

1 A bill to be entitled
2 An act relating to building assessment and remediation;
3 creating pt. XV of ch. 468, F.S., relating to regulation
4 of mold assessment and mold remediation; providing
5 legislative intent; providing definitions; providing
6 requirements for practice of mold assessment or mold
7 remediation; providing exemptions; providing for
8 prohibited acts and penalties; providing insurance
9 requirements; providing for contracts to perform mold
10 assessment or mold remediation; providing a statute of
11 limitations; providing a grandfather clause; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:
15

16 Section 1. Part XV of chapter 468, Florida Statutes,
17 consisting of sections 468.83, 468.831, 468.832, 468.833,
18 468.834, 468.835, 468.836, 468.837, and 468.838, is created to
19 read:

20 468.83 Legislative intent.--It is the intent of the
21 Legislature pursuant to s. 11.62 that professions and
22 occupations covered by this part be regulated in a manner that
23 does not unnecessarily restrict entry into such professions or
24 occupations. The Legislature finds that this part provides a
25 measure of protection for homeowners by providing education,
26 experience, and testing requirements for persons in such

27 professions or occupations necessary to protect homeowners'
28 investments in their homes.

29 468.831 Definitions.--As used in this part, the term:

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

33 (2) "Mold assessment" means:

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

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

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

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

42 (4) "Mold remediation" means the removal, cleaning,
43 sanitizing, demolition, or other treatment, including preventive
44 activities, of mold or mold-contaminated matter that was not
45 purposely grown at that location; however, such removal,
46 cleaning, sanitizing, demolition, or other treatment, including
47 preventive activities, may not be work that requires a license
48 under chapter 489 unless performed by a person who is licensed
49 under that chapter or the work complies with that chapter.

50 (5) "Mold remediator" means any person who performs mold
51 remediation. A mold remediator may not perform any work that
52 requires a license under chapter 489 unless the mold remediator

53 is also licensed under that chapter or complies with that
54 chapter.

55 468.832 Requirements for practice.--

56 (1) A person shall not work as a mold assessor or mold
57 remediator unless he or she has evidence of, or works under the
58 direct supervision of a person who has evidence of, the
59 following:

60 (a)1. For a mold remediator, at least a 2-year degree in
61 microbiology, engineering, architecture, industrial hygiene,
62 occupational safety, or a related field of science from an
63 accredited institution, along with a minimum of 1 year of
64 documented field experience in a field related to mold
65 remediation, or a high school diploma, a GED, or the equivalent
66 with a minimum of 2 years of documented field experience in a
67 field related to mold remediation.

68 2. For a mold assessor, at least a 2-year degree in
69 microbiology, engineering, architecture, industrial hygiene,
70 occupational safety, or a related field of science from an
71 accredited institution, along with a minimum of 1 year of
72 documented field experience in conducting microbial sampling or
73 investigations, or a high school diploma, a GED, or the
74 equivalent with a minimum of 2 years of documented field
75 experience in conducting microbial sampling or investigations.

76 (b) A certification related to performing mold assessment
77 or mold remediation, respectively. Such certification may be
78 issued by a not-for-profit industry association, society, or
79 certification body or by a college or university that offers

80 mold assessment or mold remediation training or education,
81 respectively. Qualified certification programs shall be
82 accredited by a nationally recognized independent accrediting
83 entity that sets programs and standards that comply with
84 American Society for Testing and Materials Standard E1929-98,
85 Standard Practice for Assessment of Certification Programs for
86 Environmental Professionals: Accreditation Criteria, or the
87 equivalent.

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

91 468.833 Exemptions.--

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

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

96 (b) A person who performs mold assessment on property
97 owned or leased by the person, the person's employer, or an
98 entity affiliated with the person's employer through common
99 ownership, or on property operated or managed by the person's
100 employer or an entity affiliated with the person's employer
101 through common ownership. This exemption does not apply if the
102 person, employer, or affiliated entity engages in the business
103 of performing mold assessment for the public.

104 (c) An employee of a mold assessor while directly
105 supervised by the mold assessor.

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

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

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

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

124 (b) A person who performs mold remediation on property
125 owned or leased by the person, the person's employer, or an
126 entity affiliated with the person's employer through common
127 ownership, or on property operated or managed by the person's
128 employer or an entity affiliated with the person's employer
129 through common ownership. This exemption does not apply if the
130 person, employer, or affiliated entity engages in the business
131 of performing mold remediation for the public.

132 (c) An employee of a mold remediator while directly
133 supervised by the mold remediator.

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

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 s. 468.832 and who is conducting mold
145 remediation within the scope of that employment, as long as the
146 employee does not hold out for hire or otherwise engage in mold
147 remediation.

148 468.834 Prohibited acts; penalties.--

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

155 (b) 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 (c) Inspect for a fee any property in which the assessor
159 or the assessor's company has any financial or transfer
160 interest.

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

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

169 (f) Accept an engagement to make an omission of the
170 assessment or conduct an assessment in which the assessment
171 itself, or the fee payable for the assessment, is contingent
172 upon the conclusions of the assessment.

173 (2) A mold remediator, a company that employs a mold
174 remediator, or a company that is controlled by a company that
175 also has a financial interest in a company employing a mold
176 remediator may not:

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

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

181 (c) Remediate for a fee any property in which the mold
182 remediator or the mold remediator's company has any financial or
183 transfer interest.

184 (d) Accept any compensation, inducement, or reward from a
185 mold assessor or mold assessor's company for the referral of any
186 business from the mold assessor or the mold assessor's company.

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

190 (3) Any person who violates any provision of this section
191 commits:

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

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

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

199 468.835 Insurance.--

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

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

207 468.836 Contracts.--A contract to perform mold assessment
208 or mold remediation must be in a document or electronic record,
209 signed or otherwise authenticated by the parties. A mold
210 assessment contract is not required to provide estimates related

211 to the cost of repair of an assessed property. A mold assessment
212 contract is not required to provide estimates.

213 468.837 Statute of limitations.--Chapter 95 governs the
214 time at which an action to enforce an obligation, a duty, or a
215 right arising under this part must be commenced.

216 468.838 Grandfather clause.--The provisions of this part
217 shall become effective upon becoming law and shall allow for a
218 period of 2 years after enactment in which persons currently
219 performing mold assessment or mold remediation as described
220 under this part have to complete the requirements of this part.

221 Section 2. This act shall take effect July 1, 2006.