

1 authorizing positions; providing an effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Part IV of chapter 489, Florida Statutes,
7 entitled "Mold Assessment and Mold Remediation" and consisting
8 of ss. 489.601, 489.602, 489.603, 489.604, 489.605, 489.606,
9 489.607, 489.608, 489.609, 489.61, 489.611, 489.612, 489.613,
10 489.614, 489.615, 489.616, 489.617, and 489.618, is created.

11 Section 2. Section 489.601, Florida Statutes, is
12 created to read:

13 489.601 Legislative purpose.--The Legislature finds it
14 necessary in the interest of the public health, safety, and
15 welfare in order to prevent damage to the real and personal
16 property of the residents of this state and to avert economic
17 injury to the residents of this state to regulate individuals
18 and companies that hold themselves out to the public as
19 qualified to perform mold-related activities.

20 Section 3. Section 489.603, Florida Statutes, is
21 created to read:

22 489.603 Exemptions.--Sections 489.601-489.618 do not
23 apply to:

24 (1) A Division I and Division II contractor licensed
25 under this chapter, an individual in the manufactured housing
26 industry who is licensed under chapter 320, or an engineer
27 licensed under chapter 471, when engaged in mold-related
28 activities incidental to activities within the scope of his or
29 her license.

30 (2) An authorized employee of the United States, this
31 state, or any municipality, county, or other political

1 subdivision, public or private school, or private business
2 organization who has completed mold assessment or mold
3 remediation training courses approved by the board or a
4 certification program approved by the board and who is
5 conducting mold assessment or mold remediation within the
6 scope of that employment, as long as the employee does not
7 hold out for hire or otherwise engage in mold assessment or
8 mold remediation.

9 (3) A full-time employee engaged in routine
10 maintenance of public and private buildings, structures, and
11 facilities as long as the employee does not hold out for hire
12 or otherwise engage in mold assessment or mold remediation.

13 Section 4. Section 489.604, Florida Statutes, is
14 created to read:

15 489.604 Definitions.--As used in this part, the term:

16 (1) "Board" means the Construction Industry Licensing
17 Board.

18 (2) "Business organization" means any partnership,
19 corporation, business trust, joint venture, or other business
20 organization.

21 (3) "Department" means the Department of Business and
22 Professional Regulation.

23 (4) "Mold" means an organism of the class fungi that
24 causes disintegration of organic matter and produces spores,
25 and includes any spores, hyphae, and mycotoxins produced by
26 mold.

27 (5) "Mold assessment" means:

28 (a) An inspection, investigation, or survey of a
29 dwelling or other structure to provide the owner or occupant
30 with information regarding the presence, identification, or
31 evaluation of mold;

1 (b) The development of a mold-management plan or
2 remediation protocol; or

3 (c) The collection or analysis of a mold sample.

4 (6) "Mold assessor" means any person or business
5 organization that performs a mold assessment.

6 (7) "Mold remediation" means the removal, cleaning,
7 sanitizing, demolition, or other treatment, including
8 preventive activities, of mold or mold-contaminated matter
9 that was not purposely grown at that location.

10 (8) "Mold remediator" means any person or business
11 organization that performs mold remediation. A mold remediator
12 may not perform any work that requires a license under any
13 other part of this chapter unless the mold remediator is also
14 licensed under that part.

15 (9) "Primary qualifying agent" means a person who
16 possesses the requisite skill, knowledge, and experience, and
17 has the responsibility, to supervise, direct, manage, and
18 control the mold assessment or mold remediation activities of
19 the business organization with which he or she is connected;
20 who has the responsibility to supervise, direct, manage, and
21 control mold assessment or mold-remediation activities; and
22 whose technical and personal qualifications have been
23 determined by investigation and examination as provided in
24 this part, as attested by the department.

25 (10) "Secondary qualifying agent" means a person who
26 possesses the requisite skill, knowledge, and experience, and
27 has the responsibility, to supervise, direct, manage, and
28 control mold assessment and mold-remediation activities, and
29 whose technical and personal qualifications have been
30 determined by investigation and examination as provided in
31 this part, as attested by the department.

