

By the Committees on General Government Appropriations;
 Commerce and Consumer Services; Regulated Industries; and
 Senator Bennett

601-2230-05

1	A bill to be entitled
2	An act relating to mold assessment and
3	remediation; creating s. 489.1134, F.S.;
4	providing educational requirements and
5	procedural requirements for mold remediation
6	certification; providing for discipline;
7	requiring review of mold remediation training
8	programs; requiring a person certified under
9	this section to be present on certain job
10	sites; assigning responsibility for workforce
11	compliance; requiring compliance; providing
12	definitions; creating s. 501.933, F.S.;
13	providing definitions; providing requirements
14	for practice as a mold assessor; providing
15	exemptions; providing prohibited acts and
16	penalties; requiring that mold assessors
17	maintain liability insurance; providing that
18	mold assessors do not have a duty to provide
19	repair cost estimates; providing limitations;
20	providing for enforcement of violations;
21	creating s. 501.934, F.S.; providing
22	definitions; providing requirements for
23	practice as a noncontracting mold remediator;
24	providing exemptions; providing prohibited acts
25	and penalties; requiring that noncontracting
26	mold remediators maintain liability insurance;
27	providing limitations; providing for
28	enforcement of violations; providing an
29	effective date.
30	
31	Be It Enacted by the Legislature of the State of Florida:

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

3 489.1134 Mold remediation certification.--

4 (1)(a) In addition to the certification or
5 registration required to engage in business as a contractor
6 under this part, any contractor who wishes to engage in
7 business as a contractor with a focus or emphasis on mold or
8 mold remediation that is not incidental to the scope of his or
9 her license shall take the courses or the number of course
10 hours determined by the board. Such courses or course hours
11 may count as part of the contractor's continuing education
12 requirement and shall be given by an instructional facility or
13 teaching entity that has been approved by the board. Upon
14 successful completion of the course, courses, or course hours,
15 the instructional facility or teaching entity that has been
16 approved by the board shall report such completion to the
17 department and issue to the taker of the course a certificate
18 of completion, which shall be available for inspection by any
19 entity or person seeking to have the contractor engage in
20 business as a contractor with a focus or emphasis on mold or
21 mold remediation that is not incidental to the license of the
22 contractor.

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

28 (c) It is the responsibility of the contractor
29 licensed under this part to ensure that members of his or her
30 workforce who are engaging in business as a contractor with a
31 focus or emphasis on mold or mold remediation that is not

1 incidental to the scope of the contractor's license are in
2 compliance with this section, and such contractor is subject
3 to discipline under s. 489.129 for violation of this section.

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

7 (e) Periodically, the board shall review training
8 programs in mold remediation for quality in content and
9 instruction. The board shall also respond to complaints
10 regarding approved programs.

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

16 (b) It is the responsibility of the licensed
17 contractor to ensure compliance with paragraph (a), and such
18 contractor is subject to discipline under s. 489.129 for
19 violation of this subsection.

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

23 (4) The term "mold" means an organism of the class
24 fungi that causes disintegration of organic matter and
25 produces spores and includes any spores, hyphae, and
26 mycotoxins produced by mold. The term "mold remediation" means
27 the business as a contractor related to mold or
28 mold-contaminated matter.

29 Section 2. Section 501.933, Florida Statutes, is
30 created to read:
31

1 501.933 Mold assessors; requirements; exemptions;
2 prohibited acts and penalties; bond and insurance; limitations
3 and enforcement.--

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

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

9 (b) "Mold assessment" means:

10 1. An inspection, investigation, or survey of a
11 dwelling or other structure to provide the owner or occupant
12 with information regarding the presence, identification, or
13 evaluation of mold;

14 2. The development of a mold-management plan or
15 remediation protocol; or

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

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

19 (2) REQUIREMENTS FOR PRACTICE.--

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

24 1. A nonprofit organization with a focus on indoor air
25 quality or industrial hygiene that meets each of the following
26 criteria:

27 a. Requires that a person may not obtain certification
28 unless the person has at least a 2-year degree in a scientific
29 or building science field and 3 years of documented experience
30 from a qualified mold assessor, or requires a 4-year degree in
31 a scientific or building science field.

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

3 2. A community college or university that offers mold
4 assessment training or education.

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

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

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

13 (b) An owner or tenant, or a managing agent or
14 employee of an owner or tenant, who performs mold assessment
15 on property owned or leased by the owner or tenant. This
16 exemption does not apply if the managing agent or employee
17 engages in the business of performing mold assessment for the
18 public.

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

21 (d) Individuals or business organizations licensed
22 under chapter 471, part I of chapter 481, chapter 482, or
23 chapter 489, or acting on behalf of an insurer under part VI
24 of chapter 626, or individuals in the manufactured housing
25 industry who are licensed under chapter 320, that are not
26 specifically engaged in mold assessment, but that are acting
27 within the scope of their respective licenses.

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

1 assessment within the scope of that employment, as long as the
2 employee does not hold out for hire or otherwise engage in
3 mold assessment.

4 (4) PROHIBITED ACTS; PENALTIES.--

5 (a) A mold assessor, a company that employs a mold
6 assessor, or a company that is controlled by a company that
7 also has a financial interest in a company employing a mold
8 assessor may not:

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

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

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

17 4. Accept any compensation, inducement, or reward from
18 a mold remediator or mold remediator's company for the
19 referral of any business to the mold remediator or the mold
20 remediator's company.

