

## CHAMBER ACTION

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1 The Insurance Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to building assessment and remediation;  
7 creating pt. XV of ch. 468, F.S., relating to regulation  
8 of mold assessment and mold remediation; providing  
9 legislative intent; providing definitions; providing  
10 requirements for practice of mold assessment or mold  
11 remediation; providing exemptions; providing for  
12 prohibited acts and penalties; providing insurance  
13 requirements; providing for contracts to perform mold  
14 assessment or mold remediation; providing a statute of  
15 limitations; providing a grandfather clause; creating pt.  
16 XVI of ch. 468, F.S., relating to regulation of home  
17 inspection services; providing definitions; providing  
18 requirements for practice; providing exemptions; providing  
19 prohibited acts and penalties; requiring liability  
20 insurance; exempting certain persons from duty to provide  
21 repair cost estimates; providing a statute of limitations;  
22 providing a grandfather clause; providing an effective  
23 date.

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

Section 1. Part XV of chapter 468, Florida Statutes, consisting of sections 468.83, 468.831, 468.832, 468.833, 468.834, 468.835, 468.836, 468.837, and 468.838, is created to read:

468.83 Legislative intent.--It is the intent of the Legislature pursuant to s. 11.62 that professions and occupations covered by this part be regulated in a manner that does not unnecessarily restrict entry into such professions or occupations. The Legislature finds that this part provides a measure of protection for homeowners by providing education, experience, and testing requirements for persons in such professions or occupations necessary to protect homeowners' investments in their homes.

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

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

(2) "Mold assessment" means:

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

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

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

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51       (3) "Mold assessor" means any person who performs or  
52 directly supervises a mold assessment.

53       (4) "Mold remediation" means the removal, cleaning,  
54 sanitizing, demolition, or other treatment, including preventive  
55 activities, of mold or mold-contaminated matter that was not  
56 purposely grown at that location; however, such removal,  
57 cleaning, sanitizing, demolition, or other treatment, including  
58 preventive activities, may not be work that requires a license  
59 under chapter 489 unless performed by a person who is licensed  
60 under that chapter or the work complies with that chapter.

61       (5) "Mold remediator" means any person who performs mold  
62 remediation. A mold remediator may not perform any work that  
63 requires a license under chapter 489 unless the mold remediator  
64 is also licensed under that chapter or complies with that  
65 chapter.

66       468.832 Requirements for practice.--

67       (1) A person shall not work as a mold assessor or mold  
68 remediator unless he or she has evidence of, or works under the  
69 direct supervision of a person who has evidence of, the  
70 following:

71       (a)1. For a mold remediator, at least a 2-year degree in  
72 microbiology, engineering, architecture, industrial hygiene, or  
73 a related field of science from an accredited institution, along  
74 with a minimum of 1 year of documented field experience in a  
75 field related to mold remediation, or a high school diploma, a  
76 GED, or the equivalent with a minimum of 2 years of documented  
77 field experience in a field related to mold remediation.

78           2. For a mold assessor, at least a 2-year degree in  
 79 microbiology, engineering, architecture, industrial hygiene, or  
 80 a related field of science from an accredited institution, along  
 81 with a minimum of 1 year of documented field experience in  
 82 conducting microbial sampling or investigations, or a high  
 83 school diploma, a GED, or the equivalent with a minimum of 2  
 84 years of documented field experience in conducting microbial  
 85 sampling or investigations.

86           (b) A certification related to performing mold assessment  
 87 or mold remediation, respectively. Such certification may be  
 88 issued by a not-for-profit industry association, society, or  
 89 certification body or by a college or university that offers  
 90 mold assessment training or education. Qualified certification  
 91 programs shall be accredited by a nationally recognized  
 92 independent accrediting entity that sets programs and standards  
 93 that comply with American Society for Testing and Materials  
 94 Standard E1929-98, Standard Practice for Assessment of  
 95 Certification Programs for Environmental Professionals:  
 96 Accreditation Criteria, or the equivalent.