1 Section 5. Section 489.605, Florida Statutes, is
2 created to read:

3 489.605 Fees.--The board shall, by rule, establish
4 reasonable fees to be paid for applications, examinations,
5 licensing and renewal, recordmaking, and recordkeeping. Fees
6 for application, initial licensure, license renewal, or
7 license reactivation for mold assessors or mold remediators
8 may not exceed \$500 per applicant. The board may, by rule,
9 establish late renewal penalty fees, in an amount not to
10 exceed the initial licensure fee.

11 Section 6. Section 489.606, Florida Statutes, is
12 created to read:

13 489.606 Examination.--

14 (1) A person who desires to be licensed as a mold
15 assessor or mold remediator must apply to the department for
16 licensure.

17 (2) An applicant may take the licensure examination to
18 practice in this state as a mold assessor or mold remediator
19 if the applicant is of good moral character, is a graduate of
20 an approved course of study in mold assessment or mold
21 remediation, and has a specific experience record as
22 prescribed by rule.

23 (3) The board shall adopt rules providing for the
24 review and approval of training programs in mold assessment
25 and mold remediation. The board may adopt rules providing for
26 the acceptance of the approval and accreditation of schools
27 and courses of study by nationally accepted accreditation
28 organizations.

29 (4)(a) Good moral character means a personal history
30 of honesty, fairness, and respect for the rights of others and
31 for the laws of this state and nation.

1 (b) The board may refuse to certify an applicant for
2 failure to satisfy this requirement only if:

3 1. The board finds that there is a substantial
4 connection between the lack of good moral character of the
5 applicant and the professional responsibilities of a mold
6 assessor or mold remediator; and

7 2. This finding is supported by clear and convincing
8 evidence.

9 (c) If an applicant is found to be unqualified for a
10 license because of a lack of good moral character, the board
11 must furnish to the applicant a statement containing the
12 findings of the board, a complete record of the evidence upon
13 which the determination was based, and a notice of the rights
14 of the applicant to a rehearing and appeal.

15 Section 7. Section 489.607, Florida Statutes, is
16 created to read:

17 489.607 Licensure.--The department shall license any
18 applicant who the board certifies is qualified to practice
19 mold assessment or mold remediation and who:

20 (1) Pays the initial licensing fee;

21 (2) Submits with the application for licensure as a
22 mold assessor or a mold remediator evidence that he or she has
23 successfully completed the board-approved courses as
24 prescribed by rule;

25 (3) Provides evidence of financial stability; and

26 (4)(a) Passes a department-approved examination of
27 qualifications and knowledge relating to mold assessment and
28 mold remediation; or

29 (b) In lieu of passing a department-approved
30 examination, shows proof that he or she has been certified by
31

1 an organization that requires the same testing and examination
2 as the department requires.

3 Section 8. Section 489.608, Florida Statutes, is
4 created to read:

5 489.608 Licensure of business organizations;
6 qualifying agents.--

7 (1) If an individual proposes to engage in mold
8 remediation or mold assessment in that individual's own name,
9 the license may be issued only to that individual.

10 (2)(a) If the applicant proposes to engage in mold
11 remediation or mold assessment as a business organization in
12 any name other than the applicant's legal name, the business
13 organization must apply for licensure through a qualifying
14 agent or the individual applicant must apply for licensure
15 under the fictitious name.

16 (b) The application must state the name of the
17 business organization and of each of its partners, the name of
18 the corporation and of each of its officers and directors and
19 the name of each of its stockholders who is also an officer or
20 director, the name of the business trust and of each of its
21 trustees, or the name of such other business organization and
22 of each of its members.

23 1. The application for primary qualifying agent must
24 include an affidavit on a form provided by the department
25 which attests that the applicant's signature is required on
26 all checks, drafts, or payments, regardless of the form of
27 payment, made by the business organization, and that the
28 applicant has final approval authority for all work performed
29 by the business organization.

30 2. The application for financially responsible officer
31 must include an affidavit on a form provided by the department

1 which attests that the applicant's signature is required on
2 all checks, drafts, or payments, regardless of the form of
3 payment, made by the business organization, and that the
4 applicant has authority to act for the business organization
5 in all financial matters.

