

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Allen offered the following:

2

3 **Amendment (with title amendment)**

4 Between lines 15 and 16, insert:

5 Section 1. Section 489.1134, Florida Statutes, is created  
6 to read:

7 489.1134 Mold remediation certification.--

8 (1)(a) In addition to the certification or registration  
9 required to engage in business as a contractor under this part,  
10 any contractor who wishes to engage in business as a contractor  
11 with a focus or emphasis on mold or mold remediation that is not  
12 incidental to the scope of his or her license shall take the  
13 courses or the number of course hours determined by the board.  
14 Such courses or course hours may count as part of the  
15 contractor's continuing education requirement and shall be given

919825

Amendment No. (for drafter's use only)

16 by an instructional facility or teaching entity that has been  
17 approved by the board. Upon successful completion of the course,  
18 courses, or course hours the instructional facility or teaching  
19 entity that has been approved by the board, shall report such  
20 completion to the department and issue to the taker of the  
21 course a certificate of completion which shall be available for  
22 inspection by any entity or person seeking to have the  
23 contractor engage in business as a contractor with a focus or  
24 emphasis on mold or mold remediation that is not incidental to  
25 the license of the contractor.

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

30 (c) It is the responsibility of the contractor licensed  
31 under this part to ensure that members of his or her workforce  
32 who are engaging in business as a contractor with a focus or  
33 emphasis on mold or mold remediation that is not incidental to  
34 the scope of the contractor's license are in compliance with  
35 this section, and such contractor is subject to discipline under  
36 s. 489.129 for violation of this section.

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

40 (e) Periodically, the board shall review training programs  
41 in mold remediation for quality in content and instruction. The

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

42 board shall also respond to complaints regarding approved  
43 programs.

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

49 (b) It is the responsibility of the licensed contractor to  
50 ensure compliance with paragraph (a), and such contractor is  
51 subject to discipline under s. 489.129 for violation of this  
52 subsection.

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

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

61 Section 2. Section 501.933, Florida Statutes, is created  
62 to read:

63 501.933 Mold assessors; requirements; exemptions;  
64 prohibited acts and penalties; bond and insurance; limitations  
65 and enforcement.--

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

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

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

70 (b) "Mold assessment" means:

71 1. An inspection, investigation, or survey of a dwelling  
72 or other structure to provide the owner or occupant with  
73 information regarding the presence, identification, or  
74 evaluation of mold;

75 2. The development of a mold-management plan or  
76 remediation protocol; or

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

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

80 (2) REQUIREMENTS FOR PRACTICE.--

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

84 1. A nonprofit organization with a focus on indoor air  
85 quality or industrial hygiene that meets each of the following  
86 criteria:

87 a. Requires that a person may not obtain certification  
88 unless the person has at least a 2-year degree in a scientific  
89 or building science field and 3 years of documented experience  
90 from a qualified mold assessor, or requires a 4-year degree in a  
91 scientific or building science field;

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

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

94 2. A community college or university that offers mold  
95 assessment training or education.

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

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

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

103 (b) An owner or tenant, or a managing agent or employee of  
104 an owner or tenant, who performs mold assessment on property  
105 owned or leased by the owner or tenant. This exemption does not  
106 apply if the managing agent or employee engages in the business  
107 of performing mold assessment for the public.

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

110 (d) Individuals or business organizations licensed under  
111 chapter 471, part I of chapter 481, chapter 482, or chapter 489,  
112 or acting on behalf of an insurer under part VI of chapter 626,  
113 or individuals in the manufactured housing industry who are  
114 licensed under chapter 320, that are not specifically engaged in  
115 mold assessment, but that are acting within the scope of their  
116 respective licenses.

117 (e) An authorized employee of the United States, this  
118 state, or any municipality, county, or other political  
119 subdivision, or public or private school, who meets the  
120 requirements of subsection (2) and who is conducting mold

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

121 assessment within the scope of that employment, as long as the  
122 employee does not hold out for hire or otherwise engage in mold  
123 assessment.

124 (4) PROHIBITED ACTS; PENALTIES.--

125 (a) A mold assessor, a company that employs a mold  
126 assessor, or a company that is controlled by a company that also  
127 has a financial interest in a company employing a mold assessor  
128 may not:

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

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

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

136 4. Accept any compensation, inducement, or reward from a  
137 mold remediator or mold remediator's company for the referral of  
138 any business to the mold remediator or the mold remediator's  
139 company.

140 5. Offer any compensation, inducement, or reward to a mold  
141 remediator or mold remediator's company for the referral of any  
142 business from the mold remediator or the mold remediator's  
143 company.

144 6. Accept an engagement to make an omission of the  
145 assessment or conduct an assessment in which the assessment  
146 itself, or the fee payable for the assessment, is contingent  
147 upon the conclusions of the assessment.

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

148 (b) Any person who violates any provision of this  
149 subsection commits:

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

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

154 3. A felony of the third degree for a third or subsequent  
155 violation, punishable as provided in s. 775.082, s. 775.083, or  
156 s. 775.084.

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

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

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

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

169 Section 3. Section 501.934, Florida Statutes, is created  
170 to read:

171 501.934 Noncontracting mold remediators; requirements;  
172 exemptions; prohibited acts and penalties; bond and insurance;  
173 limitations and enforcement.--

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

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

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

178 (b) "Noncontracting mold remediation" means the removal,  
179 cleaning, sanitizing, demolition, or other treatment, including  
180 preventive activities, of mold or mold-contaminated matter that  
181 was not purposely grown at that location; however, such removal,  
182 cleaning, sanitizing, demolition, or other treatment, including  
183 preventive activities, may not be work that requires a license  
184 under chapter 489 unless performed by a person who is licensed  
185 under that chapter or the work complies with that chapter.

