



1           468.83 Legislative intent.--It is the intent of the  
2 Legislature pursuant to s. 11.62 that professions and  
3 occupations covered by this part be regulated in a manner that  
4 does not unnecessarily restrict entry into such professions or  
5 occupations. The Legislature finds that this part provides a  
6 measure of protection for homeowners by providing education,  
7 experience, and testing requirements for persons in such  
8 professions or occupations necessary to protect homeowners'  
9 investments in their homes.

10           468.831 Definitions.--As used in this part, the term:

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

15           (2) "Mold assessment" means:

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

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

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

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

24           (4) "Mold remediation" means the removal, cleaning,  
25 sanitizing, demolition, or other treatment, including  
26 preventive activities, of mold or mold-contaminated matter  
27 that was not purposely grown at that location; however, such  
28 removal, cleaning, sanitizing, demolition, or other treatment,  
29 including preventive activities, may not be work that requires  
30 a license under chapter 489 unless performed by a person who  
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1 is licensed under that chapter or the work complies with that  
2 chapter.

3 (5) "Mold remediator" means any person who performs  
4 mold remediation. A mold remediator may not perform any work  
5 that requires a license under chapter 489 unless the mold  
6 remediator is also licensed under that chapter or complies  
7 with that chapter.

8 468.832 Requirements for practice.--

9 (1) A person may not work as a mold assessor or mold  
10 remediator unless he or she has evidence of, or works under  
11 the direct supervision of a person who has evidence of, the  
12 following:

13 (a)1. For a mold remediator, at least a 2-year degree  
14 in microbiology, engineering, architecture, industrial  
15 hygiene, occupational safety, or a related field of science  
16 from an accredited institution, along with a minimum of 1 year  
17 of documented field experience in a field related to mold  
18 remediation, or a high school diploma, a GED, or the  
19 equivalent with a minimum of 2 years of documented field  
20 experience in a field related to mold remediation.

21 2. For a mold assessor, at least a 2-year degree in  
22 microbiology, engineering, architecture, industrial hygiene,  
23 occupational safety, or a related field of science from an  
24 accredited institution, along with a minimum of 1 year of  
25 documented field experience in conducting microbial sampling  
26 or investigations, or a high school diploma, a GED, or the  
27 equivalent with a minimum of 2 years of documented field  
28 experience in conducting microbial sampling or investigations.

29 (b) A certification related to performing mold  
30 assessment or mold remediation, respectively. Such  
31 certification may be issued by a not-for-profit industry

1 association, society, or certification body or by a college or  
2 university that offers mold assessment or mold remediation  
3 training or education, respectively. Qualified certification  
4 programs shall be accredited by a nationally recognized  
5 independent accrediting entity that sets programs and  
6 standards that comply with American Society for Testing and  
7 Materials Standard E1929-98, Standard Practice for Assessment  
8 of Certification Programs for Environmental Professionals:  
9 Accreditation Criteria, or the equivalent.

10 (2) A business entity may not provide or offer to  
11 provide mold assessment or mold remediation services unless  
12 the business entity satisfies all of the requirements of this  
13 part.

14 468.833 Exemptions.--

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

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

19 (b) A person who performs mold assessment on property  
20 owned or leased by the person, the person's employer, or an  
21 entity affiliated with the person's employer through common  
22 ownership, or on property operated or managed by the person's  
23 employer or an entity affiliated with the person's employer  
24 through common ownership. This exemption does not apply if the  
25 person, employer, or affiliated entity engages in the business  
26 of performing mold assessment for the public.

27 (c) An employee of a mold assessor while directly  
28 supervised by the mold assessor.

29 (d) Individuals or business organizations that are not  
30 specifically engaged in mold assessment but are acting within  
31 the scope of the respective licenses required under chapter

1 471, part I of chapter 481, chapter 482, or chapter 489, are  
2 acting on behalf of an insurer under part VI of chapter 626,  
3 or are individuals in the manufactured housing industry who  
4 are licensed under chapter 320.

5 (e) An authorized employee of the United States, this  
6 state, or any municipality, county, or other political  
7 subdivision, or public or private school, who meets the  
8 requirements of s. 468.832 and who is conducting mold  
9 assessment within the scope of that employment, as long as the  
10 employee does not hold out for hire or otherwise engage in  
11 mold assessment.

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

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

16 (b) A person who performs mold remediation on property  
17 owned or leased by the person, the person's employer, or an  
18 entity affiliated with the person's employer through common  
19 ownership, or on property operated or managed by the person's  
20 employer or an entity affiliated with the person's employer  
21 through common ownership. This exemption does not apply if the  
22 person, employer, or affiliated entity engages in the business  
23 of performing mold remediation for the public.

24 (c) An employee of a mold remediator while directly  
25 supervised by the mold remediator.

26 (d) Individuals or business organizations that are not  
27 specifically engaged in mold remediation but that are acting  
28 within the scope of the respective licenses required under  
29 chapter 471, part I of chapter 481, chapter 482, or chapter  
30 489, are acting on behalf of an insurer under part VI of  
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1 chapter 626, or are individuals in the manufactured housing  
2 industry who are licensed under chapter 320.