6 3. The application for secondary qualifying agent must
7 include an affidavit on a form provided by the department
8 which attests that the applicant has authority to supervise
9 all mold assessment or mold-remediation work performed by the
10 business organization as provided in s. 489.609.

11 (c) As a prerequisite to the issuance of a license
12 under this section, the applicant must submit:

13 1. An affidavit on a form provided by the department
14 which attests that the applicant has obtained workers'
15 compensation insurance as required by chapter 440, public
16 liability insurance, and property damage insurance, in amounts
17 determined by board rule. Such insurance must include coverage
18 for an applicant's failure to properly perform mold assessment
19 or mold remediation. The department shall, by rule, establish
20 a procedure to verify the accuracy of such affidavits based
21 upon a random sample method.

22 2. Evidence of financial responsibility. The board
23 shall adopt rules to determine financial responsibility which
24 specify grounds on which the department may deny licensure.
25 Such criteria must include, but need not be limited to, credit
26 history and limits of bondability and credit.

27
28 Continuing proof of all insurance coverages referenced in this
29 paragraph shall be a requisite condition to maintaining a
30 license issued under this part.

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1 (d) A joint venture, including a joint venture
2 composed of qualified business organizations, is a separate
3 and distinct organization that must be qualified in accordance
4 with department rules.

5 (e) A license that is issued upon application of a
6 business organization must be in the name of the business
7 organization, and the name of the qualifying agent must be
8 noted thereon. If there is a change in any information that is
9 required to be stated on the application, the business
10 organization shall, within 45 days after the change occurs,
11 mail the correct information to the department.

12 (f) The applicant must furnish evidence of statutory
13 compliance if a fictitious name is used, notwithstanding s.
14 865.09(7).

15 (3) The qualifying agent must be licensed under this
16 part in order for the business organization to be licensed. If
17 the qualifying agent ceases to be affiliated with the business
18 organization, the agent must so inform the department. In
19 addition, if the qualifying agent is the only licensed
20 individual affiliated with the business organization, the
21 business organization must notify the department of the
22 termination of the qualifying agent, and the business
23 organization has 60 days after the termination of the
24 qualifying agent's affiliation with the business organization
25 in which to employ another qualifying agent. The business
26 organization may not engage in mold assessment or mold
27 remediation until a qualifying agent is employed, unless the
28 department has granted a temporary nonrenewable license to the
29 financially responsible officer, the president, a partner, or,
30 in the case of a limited partnership, the general partner, who
31 assumes all responsibilities of a primary qualifying agent for

1 the business organization. This temporary license allows the
2 business organization to proceed only with incomplete
3 contracts.

4 (4)(a) The qualifying agent shall inform the
5 department in writing if the agent proposes to engage in mold
6 assessment or mold remediation in the agent's own name or in
7 affiliation with another business organization, and the agent
8 or the new business organization shall supply the same
9 information to the department as is required of initial
10 applicants under this part.

11 (b) Upon a favorable determination by the board, after
12 investigation of the financial responsibility, credit, and
13 business reputation of the qualifying agent and the new
14 business organization, the board shall issue, without any
15 examination, a new license in the business organization's
16 name, and the name of the qualifying agent must be noted
17 thereon.

18 (5)(a) Each mold assessor or mold remediator shall
19 affix the mold assessor's or mold remediator's signature and
20 license number to each document prepared or approved for use
21 by the licensee which is related to any mold assessment or
22 mold-remediation project and filed for public record with a
23 governmental agency, and to any offer, bid, or contract
24 submitted to a client.

25 (b) The license number of each mold assessor or mold
26 remediator must appear in any printed matter or any newspaper,
27 airwave transmission, phone directory, or other advertising
28 medium offering or related to mold assessment or mold
29 remediation, as provided by department rule.

30 (6) Each qualifying agent shall pay the department an
31 amount equal to the original fee for licensure of a new

1 business organization. If the qualifying agent for a business
2 organization desires to qualify additional business
3 organizations, the board shall require the agent to present
4 evidence of ability and financial responsibility of each such
5 organization. The issuance of such certificate of authority is
6 discretionary with the board.

7 Section 9. Section 489.609, Florida Statutes, is
8 created to read:

9 489.609 Responsibilities.--

10 (1) A qualifying agent is a primary qualifying agent
11 unless he or she is a secondary qualifying agent under this
12 section.