97           (2) A business entity may not provide or offer to provide  
 98 mold assessment or mold remediation services unless the business  
 99 entity satisfies all of the requirements of this part.

100           468.833 Exemptions.--

101           (1) The following persons are not required to comply with  
 102 this part with regard to any mold assessment:

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

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

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

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

119 (e) An authorized employee of the United States, this  
120 state, or any municipality, county, or other political  
121 subdivision, or public or private school, who meets the  
122 requirements of s. 468.832 and who is conducting mold assessment  
123 within the scope of that employment, as long as the employee  
124 does not hold out for hire or otherwise engage in mold  
125 assessment.

126 (2) The following persons are not required to comply with  
127 this part with regard to any mold remediation:

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

130 (b) An owner or tenant, or a managing agent or employee of  
131 an owner or tenant, who performs mold remediation on property  
132 owned or leased by the owner or tenant so long as such

133 remediation is within the routine maintenance of a building  
 134 structure. This exemption does not apply if the managing agent  
 135 or employee engages in the business of performing mold  
 136 remediation for the public.

137 (c) An employee of a mold remediator while directly  
 138 supervised by the mold remediator.

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

146 (e) An authorized employee of the United States, this  
 147 state, or any municipality, county, or other political  
 148 subdivision, or public or private school, who meets the  
 149 requirements of s. 468.832 and who is conducting mold  
 150 remediation within the scope of that employment, as long as the  
 151 employee does not hold out for hire or otherwise engage in mold  
 152 remediation.

153 468.834 Prohibited acts; penalties.--

154 (1) A mold assessor, a company that employs a mold  
 155 assessor, or a company that is controlled by a company that also  
 156 has a financial interest in a company employing a mold assessor  
 157 may not:

158 (a) Perform or offer to perform any mold assessment  
 159 without complying with the requirements of this part.

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160       (b) Perform or offer to perform any mold remediation to a  
161 structure on which the mold assessor or the mold assessor's  
162 company provided a mold assessment within the last 12 months.

163       (c) Inspect for a fee any property in which the assessor  
164 or the assessor's company has any financial or transfer  
165 interest.

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

170       (e) Offer any compensation, inducement, or reward to a  
171 mold remediator or mold remediator's company for the referral of  
172 any business from the mold remediator or the mold remediator's  
173 company.

174       (f) Accept an engagement to make an omission of the  
175 assessment or conduct an assessment in which the assessment  
176 itself, or the fee payable for the assessment, is contingent  
177 upon the conclusions of the assessment.

178       (2) A mold remediator, a company that employs a mold  
179 remediator, or a company that is controlled by a company that  
180 also has a financial interest in a company employing a mold  
181 remediator may not:

182       (a) Perform or offer to perform any mold remediation  
183 without complying with the requirements of this part.

184       (b) Perform or offer to perform any mold assessment as  
185 defined in s. 468.831.

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186        (c) Remediate for a fee any property in which the mold  
187 remediator or the mold remediator's company has any financial or  
188 transfer interest.

189        (d) Accept any compensation, inducement, or reward from a  
190 mold assessor or mold assessor's company for the referral of any  
191 business from the mold assessor or the mold assessor's company.

192        (e) Offer any compensation, inducement, or reward to a  
193 mold assessor or mold assessor's company for the referral of any  
194 business from the mold assessor or the mold assessor's company.

195        (3) Any person who violates any provision of this section  
196 commits:

197        (a) A misdemeanor of the second degree for a first  
198 violation, punishable as provided in s. 775.082 or s. 775.083.

199        (b) A misdemeanor of the first degree for a second  
200 violation, punishable as provided in s. 775.082 or s. 775.083.

201        (c) A felony of the third degree for a third or subsequent  
202 violation, punishable as provided in s. 775.082, s. 775.083, or  
203 s. 775.084.

