

## CHAMBER ACTION

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1 The Commerce Council recommends the following:

2  
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.

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,  
73 safety, or a related field of science from an accredited  
74 institution, along with a minimum of 1 year of documented field  
75 experience in a field related to mold remediation, or a high  
76 school diploma, a GED, or the equivalent with a minimum of 2  
77 years of documented field experience in a field related to mold  
78 remediation.

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

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

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

102           468.833 Exemptions.--

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

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

107        (b) A person who performs mold assessment on property  
108 owned or leased by the person, the person's employer, or an  
109 entity affiliated with the person's employer through common  
110 ownership, or on property operated or managed by the person's  
111 employer or an entity affiliated with the person's employer  
112 through common ownership. This exemption does not apply if the  
113 person, employer, or affiliated entity engages in the business  
114 of performing mold assessment for the public.

115        (c) An employee of a mold assessor while directly  
116 supervised by the mold assessor.

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

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

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

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

135        (b) A person who performs mold remediation on property  
 136 owned or leased by the person, the person's employer, or an  
 137 entity affiliated with the person's employer through common  
 138 ownership, or on property operated or managed by the person's  
 139 employer or an entity affiliated with the person's employer  
 140 through common ownership. This exemption does not apply if the  
 141 person, employer, or affiliated entity engages in the business  
 142 of performing mold remediation for the public.

143        (c) An employee of a mold remediator while directly  
 144 supervised by the mold remediator.

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

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

159        468.834 Prohibited acts; penalties.--

160        (1) A mold assessor, a company that employs a mold  
 161 assessor, or a company that is controlled by a company that also

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162 has a financial interest in a company employing a mold assessor  
163 may not:

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

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

169 (c) Inspect for a fee any property in which the assessor  
170 or the assessor's company has any financial or transfer  
171 interest.

172 (d) Accept any compensation, inducement, or reward from a  
173 mold remediator or mold remediator's company for the referral of  
174 any business to the mold remediator or the mold remediator's  
175 company.

176 (e) Offer any compensation, inducement, or reward to a  
177 mold remediator or mold remediator's company for the referral of  
178 any business from the mold remediator or the mold remediator's  
179 company.

180 (f) Accept an engagement to make an omission of the  
181 assessment or conduct an assessment in which the assessment  
182 itself, or the fee payable for the assessment, is contingent  
183 upon the conclusions of the assessment.

184 (2) A mold remediator, a company that employs a mold  
185 remediator, or a company that is controlled by a company that  
186 also has a financial interest in a company employing a mold  
187 remediator may not:

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

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

192        (c) Remediate for a fee any property in which the mold  
193 remediator or the mold remediator's company has any financial or  
194 transfer interest.

195        (d) Accept any compensation, inducement, or reward from a  
196 mold assessor or mold assessor's company for the referral of any  
197 business from the mold assessor or the mold assessor's company.

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

201        (3) Any person who violates any provision of this section  
202 commits:

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

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

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

210        468.835 Insurance.--

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

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



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218        468.836 Contracts.--A contract to perform mold assessment  
219 or mold remediation must be in a document or electronic record,  
220 signed or otherwise authenticated by the parties. A mold  
221 assessment contract is not required to provide estimates related  
222 to the cost of repair of an assessed property. A mold assessment  
223 contract is not required to provide estimates.

224        468.837 Statute of limitations.--Chapter 95 governs the  
225 time at which an action to enforce an obligation, a duty, or a  
226 right arising under this part must be commenced.

227        468.838 Grandfather clause.--The provisions of this part  
228 shall become effective upon becoming law and shall allow for a  
229 period of 2 years after enactment in which persons currently  
230 performing mold assessment or mold remediation as described  
231 under this part have to complete the requirements of this part.

232        Section 2. Part XVI of chapter 468, Florida Statutes,  
233 consisting of sections 468.841, 468.842, 468.843, 468.844,  
234 468.845, 468.846, 468.847, and 468.848, is created to read:

235        468.841 Definitions.--As used in this part, the term:

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

241        (2) "Home inspector" means any person who provides or  
242 offers to provide a home inspection for a fee or other  
243 compensation.

244        (3) "Home inspection" means a limited visual examination  
245 of one or more of the readily accessible installed systems and

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246 components of a home, including, but not limited to, the  
 247 structure, electrical system, HVAC system, roof covering,  
 248 plumbing system, interior components, exterior components, and  
 249 site conditions that affect the structure, for the purpose of  
 250 providing a written professional opinion of the condition of the  
 251 home.

252 468.842 Requirements for practice.--

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

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

267 (b) Annually completes 8 hours of continuing education  
 268 related to home inspections.

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

271 1. That the home inspector meets the education and  
 272 examination requirements of this section.

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

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

276        4. A statement of experience that includes either the  
277 approximate number of home inspections the home inspector has  
278 performed for a fee or the number of years of experience as a  
279 home inspector.

280        (2) A business entity may not provide or offer to provide  
281 home inspection services unless each of the home inspectors  
282 employed by the business entity satisfies all the requirements  
283 of this part.

284        (3) A business entity may not use, in connection with the  
285 name or signature of the business entity, the title "home  
286 inspectors" to describe the business entity's services unless  
287 each of the home inspectors employed by the business entity  
288 satisfies all the requirements of this part.

289        468.843 Exemptions.--The following persons are not  
290 required to comply with this part when acting within the scope  
291 of practice authorized by such license, except when such persons  
292 are conducting, producing, disseminating, or charging a fee for  
293 a home inspection or otherwise operating within the scope of  
294 this part:

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

296        (2) An architect licensed under chapter 481.

297        (3) An engineer licensed under chapter 471.

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

300       (5) A certified real estate appraiser, licensed real  
 301 estate appraiser, or registered real estate appraiser licensed  
 302 under part II of chapter 475.

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

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

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

309       (9) An insurance adjuster licensed under part VI of  
 310 chapter 626.

311       (10) An officer appointed by the court.

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

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

317       (13) A mobile home manufacturer, dealer, or installer  
 318 regulated or licensed under chapter 320 and any employees or  
 319 agents of the manufacturer, dealer, or installer.

320       468.844 Prohibited acts; penalties.--

321       (1) A home inspector, a company that employs a home  
 322 inspector, or a company that is controlled by a company that has  
 323 a financial interest in a company employing a home inspector may  
 324 not:

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

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

331 (b) Inspect for a fee any property in which the inspector  
332 or the inspector's company has any financial or transfer  
333 interest.

334 (c) Offer or deliver any compensation, inducement, or  
335 reward to the owner of the inspected property, or any broker or  
336 agent therefor, for the referral of any business to the  
337 inspector or the inspector's company.

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

342 (2) Any person who violates any provision of this section  
343 commits:

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

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

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

351 468.845 Insurance.--A home inspector must maintain a  
352 commercial general liability insurance policy in an amount of  
353 not less than \$300,000.

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354        468.846 Repair cost estimates.--Home inspectors are not  
 355 required to provide estimates related to the cost of repair of  
 356 an inspected property.

357        468.847 Statute of limitations.--Chapter 95 governs when  
 358 an action to enforce an obligation, duty, or right arising under  
 359 this part must be commenced.

360        468.848 Grandfather clause.--Until January 1, 2008,  
 361 notwithstanding any other provision of this part, a person who  
 362 meets the following criteria may work as a home inspector:

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

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

368        (3) Has performed of not fewer than 250 home inspections  
 369 for compensation.

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