13 (a) All primary qualifying agents for a business
14 organization are jointly and equally responsible for
15 supervising all operations of the business organization; for
16 all field work at all sites; and for financial matters, both
17 for the organization in general and for each specific job.

18 (b) Upon approval by the board, a business
19 organization may designate a financially responsible officer
20 for purposes of licensure. A financially responsible officer
21 shall be responsible for all financial aspects of the business
22 organization and may not be designated as the primary
23 qualifying agent. The designated financially responsible
24 officer shall furnish evidence of his or her financial
25 responsibility, credit, and business reputation, or that of
26 the business organization he or she desires to qualify, as
27 determined appropriate by the board.

28 (c) If a business organization has a licensed
29 financially responsible officer, the primary qualifying agent
30 is responsible for all mold assessment or mold-remediation
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1 activities of the business organization, both in general and
2 for each specific job.

3 (d) The board shall adopt rules prescribing the
4 qualifications for financially responsible officers, including
5 net worth, cash, and bonding requirements. These
6 qualifications must be at least as extensive as the
7 requirements for the financial responsibility of qualifying
8 agents.

9 (2)(a) One of the qualifying agents for a business
10 organization that has more than one qualifying agent may be
11 designated as the sole primary qualifying agent for the
12 business organization by a joint agreement that is executed,
13 on a form provided by the board, by all qualifying agents for
14 the business organization.

15 (b) The joint agreement must be submitted to the board
16 for approval. If the board determines that the joint agreement
17 is in good order, it must approve the designation and
18 immediately notify the qualifying agents of its approval. The
19 designation made by the joint agreement is effective upon
20 receipt of the notice by the qualifying agents.

21 (c) The qualifying agent designated for a business
22 organization by a joint agreement is the sole primary
23 qualifying agent for the business organization, and all other
24 qualifying agents for the business organization are secondary
25 qualifying agents.

26 (d) A designated sole primary qualifying agent has all
27 the responsibilities and duties of a primary qualifying agent,
28 notwithstanding that there are secondary qualifying agents for
29 specified jobs. The designated sole primary qualifying agent
30 is jointly and equally responsible with secondary qualifying
31 agents for supervising field work.

1 (e) A secondary qualifying agent is responsible only
2 for any work for which he or she accepts responsibility.

3 (f) A secondary qualifying agent is not responsible
4 for supervising financial matters.

5 (3)(a) A qualifying agent who has been designated by a
6 joint agreement as the sole primary qualifying agent for a
7 business organization may terminate this status by giving
8 actual notice to the business organization, to the board, and
9 to all secondary qualifying agents of his or her intention to
10 terminate this status. The notice to the board must include
11 proof satisfactory to the board that the qualifying agent has
12 given the notice required in this paragraph.

13 (b) The status of the qualifying agent ceases upon the
14 designation of a new primary qualifying agent or 60 days after
15 satisfactory notice of termination has been provided to the
16 board, whichever occurs first.

17 (c) If a new primary qualifying agent has not been
18 designated within 60 days, all secondary qualifying agents for
19 the business organization become primary qualifying agents
20 unless the joint agreement specifies that one or more of them
21 become sole qualifying agents under such circumstances, in
22 which case only the specified secondary qualifying agents
23 become sole qualifying agents.

24 (d) Any change in the status of a qualifying agent is
25 prospective only. A qualifying agent is not responsible for
26 his or her predecessor's actions but is responsible, even
27 after a change in status, for matters for which he or she was
28 responsible while in a particular status.

29 Section 10. Section 489.61, Florida Statutes, is
30 created to read:

31 489.61 Continuing education.--

1 (1) A licensee must annually complete 15 hours of
2 continuing education courses as prescribed by board rule.

3 (2) The courses required under this section must be
4 offered and provided by mold training providers licensed under
5 this part and must be approved by the board.

6 (3) The licensee must submit proof of compliance with
7 the continuing education requirements along with the
8 licensee's application for license renewal.

