

Bill No. SB 2670

Barcode 361550

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Comm: RCS
04/25/2006 12:13 PM

.
. .
. .
. .
. .
. .

The Committee on Regulated Industries (Aronberg) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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:

Bill No. SB 2670

Barcode 361550

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

5 (2) "Mold assessment" means:

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

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

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

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

14 (4) "Mold remediation" means the removal, cleaning,
15 sanitizing, demolition, or other treatment, including
16 preventive activities, of mold or mold-contaminated matter
17 that was not purposely grown at that location; however, such
18 removal, cleaning, sanitizing, demolition, or other treatment,
19 including preventive activities, may not be work that requires
20 a license under chapter 489 unless performed by a person who
21 is licensed under that chapter or the work complies with that
22 chapter.

23 (5) "Mold remediator" means any person who performs
24 mold remediation. A mold remediator may not perform any work
25 that requires a license under chapter 489 unless the mold
26 remediator is also licensed under that chapter or complies
27 with that chapter.

28 468.832 Requirements for practice.--

29 (1) A person may not work as a mold assessor or mold
30 remediator unless he or she has evidence of, or works under
31 the direct supervision of a person who has evidence of, the

Bill No. SB 2670

Barcode 361550

1 following:

2 (a)1. For a mold remediator, at least a 2-year degree
3 in microbiology, engineering, architecture, industrial
4 hygiene, safety, or a related field of science from an
5 accredited institution, along with a minimum of 1 year of
6 documented field experience in a field related to mold
7 remediation, or a high school diploma, a GED, or the
8 equivalent with a minimum of 2 years of documented field
9 experience in a field related to mold remediation.

10 2. For a mold assessor, at least a 2-year degree in
11 microbiology, engineering, architecture, industrial hygiene,
12 safety, or a related field of science from an accredited
13 institution, along with a minimum of 1 year of documented
14 field experience in conducting microbial sampling or
15 investigations, or a high school diploma, a GED, or the
16 equivalent with a minimum of 2 years of documented field
17 experience in conducting microbial sampling or investigations.

18 (b) A certification related to performing mold
19 assessment or mold remediation, respectively. Such
20 certification may be issued by a not-for-profit industry
21 association, society, or certification body or by a college or
22 university that offers mold assessment or mold remediation
23 training or education, respectively. Qualified certification
24 programs shall be accredited by a nationally recognized
25 independent accrediting entity that sets programs and
26 standards that comply with American Society for Testing and
27 Materials Standard E1929-98, Standard Practice for Assessment
28 of Certification Programs for Environmental Professionals:
29 Accreditation Criteria, or the equivalent.

30 (2) A business entity may not provide or offer to
31 provide mold assessment or mold remediation services unless

Bill No. SB 2670

Barcode 361550

1 the business entity satisfies all of the requirements of this
2 part.

3 468.833 Exemptions.--

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

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

8 (b) A person who performs mold assessment on property
9 owned or leased by the person, the person's employer, or an
10 entity affiliated with the person's employer through common
11 ownership, or on property operated or managed by the person's
12 employer or an entity affiliated with the person's employer
13 through common ownership. This exemption does not apply if the
14 person, employer, or affiliated entity engages in the business
15 of performing mold assessment for the public.

16 (c) An employee of a mold assessor while directly
17 supervised by the mold assessor.

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

25 (e) An authorized employee of the United States, this
26 state, or any municipality, county, or other political
27 subdivision, or public or private school, who meets the
28 requirements of s. 468.832 and who is conducting mold
29 assessment within the scope of that employment, as long as the
30 employee does not hold out for hire or otherwise engage in
31 mold assessment.

Bill No. SB 2670

Barcode 361550

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

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

5 (b) A person who performs mold remediation on property
6 owned or leased by the person, the person's employer, or an
7 entity affiliated with the person's employer through common
8 ownership, or on property operated or managed by the person's
9 employer or an entity affiliated with the person's employer
10 through common ownership. This exemption does not apply if the
11 person, employer, or affiliated entity engages in the business
12 of performing mold remediation for the public.

13 (c) An employee of a mold remediator while directly
14 supervised by the mold remediator.

15 (d) Individuals or business organizations that are not
16 specifically engaged in mold remediation but that are acting
17 within the scope of the respective licenses required under
18 chapter 471, part I of chapter 481, chapter 482, or chapter
19 489, are acting on behalf of an insurer under part VI of
20 chapter 626, or are individuals in the manufactured housing
21 industry who are licensed under chapter 320.