204        468.835 Insurance.--

205        (1) Effective January 1, 2007, a mold assessor must  
206 maintain general liability and errors and omissions insurance  
207 coverage in an amount of not less than \$250,000.

208        (2) Effective January 1, 2007, a mold remediator must  
209 maintain general liability insurance policy in an amount of not  
210 less than \$500,000 that includes specific coverage for mold  
211 related claims.

212        468.836 Contracts.--A contract to perform mold assessment  
213 or mold remediation must be in a document or electronic record,



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214 signed or otherwise authenticated by the parties. A mold  
215 assessment contract is not required to provide estimates related  
216 to the cost of repair of an assessed property. A mold assessment  
217 contract is not required to provide estimates.

218 468.837 Statute of limitations.--Chapter 95 governs the  
219 time at which an action to enforce an obligation, a duty, or a  
220 right arising under this part must be commenced.

221 468.838 Grandfather clause.--The provisions of this part  
222 shall become effective upon becoming law and shall allow for a  
223 period of 2 years after enactment in which persons currently  
224 performing mold assessment or mold remediation as described  
225 under this part have to complete the requirements of this part.

226 Section 2. Part XVI of chapter 468, Florida Statutes,  
227 consisting of sections 468.841, 468.842, 468.843, 468.844,  
228 468.845, 468.846, 468.847, and 468.848, is created to read:

229 468.841 Definitions.--As used in this part, the term:

230 (1) "Home" means any residential real property, or  
231 manufactured or modular home, that is a single-family dwelling,  
232 duplex, triplex, quadruplex, condominium unit, or cooperative  
233 unit. The term does not include the common areas of condominiums  
234 or cooperatives.

235 (2) "Home inspector" means any person who provides or  
236 offers to provide a home inspection for a fee or other  
237 compensation.

238 (3) "Home inspection" means a limited visual examination  
239 of one or more of the readily accessible installed systems and  
240 components of a home, including, but not limited to, the  
241 structure, electrical system, HVAC system, roof covering,

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242 plumbing system, interior components, exterior components, and  
243 site conditions that affect the structure, for the purpose of  
244 providing a written professional opinion of the condition of the  
245 home.

246 468.842 Requirements for practice.--

247 (1) A person may not work as a home inspector unless he or  
248 she:

249 (a) Has successfully completed a course of study of not  
250 less than 80 hours, which requires a passing score on a  
251 psychometrically valid examination in home inspections, and  
252 which includes, but is not limited to, each of the following  
253 components of a home: structure; electrical system; roof  
254 covering; plumbing system; interior components; exterior  
255 components; and site conditions that affect the structure, and  
256 heating, ventilation, and cooling systems. Courses of study  
257 prescribed under this section must be accredited by a nationally  
258 recognized third-party independent accrediting entity that sets  
259 programs and standards that ensure certificant competence.

260 (b) Annually completes 8 hours of continuing education  
261 related to home inspections.

262 (c) Discloses to the consumer in writing prior to  
263 contracting for or commencing a home inspection:

264 1. That the home inspector meets the education and  
265 examination requirements of this section.

266 2. That the home inspector maintains the commercial  
267 general liability insurance policy as required by this part.

268 3. The scope and any exclusions of the home inspection.

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269        4. A statement of experience that includes either the  
270 approximate number of home inspections the home inspector has  
271 performed for a fee or the number of years of experience as a  
272 home inspector.

273        (2) A business entity may not provide or offer to provide  
274 home inspection services unless each of the home inspectors  
275 employed by the business entity satisfies all the requirements  
276 of this part.

277        (3) A business entity may not use, in connection with the  
278 name or signature of the business entity, the title "home  
279 inspectors" to describe the business entity's services unless  
280 each of the home inspectors employed by the business entity  
281 satisfies all the requirements of this part.

282        468.843 Exemptions.--The following persons are not  
283 required to comply with this part when acting within the scope  
284 of practice authorized by such license, except when such persons  
285 are conducting, producing, disseminating, or charging a fee for  
286 a home inspection or otherwise operating within the scope of  
287 this part:

288        (1) A construction contractor licensed under chapter 489.