9 Section 11. Section 489.611, Florida Statutes, is
10 created to read:

11 489.611 Approval of mold assessor and mold remediator
12 training courses and providers.--

13 (1) The board shall approve training courses and the
14 providers of such courses as are required under this part. The
15 board must also approve training courses and the providers of
16 such courses who offer training for persons who are exempt
17 from licensure under this part.

18 (2) The board shall, by rule, prescribe criteria for
19 approving training courses and course providers and may, by
20 rule, modify the training required by this part.

21 (3) The board may enter into agreements with other
22 states for the reciprocal approval of training courses or the
23 providers of training courses.

24 (4) The board shall, by rule, establish reasonable
25 fees in an amount not to exceed the cost of evaluation,
26 approval, and recordmaking and recordkeeping of training
27 courses and providers of training courses.

28 (5) The board may impose against a provider of
29 training courses any penalty that it may impose against a
30 licensee under this part or s. 455.227, may decline to approve
31 courses, and may withdraw approval of courses proposed by a

1 provider who has, or whose agent has, been convicted of, pled
2 guilty or nolo contendere to, or entered into a stipulation or
3 consent agreement relating to, without regard to adjudication,
4 any crime or administrative violation in any jurisdiction
5 which involves fraud, deceit, or false or fraudulent
6 representations made in the course of seeking approval of or
7 providing training courses.

8 Section 12. Section 489.612, Florida Statutes, is
9 created to read:

10 489.612 Renewal of license.--

11 (1) The department shall renew a license upon receipt
12 of the renewal application and fee, upon proof of compliance
13 with the continuing education requirements of s. 489.61, and,
14 if a demonstration of competency is required by law or rule,
15 upon certification by the board that the licensee has
16 satisfactorily demonstrated his or her competence in mold
17 assessment and mold remediation.

18 (2) The department shall adopt rules establishing a
19 procedure for the biennial renewal of licenses.

20 Section 13. Section 489.613, Florida Statutes, is
21 created to read:

22 489.613 Reactivation.--

23 (1) The board shall, by rule, prescribe continuing
24 education requirements for reactivating a license. The
25 continuing education requirements for reactivating a license
26 for a licensed mold assessor or mold remediator may not exceed
27 15 classroom hours for each year the license was inactive.

28 (2) The board shall adopt rules relating to licenses
29 that have become inactive and for the renewal of inactive
30 licenses. The board shall, by rule, prescribe a fee not to
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1 exceed \$50 for the reactivation of an inactive license and a
2 fee not to exceed \$50 for the renewal of an inactive license.

3 Section 14. Section 489.614, Florida Statutes, is
4 created to read:

5 489.614 Disciplinary proceedings.--

6 (1) The board may revoke, suspend, or deny the
7 issuance or renewal of a license; reprimand, censure, or place
8 on probation any mold assessor or mold remediator; require
9 financial restitution to a consumer; impose an administrative
10 fine not to exceed \$5,000 per violation; require continuing
11 education; or assess costs associated with any investigation
12 and prosecution if the mold assessor or mold remediator is
13 found guilty of any of the following acts:

14 (a) Obtaining a license or certificate of authority by
15 fraud or misrepresentation.

16 (b) Being convicted or found guilty of, or entering a
17 plea of nolo contendere to, regardless of adjudication, a
18 crime in any jurisdiction which directly relates to the
19 practice of mold assessment or mold remediation or the ability
20 to practice mold assessment or mold remediation.

21 (c) Violating any provision of chapter 455.

22 (d) Performing any act that assists a person or entity
23 in engaging in the prohibited unlicensed practice of mold
24 assessment or mold remediation, if the licensee knows or has
25 reasonable grounds to know that the person or entity is
26 unlicensed.

27 (e) Knowingly combining or conspiring with an
28 unlicensed person by allowing his or her license or
29 certificate of authority to be used by the unlicensed person
30 with intent to evade any provision of this part. If a licensee
31 allows his or her license to be used by one or more business

1 organizations without having any active participation in the
2 operations, management, or control of the business
3 organizations, such an act constitutes prima facie evidence of
4 an intent to evade the provisions of this part.

5 (f) Acting in the capacity of a mold assessor or mold
6 remediator under any license issued under this part except in
7 the name of the licensee as set forth on the issued license.