22 (e) An authorized employee of the United States, this
23 state, or any municipality, county, or other political
24 subdivision, or public or private school, who meets the
25 requirements of s. 468.832 and who is conducting mold
26 remediation within the scope of that employment, as long as
27 the employee does not hold out for hire or otherwise engage in
28 mold remediation.

29 468.834 Prohibited acts; penalties.--

30 (1) A mold assessor, a company that employs a mold
31 assessor, or a company that is controlled by a company that

Bill No. SB 2670

Barcode 361550

1 also has a financial interest in a company employing a mold
2 assessor may not:

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

5 (b) Perform or offer to perform any mold remediation
6 to a structure on which the mold assessor or the mold
7 assessor's company provided a mold assessment within the last
8 12 months.

9 (c) Inspect for a fee any property in which the
10 assessor or the assessor's company has any financial or
11 transfer interest.

12 (d) Accept any compensation, inducement, or reward
13 from a mold remediator or mold remediator's company for the
14 referral of any business to the mold remediator or the mold
15 remediator's company.

16 (e) Offer any compensation, inducement, or reward to a
17 mold remediator or mold remediator's company for the referral
18 of any business from the mold remediator or the mold
19 remediator's company.

20 (f) Accept an engagement to make an omission of the
21 assessment or conduct an assessment in which the assessment
22 itself, or the fee payable for the assessment, is contingent
23 upon the conclusions of the assessment.

24 (2) A mold remediator, a company that employs a mold
25 remediator, or a company that is controlled by a company that
26 also has a financial interest in a company employing a mold
27 remediator may not:

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

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

Bill No. SB 2670

Barcode 361550

1 (c) Remediate for a fee any property in which the mold
2 remediator or the mold remediator's company has any financial
3 or transfer interest.

4 (d) Accept any compensation, inducement, or reward
5 from a mold assessor or mold assessor's company for the
6 referral of any business from the mold assessor or the mold
7 assessor's company.

8 (e) Offer any compensation, inducement, or reward to a
9 mold assessor or mold assessor's company for the referral of
10 any business from the mold assessor or the mold assessor's
11 company.

12 (3) Any person who violates any provision of this
13 section commits:

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

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

18 (c) A felony of the third degree for a third or
19 subsequent violation, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084.

21 468.835 Insurance.--

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

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

29 468.836 Contracts.--A contract to perform mold
30 assessment or mold remediation must be in a document or
31 electronic record, signed or otherwise authenticated by the

Bill No. SB 2670

Barcode 361550

1 parties. A mold assessment contract is not required to provide
2 estimates related to the cost of repair of an assessed
3 property. A mold assessment contract is not required to
4 provide estimates.

5 468.837 Statute of limitations.--Chapter 95 governs
6 the time at which an action to enforce an obligation, a duty,
7 or a right arising under this part must be commenced.

8 468.838 Grandfather clause.--The provisions of this
9 part shall become effective upon becoming law and shall allow
10 for a period of 2 years after enactment in which persons
11 currently performing mold assessment or mold remediation as
12 described under this part have to complete the requirements of
13 this part.

14 Section 2. Part XVI of chapter 468, Florida Statutes,
15 consisting of sections 468.841, 468.842, 468.843, 468.844,
16 468.845, 468.846, 468.847, and 468.848, is created to read:

17 468.841 Definitions.--As used in this part, the term:

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

23 (2) "Home inspector" means any person who provides or
24 offers to provide a home inspection for a fee or other
25 compensation.

26 (3) "Home inspection" means a limited visual
27 examination of one or more of the readily accessible installed
28 systems and components of a home, including, but not limited
29 to, the structure, electrical system, HVAC system, roof
30 covering, plumbing system, interior components, exterior
31 components, and site conditions that affect the structure, for

1 the purpose of providing a written professional opinion of the
2 condition of the home.

3 468.842 Requirements for practice.--

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

6 (a) Has successfully completed a course of study of
7 not less than 80 hours, which requires a passing score on a
8 psychometrically valid examination in home inspections, and
9 which includes, but is not limited to, each of the following
10 components of a home: structure; electrical system; roof
11 covering; plumbing system; interior components; exterior
12 components; and site conditions that affect the structure, and
13 heating, ventilation, and cooling systems. Courses of study
14 prescribed under this section must be accredited by a
15 nationally recognized third-party independent accrediting
16 entity that sets programs and standards that ensure competence
17 as a home inspector.

18 (b) Annually completes 8 hours of continuing education
19 related to home inspections.

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

22 1. That the home inspector meets the education and
23 examination requirements of this section.

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

26 3. The scope and any exclusions of the home
27 inspection.