3 (e) An authorized employee of the United States, this  
4 state, or any municipality, county, or other political  
5 subdivision, or public or private school, who meets the  
6 requirements of s. 468.832 and who is conducting mold  
7 remediation within the scope of that employment, as long as  
8 the employee does not hold out for hire or otherwise engage in  
9 mold remediation.

10 468.834 Prohibited acts; penalties.--

11 (1) A mold assessor, a company that employs a mold  
12 assessor, or a company that is controlled by a company that  
13 also has a financial interest in a company employing a mold  
14 assessor may not:

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

17 (b) Perform or offer to perform any mold remediation  
18 to a structure on which the mold assessor or the mold  
19 assessor's company provided a mold assessment within the last  
20 12 months.

21 (c) Inspect for a fee any property in which the  
22 assessor or the assessor's company has any financial or  
23 transfer interest.

24 (d) Accept any compensation, inducement, or reward  
25 from a mold remediator or mold remediator's company for the  
26 referral of any business to the mold remediator or the mold  
27 remediator's company.

28 (e) Offer any compensation, inducement, or reward to a  
29 mold remediator or mold remediator's company for the referral  
30 of any business from the mold remediator or the mold  
31 remediator's company.

1           (f) Accept an engagement to make an omission of the  
2 assessment or conduct an assessment in which the assessment  
3 itself, or the fee payable for the assessment, is contingent  
4 upon the conclusions of the assessment.

5           (2) A mold remediator, a company that employs a mold  
6 remediator, or a company that is controlled by a company that  
7 also has a financial interest in a company employing a mold  
8 remediator may not:

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

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

13           (c) Remediate for a fee any property in which the mold  
14 remediator or the mold remediator's company has any financial  
15 or transfer interest.

16           (d) Accept any compensation, inducement, or reward  
17 from a mold assessor or mold assessor's company for the  
18 referral of any business from the mold assessor or the mold  
19 assessor's company.

20           (e) Offer any compensation, inducement, or reward to a  
21 mold assessor or mold assessor's company for the referral of  
22 any business from the mold assessor or the mold assessor's  
23 company.

24           (3) Any person who violates any provision of this  
25 section commits:

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

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

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1           (c) A felony of the third degree for a third or  
2 subsequent violation, punishable as provided in s. 775.082, s.  
3 775.083, or s. 775.084.

4           468.835 Insurance.--

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

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

12           468.836 Contracts.--A contract to perform mold  
13 assessment or mold remediation must be in a document or  
14 electronic record, signed or otherwise authenticated by the  
15 parties. A mold assessment contract is not required to provide  
16 estimates related to the cost of repair of an assessed  
17 property. A mold assessment contract is not required to  
18 provide estimates.

19           468.837 Statute of limitations.--Chapter 95 governs  
20 the time at which an action to enforce an obligation, a duty,  
21 or a right arising under this part must be commenced.

22           468.838 Grandfather clause.--The provisions of this  
23 part shall become effective upon becoming law and shall allow  
24 for a period of 2 years after enactment in which persons  
25 currently performing mold assessment or mold remediation as  
26 described under this part have to complete the requirements of  
27 this part.

28           Section 2. Part XVI of chapter 468, Florida Statutes,  
29 consisting of sections 468.841, 468.842, 468.843, 468.844,  
30 468.845, 468.846, 468.847, and 468.848, is created to read:

31           468.841 Definitions.--As used in this part, the term:

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

6           (2) "Home inspector" means any person who provides or  
7 offers to provide a home inspection for a fee or other  
8 compensation.

9           (3) "Home inspection" means a limited visual  
10 examination of one or more of the readily accessible installed  
11 systems and components of a home, including, but not limited  
12 to, the structure, electrical system, HVAC system, roof  
13 covering, plumbing system, interior components, exterior  
14 components, and site conditions that affect the structure, for  
15 the purpose of providing a written professional opinion of the  
16 condition of the home.

17           468.842 Requirements for practice.--

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

20           (a) Has successfully completed a course of study of  
21 not less than 80 hours, which requires a passing score on a  
22 psychometrically valid examination in home inspections, and  
23 which includes, but is not limited to, each of the following  
24 components of a home: structure; electrical system; roof  
25 covering; plumbing system; interior components; exterior  
26 components; and site conditions that affect the structure, and  
27 heating, ventilation, and cooling systems. Courses of study  
28 prescribed under this section must be accredited by a  
29 nationally recognized third-party independent accrediting  
30 entity that sets programs and standards that ensure competence  
31 as a home inspector.

1           (b) Annually completes 8 hours of continuing education  
2 related to home inspections.

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

5                 1. That the home inspector meets the education and  
6 examination requirements of this section.

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

9                 3. The scope and any exclusions of the home  
10 inspection.

11                 4. A statement of experience that includes either the  
12 approximate number of home inspections the home inspector has  
13 performed for a fee or the number of years of experience as a  
14 home inspector.

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

19           (3) A business entity may not use, in connection with  
20 the name or signature of the business entity, the title " home  
21 inspectors" to describe the business entity's services unless  
22 each of the home inspectors employed by the business entity  
23 satisfies all the requirements of this part.