186 (c) "Noncontracting mold remediator" means any person that  
187 performs mold remediation. A noncontracting mold remediator may  
188 not perform any work that requires a license under chapter 489  
189 unless the noncontracting mold remediator is also licensed under  
190 that chapter or complies with that chapter.

191 (2) REQUIREMENTS FOR PRACTICE.--

192 (a) A person shall not work as a noncontracting mold  
193 remediator unless he or she has evidence of, or works under the  
194 direct supervision of a person who has evidence of, a  
195 certification from either:

196 1. A nonprofit organization with a focus on mold  
197 remediation that meets each of the following criteria:

198 a. Requires that a person has at least a high school  
199 diploma and at least 2 years' experience in a field related to  
200 mold remediation;

919825

4/26/2005 1:45:51 PM



Amendment No. (for drafter's use only)

201 b. Requires that a person has completed training related  
202 to mold and mold remediation; and

203 c. Requires the person to pass an examination testing  
204 knowledge related to mold and mold remediation; or

205 2. A community college or university that offers mold  
206 remediation training or education.

207 (b) A business entity may not provide or offer to provide  
208 mold remediation services unless the business entity satisfies  
209 all of the requirements of this section.

210 (3) EXEMPTIONS.--The following persons are not required to  
211 comply with this section with regard to any noncontracting mold  
212 remediation:

213 (a) A residential property owner who performs  
214 noncontracting mold remediation on his or her own property.

215 (b) An owner or tenant, or a managing agent or employee of  
216 an owner or tenant, who performs noncontracting mold remediation  
217 on property owned or leased by the owner or tenant so long as  
218 such remediation is within the routine maintenance of a building  
219 structure. This exemption does not apply if the managing agent  
220 or employee engages in the business of performing noncontracting  
221 mold remediation for the public.

222 (c) An employee of a licensee who performs noncontracting  
223 mold remediation while directly supervised by the noncontracting  
224 mold remediator.

225 (d) Individuals or business organizations licensed under  
226 chapter 471, part I of chapter 481, chapter 482, or chapter 489,  
227 or acting on behalf of an insurer under part VI of chapter 626,

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

228 or individuals in the manufactured housing industry who are  
229 licensed under chapter 320, that are not specifically engaged in  
230 mold remediation, but that are acting within the scope of their  
231 respective licenses.

232 (e) An authorized employee of the United States, this  
233 state, or any municipality, county, or other political  
234 subdivision, or public or private school, who meets the  
235 requirements of subsection (2) and who is conducting mold  
236 remediation within the scope of that employment, as long as the  
237 employee does not hold out for hire or otherwise engage in mold  
238 remediation.

239 (4) PROHIBITED ACTS; PENALTIES.--

240 (a) A noncontracting mold remediator, a company that  
241 employs a noncontracting mold remediator, or a company that is  
242 controlled by a company that also has a financial interest in a  
243 company employing a noncontracting mold remediator may not:

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

246 2. Perform or offer to perform any mold assessment as  
247 defined in s. 501.933.

248 3. Remediate for a fee any property in which the  
249 noncontracting mold remediator or the noncontracting mold  
250 remediator's company has any financial or transfer interest.

251 4. Accept any compensation, inducement, or reward from a  
252 mold assessor or mold assessor's company for the referral of any  
253 business from the mold assessor or the mold assessor's company.

919825

4/26/2005 1:45:51 PM

Amendment No. (for drafter's use only)

254 5. Offer any compensation, inducement, or reward to a mold  
255 assessor or mold assessor's company for the referral of any  
256 business from the mold assessor or the mold assessor's company.

257 (b) Any person who violates any provision of this  
258 subsection commits:

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

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

263 3. A felony of the third degree for a third or subsequent  
264 violation, punishable as provided in s. 775.082, s. 775.083, or  
265 s. 775.084.

266 (5) INSURANCE.--A noncontracting mold remediator shall  
267 maintain a general liability insurance policy with a mold  
268 insurance pollution rider in an amount of not less than \$1  
269 million.

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

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

276  
277 ===== T I T L E A M E N D M E N T =====

278 Remove line 6 and insert:  
279 An act relating to home inspection services; creating s.  
280 489.1134, F.S.; providing educational requirements and

919825

4/26/2005 1:45:51 PM

HOUSE AMENDMENT

Bill No. HB 315 CS

Amendment No. (for drafter's use only)

281 procedural requirements for mold remediation certification;  
282 providing for discipline; requiring review of mold remediation  
283 training programs; requiring a person certified under this  
284 section to be present on certain job sites; assigning  
285 responsibility for workforce compliance; requiring compliance;  
286 providing definitions; creating s. 501.933, F.S.; providing  
287 definitions; providing requirements for practice as a mold  
288 assessor; providing exemptions; providing prohibited acts and  
289 penalties; requiring that mold assessors maintain liability  
290 insurance; providing that mold assessors do not have a duty to  
291 provide repair cost estimates; providing limitations; providing  
292 for enforcement of violations; creating s. 501.934, F.S.;  
293 providing definitions; providing requirements for practice as a  
294 noncontracting mold remediator; providing exemptions; providing  
295 prohibited acts and penalties; requiring that noncontracting  
296 mold remediators maintain liability insurance; providing  
297 limitations; providing for enforcement of violations; creating  
298 s.

919825

4/26/2005 1:45:51 PM