28 4. A statement of experience that includes either the
29 approximate number of home inspections the home inspector has
30 performed for a fee or the number of years of experience as a
31 home inspector.

Bill No. SB 2670

Barcode 361550

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

5 (3) A business entity may not use, in connection with
 6 the name or signature of the business entity, the title " home
 7 inspectors" to describe the business entity's services unless
 8 each of the home inspectors employed by the business entity
 9 satisfies all the requirements of this part.

10 468.843 Exemptions.--The following persons are not
 11 required to comply with this part when acting within the scope
 12 of practice authorized by such license, except when such
 13 persons are conducting, producing, disseminating, or charging
 14 a fee for a home inspection or otherwise operating within the
 15 scope of this part:

16 (1) A construction contractor licensed under chapter
 17 489.

18 (2) An architect licensed under chapter 481.

19 (3) An engineer licensed under chapter 471.

20 (4) A building code administrator, plans examiner, or
 21 building code inspector licensed under part XII of chapter
 22 468.

23 (5) A certified real estate appraiser, licensed real
 24 estate appraiser, or registered real estate appraiser licensed
 25 under part II of chapter 475.

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

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

Bill No. SB 2670

Barcode 361550

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

2 (9) An insurance adjuster licensed under part VI of
3 chapter 626.

4 (10) An officer appointed by the court.

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

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

10 (13) A mobile home manufacturer, dealer, or installer
11 regulated or licensed under chapter 320 and any employees or
12 agents of the manufacturer, dealer, or installer.

13 468.844 Prohibited acts; penalties.--

14 (1) A home inspector, a company that employs a home
15 inspector, or a company that is controlled by a company that
16 has a financial interest in a company employing a home
17 inspector may not:

18 (a) Perform or offer to perform, prior to closing, for
19 any additional fee, any repairs to a home on which the
20 inspector or the inspector's company has prepared a home
21 inspection report. This paragraph does not apply to a home
22 warranty company that is affiliated with or retains a home
23 inspector to perform repairs pursuant to a claim made under a
24 home warranty contract.

25 (b) Inspect for a fee any property in which the
26 inspector or the inspector's company has any financial or
27 transfer interest.

28 (c) Offer or deliver any compensation, inducement, or
29 reward to the owner of the inspected property, or any broker
30 or agent therefor, for the referral of any business to the
31 inspector or the inspector's company.

Bill No. SB 2670

Barcode 361550

1 (d) Accept an engagement to make an omission or
 2 prepare a report in which the inspection itself, or the fee
 3 payable for the inspection, is contingent upon the conclusions
 4 in the report, the preestablished findings, or the close of
 5 escrow.

6 (2) Any person who violates any provision of this
 7 section commits:

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

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

12 (c) A felony of the third degree for a third or
 13 subsequent violation, punishable as provided in s. 775.082, s.
 14 775.083, or s. 775.084.

15 468.845 Insurance.--A home inspector must maintain a
 16 commercial general liability insurance policy in an amount of
 17 not less than \$300,000.

18 468.846 Repair cost estimates.--Home inspectors are
 19 not required to provide estimates related to the cost of
 20 repair of an inspected property.

21 468.847 Statute of limitations.--Chapter 95 governs
 22 when an action to enforce an obligation, duty, or right
 23 arising under this part must be commenced.

24 468.848 Grandfather clause.--Until January 1, 2008,
 25 notwithstanding any other provision of this part, a person who
 26 meets the following criteria may work as a home inspector:

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

30 (2) Has been engaged in the practice of home
 31 inspection for compensation for at least 3 years prior to

Bill No. SB 2670

Barcode 361550

1 January 1, 2007.

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

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

5

6

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause

10

11 and insert:

12

A bill to be entitled

13

An act relating to building assessment and
remediation; creating pt. XV of ch. 468, F.S.,
relating to regulation of mold assessment and
mold remediation; providing legislative intent;
providing definitions; providing requirements
for practice of mold assessment or mold
remediation; providing exemptions; providing
for prohibited acts and penalties; providing
insurance requirements; providing for contracts
to perform mold assessment or mold remediation;
providing a statute of limitations; providing a
grandfather clause; creating pt. XVI of ch.
468, F.S., relating to regulation of home
inspection services; providing definitions;
providing requirements for practice; providing
exemptions; providing prohibited acts and
penalties; requiring liability insurance;
exempting certain persons from duty to provide
repair cost estimates; providing a statute of

31

Bill No. SB 2670

Barcode 361550

1 limitations; exempting persons currently
2 providing certain home inspections from
3 regulation under the act; providing an
4 effective date.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31