8 (g) Committing mismanagement or misconduct in the
9 practice of mold assessment or mold remediation which causes
10 financial harm to a customer. Financial mismanagement or
11 misconduct occurs when:

12 1. Valid liens have been recorded against the property
13 of a mold assessor's or mold remediator's customer for
14 supplies or services ordered by the mold assessor or mold
15 remediator for the customer's job; the mold assessor or mold
16 remediator has received funds from the customer to pay for the
17 supplies or services; and the mold assessor or mold remediator
18 has not had the liens removed from the property, by payment or
19 by bond, within 75 days after the date of such liens;

20 2. The mold assessor or mold remediator has abandoned
21 a customer's job and the percentage of completion is less than
22 the percentage of the total contract price paid to the mold
23 assessor or mold remediator as of the time of abandonment,
24 unless the contractor is entitled to retain such funds under
25 the terms of the contract or refunds the excess funds within
26 30 days after the date the job is abandoned; or

27 3. The mold assessor's or mold remediator's job has
28 been completed, and it is shown that the customer has had to
29 pay more for the contracted job than the original contract
30 price, as adjusted for subsequent change orders, unless the
31 increase in cost was the result of circumstances beyond the

1 control of the assessor or remediator, was the result of
2 circumstances caused by the customer, or was otherwise
3 permitted by the terms of the contract between the mold
4 assessor or mold remediator and the customer.

5 (h) Being disciplined by a municipality or county for
6 an act or violation of this part.

7 (i) Failing in any material respect to comply with
8 this part or violating a rule or lawful order of the
9 department.

10 (j) Abandoning a mold assessment or mold-remediation
11 project in which the mold assessor or mold remediator is
12 engaged or under contract as a mold assessor or mold
13 remediator. A project is presumed abandoned after 20 days if
14 the mold assessor or mold remediator has terminated the
15 project without just cause and without proper notification to
16 the owner, including the reason for termination; if the mold
17 assessor or mold remediator has failed to reasonably secure
18 the project to safeguard the public while work is stopped; or
19 if the mold assessor or mold remediator fails to perform work
20 without just cause for 20 days.

21 (k) Signing a statement with respect to a project or
22 contract falsely indicating that the work is bonded; falsely
23 indicating that payment has been made for all subcontracted
24 work, labor, and materials which results in a financial loss
25 to the owner, purchaser, or mold assessor or mold remediator;
26 or falsely indicating that the insurance coverage required
27 under this act is or has been provided.

28 (l) Committing fraud or deceit in the practice of mold
29 assessment or mold remediation.

30 (m) Committing incompetency or misconduct in the
31 practice of mold assessment or mold remediation.

1 (n) Committing gross negligence, repeated negligence,
2 or negligence resulting in a significant danger to life or
3 property in the practice of mold assessment or mold
4 remediation.

5 (o) Failing to satisfy, within a reasonable time, the
6 terms of a civil judgment obtained against the licensee, or
7 the business organization qualified by the licensee, relating
8 to the practice of the licensee's profession.

9
10 For the purposes of this subsection, mold assessment or mold
11 remediation is considered to be commenced when the contract is
12 executed and the mold assessor or mold remediator has accepted
13 funds from the customer or lender.

14 (2) If a mold assessor or mold remediator disciplined
15 under subsection (1) is a qualifying agent for a business
16 organization and the violation was performed in connection
17 with any mold assessment, mold assessment-related activities,
18 mold remediation, or mold remediation-related activities
19 undertaken by that business organization, the board may impose
20 an additional administrative fine not to exceed \$5,000 per
21 violation against the business organization or against any
22 partner, officer, director, trustee, or member of the
23 organization if that person participated in the violation or
24 knew or should have known of the violation and failed to take
25 reasonable corrective action.

26 (3) The board may, by rule, specify the acts or
27 omissions that constitute violations of this section.

28 (4) In recommending penalties in any proposed
29 recommended final order, the department shall follow the
30 penalty guidelines established by the board by rule. The
31 department shall advise the administrative law judge of the

1 appropriate penalty, including mitigating and aggravating
2 circumstances, and the specific rule citation.