24           468.843 Exemptions.--The following persons are not  
25 required to comply with this part when acting within the scope  
26 of practice authorized by such license, except when such  
27 persons are conducting, producing, disseminating, or charging  
28 a fee for a home inspection or otherwise operating within the  
29 scope of this part:

30                 (1) A construction contractor licensed under chapter  
31 489.

- 1           (2) An architect licensed under chapter 481.  
2           (3) An engineer licensed under chapter 471.  
3           (4) A building code administrator, plans examiner, or  
4 building code inspector licensed under part XII of chapter  
5 468.  
6           (5) A certified real estate appraiser, licensed real  
7 estate appraiser, or registered real estate appraiser licensed  
8 under part II of chapter 475.  
9           (6) An inspector whose report is being provided to,  
10 and is solely for the benefit of, the Federal Housing  
11 Administration or the Veterans Administration.  
12           (7) An inspector conducting inspections for  
13 wood-destroying organisms on behalf of a licensee under  
14 chapter 482.  
15           (8) A firesafety inspector certified under s. 633.081.  
16           (9) An insurance adjuster licensed under part VI of  
17 chapter 626.  
18           (10) An officer appointed by the court.  
19           (11) A master septic tank contractor licensed under  
20 part III of chapter 489.  
21           (12) A certified energy auditor performing an energy  
22 audit of any home or building conducted under chapter 366 or  
23 rules adopted by the Public Service Commission.  
24           (13) A mobile home manufacturer, dealer, or installer  
25 regulated or licensed under chapter 320 and any employees or  
26 agents of the manufacturer, dealer, or installer.  
27           468.844 Prohibited acts; penalties.--  
28           (1) A home inspector, a company that employs a home  
29 inspector, or a company that is controlled by a company that  
30 has a financial interest in a company employing a home  
31 inspector may not:

1       (a) Perform or offer to perform, prior to closing, for  
2 any additional fee, any repairs to a home on which the  
3 inspector or the inspector's company has prepared a home  
4 inspection report. This paragraph does not apply to a home  
5 warranty company that is affiliated with or retains a home  
6 inspector to perform repairs pursuant to a claim made under a  
7 home warranty contract.

8       (b) Inspect for a fee any property in which the  
9 inspector or the inspector's company has any financial or  
10 transfer interest.

11       (c) Offer or deliver any compensation, inducement, or  
12 reward to the owner of the inspected property, or any broker  
13 or agent therefor, for the referral of any business to the  
14 inspector or the inspector's company.

15       (d) Accept an engagement to make an omission or  
16 prepare a report in which the inspection itself, or the fee  
17 payable for the inspection, is contingent upon the conclusions  
18 in the report, the preestablished findings, or the close of  
19 escrow.

20       (2) Any person who violates any provision of this  
21 section commits:

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

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

26       (c) A felony of the third degree for a third or  
27 subsequent violation, punishable as provided in s. 775.082, s.  
28 775.083, or s. 775.084.

29       468.845 Insurance.--A home inspector must maintain a  
30 commercial general liability insurance policy in an amount of  
31 not less than \$300,000.

1           468.846 Repair cost estimates.--Home inspectors are  
2 not required to provide estimates related to the cost of  
3 repair of an inspected property.

4           468.847 Statute of limitations.--Chapter 95 governs  
5 when an action to enforce an obligation, duty, or right  
6 arising under this part must be commenced.

7           468.848 Grandfather clause.--Until January 1, 2008,  
8 notwithstanding any other provision of this part, a person who  
9 meets the following criteria may work as a home inspector:

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

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

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

18           Section 3. This act shall take effect July 1, 2006.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 2670

4 The CS provides that the legislative intent for the regulation  
5 of mold assessors and remediators, and home inspectors be done  
6 in a manner that does not unnecessarily restrict entry into  
7 professions or occupations and protects homeowners.

8 It provides that mold assessors and mold remediators be  
9 required to work under the direct supervision of someone who  
10 either has a two-year degree in microbiology, engineering,  
11 architecture, industrial hygiene, occupational safety, or  
12 related field along with a minimum one year of documented  
13 field experience or high school equivalency with two years of  
14 documented field experience or certification related to  
15 performing mold assessment or mold remediation issued by a  
16 not-for-profit industry association, society or certification  
17 body or college or university that offers training or  
18 education.

19 It exempts certain persons, trained professionals, business  
20 organizations and government employees from the requirements  
21 of the act.

22 It provides for acts that are prohibited and the criminal  
23 penalties for failing to comply with the act.

24 It requires that the mold assessor or remediator maintain a  
25 general liability and errors and omissions insurance coverage  
26 in an amount of not less than \$250,000 and a general liability  
27 insurance policy of not less than \$500,000 that includes  
28 specific coverage for mold related claims.

29 It requires a contract to perform mold assessment or mold  
30 remediation, a statute of limitations and grandfathering  
31 provisions.

It deletes the provision that provided that home inspectors  
are not regulated by any state agency but violations of the  
section constitute a deceptive and unfair trade practice.

It provides a grandfather clause for practicing home  
inspectors that meet certain criteria until January 1, 2008.