on mold or mold remediation that is not incidental to  
 51 the license of the contractor.

52        (b) Any other natural person who is employed by a licensed  
 53 contractor to provide work on mold or mold remediation shall, as  
 54 a prerequisite to his or her authorization to provide such  
 55 service, take a course approved by the board.

56        (c) It is the responsibility of the contractor licensed  
 57 under this part to ensure that members of his or her workforce  
 58 who are engaging in business as a contractor with a focus or  
 59 emphasis on mold or mold remediation that is not incidental to  
 60 the scope of the contractor's license are in compliance with  
 61 this section, and such contractor is subject to discipline under  
 62 s. 489.129 for violation of this section.

63        (d) Training programs in mold remediation shall be  
 64 reviewed annually by the board to ensure that programs have been  
 65 provided equitably across the state.

66        (e) Periodically, the board shall review training programs  
 67 in mold remediation for quality in content and instruction. The  
 68 board shall also respond to complaints regarding approved  
 69 programs.

70        (2)(a) A person qualified under paragraph (1)(a) must be  
 71 present on any job site at which a person is engaging in  
 72 business as a contractor with a focus or emphasis on mold or  
 73 mold remediation that is not incidental to the scope of his or  
 74 her license.

75        (b) It is the responsibility of the licensed contractor to  
 76 ensure compliance with paragraph (a), and such contractor is  
 77 subject to discipline under s. 489.129 for violation of this  
 78 subsection.

79           (3) No contractor shall hold himself or herself out as  
 80 emphasizing in mold or mold remediation unless the contractor is  
 81 in compliance with this section.

82           (4) The term "mold" means an organism of the class fungi  
 83 that causes disintegration of organic matter and produces spores  
 84 and includes any spores, hyphae, and mycotoxins produced by  
 85 mold. The term "mold remediation" means the business as a  
 86 contractor related to mold or mold-contaminated matter.

87           Section 2. Section 501.933, Florida Statutes, is created  
 88 to read:

89           501.933 Mold assessors; requirements; exemptions;  
 90 prohibited acts and penalties; bond and insurance; limitations  
 91 and enforcement.--

92           (1) DEFINITIONS.--As used in this section, the term:

93           (a) "Mold" means an organism of the class fungi that  
 94 causes disintegration of organic matter and produces spores, and  
 95 includes any spores, hyphae, and mycotoxins produced by mold.

96           (b) "Mold assessment" means:

97           1. An inspection, investigation, or survey of a dwelling  
 98 or other structure to provide the owner or occupant with  
 99 information regarding the presence, identification, or  
 100 evaluation of mold;

101           2. The development of a mold-management plan or  
 102 remediation protocol; or

103           3. The collection or analysis of a mold sample.

104           (c) "Mold assessor" means any person that performs or  
 105 directly supervises a mold assessment.

106           (2) REQUIREMENTS FOR PRACTICE.--

107        (a) A person shall not work as a mold assessor unless he  
 108 or she has evidence of, or works under the direct supervision of  
 109 a person who has evidence of, a certification from either:

110        1. A nonprofit organization with a focus on indoor air  
 111 quality or industrial hygiene that meets each of the following  
 112 criteria:

113        a. Requires that a person may not obtain certification  
 114 unless the person has at least a 2-year degree in a scientific  
 115 or building science field and 3 years of documented experience  
 116 from a qualified mold assessor, or requires a 4-year degree in a  
 117 scientific or building science field.

118        b. Requires the person to pass an examination testing  
 119 knowledge related to mold and mold assessment; or

120        2. A community college or university that offers mold  
 121 assessment training or education.

122        (b) A business entity may not provide or offer to provide  
 123 mold assessment services unless the business entity satisfies  
 124 all of the requirements of this section.

125        (3) EXEMPTIONS.--The following persons are not required to  
 126 comply with this section with regard to any mold assessment:

127        (a) A residential property owner who performs mold  
 128 assessment on his or her own property.

129        (b) An owner or tenant, or a managing agent or employee of  
 130 an owner or tenant, who performs mold assessment on property  
 131 owned or leased by the owner or tenant. This exemption does not  
 132 apply if the managing agent or employee engages in the business  
 133 of performing mold assessment for the public.

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134 (c) An employee of a licensee who performs mold assessment  
 135 while directly supervised by the mold assessor.