3 (5) The board may not reinstate the license or
4 certificate of authority of, or cause a license or certificate
5 of authority to be issued to, a person who or business
6 organization that the board has determined is unqualified or
7 whose license or certificate of authority the board has
8 suspended, until it is satisfied that the person or business
9 organization has complied with all the terms and conditions
10 set forth in the final order and is capable of competently
11 engaging in the business of mold assessment or mold
12 remediation.

13 (6) The board may assess interest or penalties on all
14 finances imposed under this part against any person or business
15 organization that has not paid the imposed fine by the due
16 date established by rule or final order. Chapter 120 does not
17 apply to such assessment. Interest rates to be imposed must be
18 established by rule and may not be usurious.

19 (7) The board may not issue a license or certificate
20 of authority, or a renewal thereof, to any person or business
21 organization that has been assessed a fine, interest, or costs
22 associated with investigation and prosecution, or has been
23 ordered to pay restitution, until the fine, interest, or costs
24 associated with investigation and prosecution or restitution
25 are paid in full or until all terms and conditions of the
26 final order have been satisfied.

27 (8) Any person licensed pursuant to this part who has
28 had his or her license revoked is ineligible to be a partner,
29 officer, director, or trustee of a business organization
30 defined by this section or to be employed in a managerial or
31 supervisory capacity for a 5-year period. The person is also

1 ineligible to reapply for licensure under this part for a
2 period of 5 years after the effective date of the revocation.

3 (9) If a business organization or any of its partners,
4 officers, directors, trustees, or members is or has previously
5 been fined for violating subsection (2) the board may, on that
6 basis alone, revoke, suspend, place on probation, or deny
7 issuance of a license to a qualifying agent or financially
8 responsible officer of that business organization.

9 (10) If an investigation of a mold assessor or mold
10 remediator is undertaken, the department shall promptly
11 furnish to the mold assessor or mold remediator or the mold
12 assessor's or mold remediator's attorney a copy of the
13 complaint or document that resulted in the initiation of the
14 investigation. The department shall make the complaint and
15 supporting documents available to the mold assessor or mold
16 remediator. The complaint or supporting documents must contain
17 information regarding the specific facts that serve as the
18 basis for the complaint. The mold assessor or mold remediator
19 may submit a written response to the information contained in
20 the complaint or document within 20 days after service to the
21 mold assessor or mold remediator of the complaint or document.
22 The mold assessor's or mold remediator's written response must
23 be considered by the probable cause panel. The right to
24 respond does not prohibit the issuance of a summary emergency
25 order if necessary to protect the public. However, if the
26 secretary, or the secretary's designee, and the chair of the
27 board or the chair of the probable cause panel agree in
28 writing that such notification would be detrimental to the
29 investigation, the department may withhold notification. The
30 department may conduct an investigation without notification

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1 to a mold assessor or mold remediator if the act under
2 investigation is a criminal offense.

3 Section 15. Section 489.615, Florida Statutes, is
4 created to read:

5 489.615 Prohibitions; penalties.--

6 (1) A person may not:

7 (a) Falsely hold himself or herself or a business
8 organization out as a licensee;

9 (b) Falsely impersonate a licensee;

10 (c) Present as his or her own the license or
11 certificate of authority of another;

12 (d) Knowingly give false or forged evidence to the
13 board or a member thereof;

14 (e) Use or attempt to use a license that has been
15 suspended or revoked;

16 (f) Engage in the business or act in the capacity of a
17 mold assessor or mold remediator or advertise himself or
18 herself or a business organization as available to engage in
19 the business or act in the capacity of a mold assessor or mold
20 remediator without being duly licensed; or

21 (g) Operate a business organization engaged in mold
22 assessment or mold remediation after 60 days following the
23 termination of its only qualifying agent without designating
24 another primary qualifying agent, except as provided in ss.
25 489.608 and 489.609;

26
27 For purposes of this subsection, a person or business
28 organization operating on an inactive or suspended license or
29 certificate of authority is considered unlicensed.
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1 (2)(a) An unlicensed person who violates subsection
2 (1) commits a misdemeanor of the first degree, punishable as
3 provided in s. 775.082 or s. 775.083.