289        (2) An architect licensed under chapter 481.

290        (3) An engineer licensed under chapter 471.

291        (4) A building code administrator, plans examiner, or  
292 building code inspector licensed under part XII of chapter 468.

293        (5) A certified real estate appraiser, licensed real  
294 estate appraiser, or registered real estate appraiser licensed  
295 under part II of chapter 475.

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296 (6) An inspector whose report is being provided to, and is  
297 solely for the benefit of, the Federal Housing Administration or  
298 the Veterans Administration.

299 (7) An inspector conducting inspections for wood-  
300 destroying organisms on behalf of a licensee under chapter 482.

301 (8) A firesafety inspector certified under s. 633.081.

302 (9) An insurance adjuster licensed under part VI of  
303 chapter 626.

304 (10) An officer appointed by the court.

305 (11) A master septic tank contractor licensed under part  
306 III of chapter 489.

307 (12) A certified energy auditor performing an energy audit  
308 of any home or building conducted under chapter 366 or rules  
309 adopted by the Public Service Commission.

310 (13) A mobile home manufacturer, dealer, or installer  
311 regulated or licensed under chapter 320 and any employees or  
312 agents of the manufacturer, dealer, or installer.

313 468.844 Prohibited acts; penalties.--

314 (1) A home inspector, a company that employs a home  
315 inspector, or a company that is controlled by a company that has  
316 a financial interest in a company employing a home inspector may  
317 not:

318 (a) Perform or offer to perform, prior to closing, for any  
319 additional fee, any repairs to a home on which the inspector or  
320 the inspector's company has prepared a home inspection report.

321 This paragraph does not apply to a home warranty company that is  
322 affiliated with or retains a home inspector to perform repairs  
323 pursuant to a claim made under a home warranty contract.

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324 (b) Inspect for a fee any property in which the inspector  
325 or the inspector's company has any financial or transfer  
326 interest.

327 (c) Offer or deliver any compensation, inducement, or  
328 reward to the owner of the inspected property, or any broker or  
329 agent therefor, for the referral of any business to the  
330 inspector or the inspector's company.

331 (d) Accept an engagement to make an omission or prepare a  
332 report in which the inspection itself, or the fee payable for  
333 the inspection, is contingent upon the conclusions in the  
334 report, the preestablished findings, or the close of escrow.

335 (2) Any person who violates any provision of this section  
336 commits:

337 (a) A misdemeanor of the second degree for a first  
338 violation, punishable as provided in s. 775.082 or s. 775.083.

339 (b) A misdemeanor of the first degree for a second  
340 violation, punishable as provided in s. 775.082 or s. 775.083.

341 (c) A felony of the third degree for a third or subsequent  
342 violation, punishable as provided in s. 775.082, s. 775.083, or  
343 s. 775.084.

344 468.845 Insurance.--A home inspector must maintain a  
345 commercial general liability insurance policy in an amount of  
346 not less than \$300,000.

347 468.846 Repair cost estimates.--Home inspectors are not  
348 required to provide estimates related to the cost of repair of  
349 an inspected property.

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350        468.847 Statute of limitations.--Chapter 95 governs when  
 351 an action to enforce an obligation, duty, or right arising under  
 352 this part must be commenced.

353        468.848 Grandfather clause.--Until January 1, 2008,  
 354 notwithstanding any other provision of this part, a person who  
 355 meets the following criteria may work as a home inspector:

356            (1) Has successfully completed high school or its  
 357 equivalent or has been in the business of home inspection  
 358 services for at least 5 years.

359            (2) Has been engaged in the practice of home inspection  
 360 for compensation for at least 3 years prior to January 1, 2007.

361            (3) Has performed of not fewer than 250 home inspections  
 362 for compensation.

363        Section 3. This act shall take effect July 1, 2006.