136 (d) Individuals or business organizations licensed under  
 137 chapter 471, part I of chapter 481, chapter 482, or chapter 489,  
 138 or acting on behalf of an insurer under part VI of chapter 626,  
 139 or individuals in the manufacturing housing industry who are  
 140 licensed under chapter 320, that are not specifically engaged in  
 141 mold assessment, but that are acting within the scope of their  
 142 respective licenses.

143 (e) An authorized employee of the United States, this  
 144 state, or any municipality, county, or other political  
 145 subdivision, or public or private school, who meets the  
 146 requirements of subsection (2) and who is conducting mold  
 147 assessment within the scope of that employment, as long as the  
 148 employee does not hold out for hire or otherwise engage in mold  
 149 assessment.

150 (4) PROHIBITED ACTS; PENALTIES.--

151 (a) A mold assessor, a company that employs a mold  
 152 assessor, or a company that is controlled by a company that also  
 153 has a financial interest in a company employing a mold assessor  
 154 may not:

155 1. Perform or offer to perform any mold assessment without  
 156 complying with the requirements of this section.

157 2. Perform or offer to perform any mold remediation to a  
 158 structure on which the mold assessor or the mold assessor's  
 159 company provided a mold assessment within the last 12 months.

160 3. Inspect for a fee any property in which the assessor or  
 161 the assessor's company has any financial or transfer interest.

162        4. Accept any compensation, inducement, or reward from a  
 163 mold remediator or mold remediator's company for the referral of  
 164 any business to the mold remediator or the mold remediator's  
 165 company.

166        5. Offer any compensation, inducement, or reward to a mold  
 167 remediator or mold remediator's company for the referral of any  
 168 business from the mold remediator or the mold remediator's  
 169 company.

170        6. Accept an engagement to make an omission of the  
 171 assessment or conduct an assessment in which the assessment  
 172 itself, or the fee payable for the assessment, is contingent  
 173 upon the conclusions of the assessment.

174        (b) Any person who violates any provision of this  
 175 subsection commits:

176            1. A misdemeanor of the second degree for a first  
 177 violation, punishable as provided in s. 775.082 or s. 775.083.

178            2. A misdemeanor of the first degree for a second  
 179 violation, punishable as provided in s. 775.082 or s. 775.083.

180            3. A felony of the third degree for a third or subsequent  
 181 violation, punishable as provided in s. 775.082, s. 775.083, or  
 182 s. 775.084.

183        (5) INSURANCE.--A mold assessor must maintain a mold-  
 184 specific insurance policy in an amount of not less than \$1  
 185 million.

186        (6) REPAIR COST ESTIMATES.--Mold assessors are not  
 187 required to provide estimates related to the cost of repair of  
 188 an assessed property.

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189        (7) STATUTE OF LIMITATIONS.--Chapter 95 governs the time  
 190 at which an action to enforce an obligation, duty, or right  
 191 arising under this section must be commenced.

192        (8) ENFORCEMENT OF VIOLATIONS.--Any violation of this  
 193 section constitutes a deceptive and unfair trade practice,  
 194 punishable as provided in part II of this chapter.

195        Section 3. Section 501.934, Florida Statutes, is created  
 196 to read:

197        501.934 Noncontracting mold remediators; requirements;  
 198 exemptions; prohibited acts and penalties; bond and insurance;  
 199 limitations and enforcement.--

200        (1) DEFINITIONS.--As used in this section, the term:

201        (a) "Mold" means an organism of the class fungi that  
 202 causes disintegration of organic matter and produces spores, and  
 203 includes any spores, hyphae, and mycotoxins produced by mold.

204        (b) "Noncontracting mold remediation" means the removal,  
 205 cleaning, sanitizing, demolition, or other treatment, including  
 206 preventive activities, of mold or mold-contaminated matter that  
 207 was not purposely grown at that location; however, such removal,  
 208 cleaning, sanitizing, demolition, or other treatment, including  
 209 preventive activities, may not be work that requires a license  
 210 under chapter 489 unless performed by a person who is licensed  
 211 under that chapter or the work complies with that chapter.

212        (c) "Noncontracting mold remediator" means any person that  
 213 performs mold remediation. A noncontracting mold remediator may  
 214 not perform any work that requires a license under chapter 489  
 215 unless the noncontracting mold remediator is also licensed under  
 216 that chapter or complies with that chapter.