4 (b) An unlicensed person who commits a violation of
5 subsection (1) after having been previously found guilty of
6 such a violation commits a felony of the third degree,
7 punishable as provided in s. 775.082 or s. 775.083.

8 (c) An unlicensed person who commits a violation of
9 subsection (1) during the existence of a state of emergency
10 declared by executive order of the Governor commits a felony
11 of the third degree, punishable as provided in s. 775.082 or
12 s. 775.083.

13 (3)(a) A licensed mold assessor or mold remediator may
14 not enter into an agreement, oral or written, whereby his or
15 her license number is used, or is to be used, by a person who
16 is not licensed as provided for in this part, or is used, or
17 is to be used, by a business organization that is not duly
18 qualified as provided for in this part, to engage in the
19 business or act in the capacity of a mold assessor or mold
20 remediator.

21 (b) A licensed mold assessor or mold remediator may
22 not knowingly allow his or her license number to be used by a
23 person who is not licensed as provided for in this part, or
24 used by a business organization that is not qualified as
25 provided for in this part, to engage in the business or act in
26 the capacity of a mold assessor or mold remediator.

27 Section 16. Section 489.616, Florida Statutes, is
28 created to read:

29 489.616 Multiple services.--The board shall, by rule,
30 provide when and in what manner a licensee may perform both
31

1 mold assessment and mold remediation on the same contract or
2 project.

3 Section 17. Section 489.618, Florida Statutes, is
4 created to read:

5 489.618 Presumption.--Notwithstanding any law to the
6 contrary, in a civil action against a person or entity duly
7 licensed under and in compliance with the requirements of this
8 part and alleging mold or fungal injuries to persons or
9 damages to property, there is a rebuttable presumption that
10 any work performed in accordance with all applicable building
11 codes and all assessment and remediation standards adopted by
12 the board is not negligent. This presumption applies to any
13 person or entity that, in return for compensation, obtains and
14 relies on the opinion of a person or entity duly licensed
15 under and in compliance with the requirements of this part.
16 There is a rebuttable presumption that any work not performed
17 in accordance with all applicable building codes and all
18 assessment and remediation standards adopted by the board is
19 negligent per se. The presumptions set forth in this section
20 do not apply to actions alleging gross negligence.

21 Section 18. If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 invalidity does not affect other provisions or applications of
24 the act which can be given effect without the invalid
25 provision or application, and to this end the provisions of
26 this act are severable.

27 Section 19. Subsection (2) of section 489.107, Florida
28 Statutes, is amended to read:

29 489.107 Construction Industry Licensing Board.--

30 (2) The board shall consist of 19 ~~18~~ members, of whom:

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1 (a) Four are primarily engaged in business as general
2 contractors;

3 (b) Three are primarily engaged in business as
4 building contractors or residential contractors, however, at
5 least one building contractor and one residential contractor
6 shall be appointed;

7 (c) One is primarily engaged in business as a roofing
8 contractor;

9 (d) One is primarily engaged in business as a sheet
10 metal contractor;

11 (e) One is primarily engaged in business as an
12 air-conditioning contractor;

13 (f) One is primarily engaged in business as a
14 mechanical contractor;

15 (g) One is primarily engaged in business as a pool
16 contractor;

17 (h) One is primarily engaged in business as a plumbing
18 contractor;

19 (i) One is primarily engaged in business as an
20 underground utility and excavation contractor;

21 (j) One is primarily engaged in business as a mold
22 assessor or mold remediator;

23 ~~(k)(j)~~ Two are consumer members who are not, and have
24 never been, members or practitioners of a profession regulated
25 by the board or members of any closely related profession; and

26 ~~(l)(k)~~ Two are building officials of a municipality or
27 county.

28 Section 20. For the 2005-2006 fiscal year, the sum of
29 \$294,776 is appropriated from the Professional Regulation
30 Trust Fund and three additional positions are authorized to
31 the Department of Business and Professional Regulation for the

1 purpose of conducting licensing and regulatory activities
2 associated with mold assessment and remediation.

3 Section 21. This act shall take effect October 1,
4 2005.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 CS/SB 590

9 This committee substitute differs from the committee
10 substitute as filed in that it deletes the provision providing
11 the scope of the act and deletes the provision authorizing
12 mandatory arbitration.
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