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A bill to be entitled  
 An act relating to mold remediation and assessment;  
 creating s. 489.1134, F.S.; providing educational  
 requirements and procedural requirements for mold  
 remediation certification; providing for discipline;  
 requiring review of mold remediation training programs;  
 requiring a person certified under this section to be  
 present on certain job sites; assigning responsibility for  
 workforce compliance; requiring compliance; providing  
 definitions; creating s. 501.933, F.S.; providing  
 definitions; providing requirements for practice as a mold  
 assessor; providing exemptions; providing prohibited acts  
 and penalties; requiring that mold assessors maintain  
 liability insurance; providing that mold assessors do not  
 have a duty to provide repair cost estimates; providing  
 limitations; providing for enforcement of violations;  
 creating s. 501.934, F.S.; providing definitions;  
 providing requirements for practice as a noncontracting  
 mold remediator; providing exemptions; providing  
 prohibited acts and penalties; requiring that  
 noncontracting mold remediators maintain liability  
 insurance; providing limitations; providing for  
 enforcement of violations; providing legislative findings  
 and intent with respect to the objectives of the act and  
 protection of homeowners; providing an effective date.

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

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

31 489.1134 Mold remediation certification.--

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

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

54 (c) It is the responsibility of the contractor licensed  
 55 under this part to ensure that members of his or her workforce  
 56 who are engaging in business as a contractor with a focus or

57 emphasis on mold or mold remediation that is not incidental to  
58 the scope of the contractor's license are in compliance with  
59 this section, and such contractor is subject to discipline under  
60 s. 489.129 for violation of this section.

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

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

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

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

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

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

85 Section 2. Section 501.933, Florida Statutes, is created  
 86 to read:

87 501.933 Mold assessors; requirements; exemptions;  
 88 prohibited acts and penalties; bond and insurance; limitations  
 89 and enforcement.--

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

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

94 (b) "Mold assessment" means:

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

99 2. The development of a mold-management plan or mold-  
 100 remediation protocol; or

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

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

104 (2) REQUIREMENTS FOR PRACTICE.--

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

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

111 a. Requires that a person may not obtain certification  
 112 unless the person has at least a 2-year degree in a scientific

113 or building science field and 3 years of documented experience  
 114 from a qualified mold assessor, or requires a 4-year degree in a  
 115 scientific or building science field.

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

118 2. A community college or university that offers mold-  
 119 assessment training or education.

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

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

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

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

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

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

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

148 (4) PROHIBITED ACTS; PENALTIES.--

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

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

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

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

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

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

168 6. Accept an engagement to make an omission of the

169 assessment or conduct an assessment in which the assessment  
170 itself, or the fee payable for the assessment, is contingent  
171 upon the conclusions of the assessment.

172 (b) Any person who violates any provision of this  
173 subsection commits:

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

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

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

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

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

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

190 (8) ENFORCEMENT OF VIOLATIONS.--Subject to the exceptions  
191 set forth in s. 501.212, a violation of this section may  
192 constitute a deceptive and unfair trade practice, which may be  
193 remedied as provided in part II of this chapter.

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

196 501.934 Noncontracting mold remediators; requirements;

197 exemptions; prohibited acts and penalties; bond and insurance;  
 198 limitations and enforcement.--

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

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

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

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

216 (2) REQUIREMENTS FOR PRACTICE.--

217 (a) A person shall not work as a noncontracting mold  
 218 remediator unless he or she has evidence of, or works under the  
 219 direct supervision of a person who has evidence of, a  
 220 certification from either:

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

223 a. Requires that a person has at least a high school  
 224 diploma and at least 2 years' experience in a field related to



225 mold remediation;

226 b. Requires that a person has completed training related  
 227 to mold and mold remediation; and

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

230 2. A community college or university that offers mold  
 231 remediation training or education.

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

235 (3) EXEMPTIONS.--The following persons are not required to  
 236 comply with this section with regard to any noncontracting mold  
 237 remediation:

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

240 (b) An owner or tenant, or a managing agent or employee of  
 241 an owner or tenant, who performs noncontracting mold remediation  
 242 on property owned or leased by the owner or tenant so long as  
 243 such remediation is within the routine maintenance of a building  
 244 structure. This exemption does not apply if the managing agent  
 245 or employee engages in the business of performing noncontracting  
 246 mold remediation for the public.

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

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

253 or individuals in the manufactured housing industry who are  
 254 licensed under chapter 320, that are not specifically engaged in  
 255 mold remediation but that are acting within the scope of their  
 256 respective licenses.

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

264 (4) PROHIBITED ACTS; PENALTIES.--

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

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

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

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

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

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

281 business from the mold assessor or the mold assessor's company.

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

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

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

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

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

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

298 (7) ENFORCEMENT OF VIOLATIONS.--Subject to the exceptions  
 299 set forth in s. 501.212, a violation of this section may  
 300 constitute a deceptive and unfair trade practice, which may be  
 301 remedied as provided in part II of this chapter.

302 Section 4. It is the intent of the Legislature pursuant to  
 303 s. 11.62, Florida Statutes, that the professions and occupations  
 304 covered by the act be regulated in a manner that does not  
 305 unnecessarily restrict entry into the profession or occupation  
 306 pursuant to this act. The Legislature finds that this act  
 307 provides a measure of protection for homeowners by providing  
 308 education and experience requirements and testing necessary to

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309 | protect homeowners' investments in their homes.

310 | Section 5. This act shall take effect October 1, 2006.