21 5. Offer any compensation, inducement, or reward to a
22 mold remediator or mold remediator's company for the referral
23 of any business from the mold remediator or the mold
24 remediator's company.

25 6. Accept an engagement to make an omission of the
26 assessment or conduct an assessment in which the assessment
27 itself, or the fee payable for the assessment, is contingent
28 upon the conclusions of the assessment.

29 (b) Any person who violates any provision of this
30 subsection commits:

31

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

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

5 3. A felony of the third degree for a third or
6 subsequent violation, punishable as provided in s. 775.082, s.
7 775.083, or s. 775.084.

8 (5) INSURANCE.--A mold assessor must maintain a
9 mold-specific insurance policy in an amount of not less than
10 \$1 million.

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

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

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

20 Section 3. Section 501.934, Florida Statutes, is
21 created to read:

22 501.934 Noncontracting mold remediators; requirements;
23 exemptions; prohibited acts and penalties; bond and insurance;
24 limitations and enforcement.--

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

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

30 (b) "Noncontracting mold remediation" means the
31 removal, cleaning, sanitizing, demolition, or other treatment,

1 including preventive activities, of mold or mold-contaminated
2 matter that was not purposely grown at that location; however,
3 such removal, cleaning, sanitizing, demolition, or other
4 treatment, including preventive activities, may not be work
5 that requires a license under chapter 489 unless performed by
6 a person who is licensed under that chapter or the work
7 complies with that chapter.

8 (c) "Noncontracting mold remediator" means any person
9 that performs mold remediation. A noncontracting mold
10 remediator may not perform any work that requires a license
11 under chapter 489 unless the noncontracting mold remediator is
12 also licensed under that chapter or complies with that
13 chapter.

14 (2) REQUIREMENTS FOR PRACTICE.--

15 (a) A person shall not work as a noncontracting mold
16 remediator unless he or she has evidence of, or works under
17 the direct supervision of a person who has evidence of, a
18 certification from either:

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

21 a. Requires that a person has at least a high school
22 diploma and at least 2 years' experience in a field related to
23 mold remediation;

24 b. Requires that a person has completed training
25 related to mold and mold remediation; and

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

28 2. A community college or university that offers mold
29 remediation training or education.

30
31

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

4 (3) EXEMPTIONS.--The following persons are not
5 required to comply with this section with regard to any
6 noncontracting mold remediation:

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

9 (b) An owner or tenant, or a managing agent or
10 employee of an owner or tenant, who performs noncontracting
11 mold remediation on property owned or leased by the owner or
12 tenant so long as such remediation is within the routine
13 maintenance of a building structure. This exemption does not
14 apply if the managing agent or employee engages in the
15 business of performing noncontracting mold remediation for the
16 public.

17 (c) An employee of a licensee who performs
18 noncontracting mold remediation while directly supervised by
19 the noncontracting mold remediator.

20 (d) Individuals or business organizations licensed
21 under chapter 471, part I of chapter 481, chapter 482, or
22 chapter 489, or acting on behalf of an insurer under part VI
23 of chapter 626, or individuals in the manufactured housing
24 industry who are licensed under chapter 320, that are not
25 specifically engaged in mold remediation, but that are acting
26 within the scope of their respective licenses.

27 (e) An authorized employee of the United States, this
28 state, or any municipality, county, or other political
29 subdivision, or public or private school, who meets the
30 requirements of subsection (2) and who is conducting mold
31 remediation within the scope of that employment, as long as

1 the employee does not hold out for hire or otherwise engage in
2 mold remediation.

3 (4) PROHIBITED ACTS; PENALTIES.--

4 (a) A noncontracting mold remediator, a company that
5 employs a noncontracting mold remediator, or a company that is
6 controlled by a company that also has a financial interest in
7 a company employing a noncontracting mold remediator may not:

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

10 2. Perform or offer to perform any mold assessment as
11 defined in s. 501.933.

12 3. Remediate for a fee any property in which the
13 noncontracting mold remediator or the noncontracting mold
14 remediator's company has any financial or transfer interest.

15 4. Accept any compensation, inducement, or reward from
16 a mold assessor or mold assessor's company for the referral of
17 any business from the mold assessor or the mold assessor's
18 company.

19 5. Offer any compensation, inducement, or reward to a
20 mold assessor or mold assessor's company for the referral of
21 any business from the mold assessor or the mold assessor's
22 company.

23 (b) Any person who violates any provision of this
24 subsection commits:

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

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

29 3. A felony of the third degree for a third or
30 subsequent violation, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

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

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

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

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

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 CS/CS/SB 590

16 This committee substitute

- 17 o Creates section 489.1134, F.S., mold remediation
18 certification, to provide guidelines to entities engaged
19 in mold or mold remediation.
20 o Creates sections 501.933 and 501.934, F.S., to require
21 certification in mold assessment or mold remediation.
22 o Provides exemptions to the certification requirement to
23 specified groups and employees and residential property
24 owners.
25 o Requires a mold-specific insurance policy not less than
26 \$1 million, and requires non-contracting mold remediators
27 to maintain a liability insurance policy with a mold
28 pollution rider not less than \$1 million.
29 o Provides civil and criminal penalties for violations of
30 the provisions relating to mold assessment and mold
31 remediation.