217       (2) REQUIREMENTS FOR PRACTICE.--  
 218       (a) A person shall not work as a noncontracting mold  
 219 remediator unless he or she has evidence of, or works under the  
 220 direct supervision of a person who has evidence of, a  
 221 certification from either:  
 222       1. An organization with a focus on mold remediation that  
 223 meets each of the following criteria:  
 224       a. Requires that a person has at least a high school  
 225 diploma and at least 2 years' experience in a field related to  
 226 mold remediation;  
 227       b. Requires that a person has completed training related  
 228 to mold and mold remediation; and  
 229       c. Requires the person to pass an examination testing  
 230 knowledge related to mold and mold remediation; or  
 231       2. A community college or university that offers mold  
 232 remediation training or education.  
 233       (b) A business entity may not provide or offer to provide  
 234 mold remediation services unless the business entity satisfies  
 235 all of the requirements of this section.  
 236       (3) EXEMPTIONS.--The following persons are not required to  
 237 comply with this section with regard to any noncontracting mold  
 238 remediation:  
 239       (a) A residential property owner who performs  
 240 noncontracting mold remediation on his or her own property.  
 241       (b) An owner or tenant, or a managing agent or employee of  
 242 an owner or tenant, who performs noncontracting mold remediation  
 243 on property owned or leased by the owner or tenant so long as  
 244 such remediation is within the routine maintenance of a building

245 structure. This exemption does not apply if the managing agent  
 246 or employee engages in the business of performing noncontracting  
 247 mold remediation for the public.

248 (c) An employee of a licensee who performs noncontracting  
 249 mold remediation while directly supervised by the noncontracting  
 250 mold remediator.

251 (d) Individuals or business organizations licensed under  
 252 chapter 471, part I of chapter 481, chapter 482, or chapter 489,  
 253 or acting on behalf of an insurer under part VI of chapter 626,  
 254 that are not specifically engaged in mold remediation, but that  
 255 are acting within the scope of their respective licenses.

256 (e) An authorized employee of the United States, this  
 257 state, or any municipality, county, or other political  
 258 subdivision, or public or private school, who meets the  
 259 requirements of subsection (2) and who is conducting mold  
 260 remediation within the scope of that employment, as long as the  
 261 employee does not hold out for hire or otherwise engage in mold  
 262 remediation.

263 (4) PROHIBITED ACTS; PENALTIES.--

264 (a) A noncontracting mold remediator, a company that  
 265 employs a noncontracting mold remediator, or a company that is  
 266 controlled by a company that also has a financial interest in a  
 267 company employing a noncontracting mold remediator may not:

268 1. Perform or offer to perform any mold remediation  
 269 without complying with the requirements of this section.

270 2. Perform or offer to perform any mold assessment as  
 271 defined in s. 501.933.

272        3. Remediate for a fee any property in which the  
 273        noncontracting mold remediator or the noncontracting mold  
 274        remediator's company has any financial or transfer interest.

275        4. Accept any compensation, inducement, or reward from a  
 276        mold assessor or mold assessor's company for the referral of any  
 277        business from the mold assessor or the mold assessor's company.

278        5. Offer any compensation, inducement, or reward to a mold  
 279        assessor or mold assessor's company for the referral of any  
 280        business from the mold assessor or the mold assessor's company.

281        (b) Any person who violates any provision of this  
 282        subsection commits:

283        1. A misdemeanor of the second degree for a first  
 284        violation, punishable as provided in s. 775.082 or s. 775.083.

285        2. A misdemeanor of the first degree for a second  
 286        violation, punishable as provided in s. 775.082 or s. 775.083.

287        3. A felony of the third degree for a third or subsequent  
 288        violation, punishable as provided in s. 775.082, s. 775.083, or  
 289        s. 775.084.

290        (5) INSURANCE.--A noncontracting mold remediator shall  
 291        maintain a general liability insurance policy with a mold  
 292        insurance pollution rider in an amount of not less than \$1  
 293        million.

294        (6) STATUTE OF LIMITATIONS.--Chapter 95 governs the time  
 295        at which an action to enforce an obligation, duty, or right  
 296        arising under this section must be commenced.

297        (7) ENFORCEMENT OF VIOLATIONS.--Any violation of this  
 298        section constitutes a deceptive and unfair trade practice,  
 299        punishable as provided in part II of this chapter.

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Section 4. This act shall take effect October 1, 2005.