

1                   A bill to be entitled  
2           An act relating to regulation of building inspection  
3           professionals; creating pt. XV of ch. 468, F.S., relating  
4           to regulation of home inspectors; providing a purpose;  
5           providing exemptions; providing definitions; authorizing  
6           the Department of Business and Professional Regulation to  
7           establish fees; limiting fee amounts; providing for a home  
8           inspector licensure examination; providing qualifications  
9           to take the licensure examination; providing requirements  
10          for the department to certify and license home inspectors;  
11          providing for licensure by endorsement; requiring  
12          continuing education for license renewal; providing  
13          criteria for continuing education; providing for  
14          inactivation of licenses; requiring the department to  
15          establish fees for the reactivation and renewal of  
16          inactive licenses; providing for certification of  
17          partnerships and corporations offering home inspection  
18          services; requiring a certificate of authorization for  
19          certain persons and entities practicing home inspection  
20          services; providing for prohibitions and penalties;  
21          providing grounds for disciplinary proceedings;  
22          authorizing the department to impose specified penalties;  
23          requiring home inspectors to provide a specified  
24          disclosure to consumers; requiring home inspectors to  
25          maintain a specified insurance policy; requiring home  
26          inspectors to provide a written report to homeowners upon  
27          completion of each home inspection; providing content  
28          requirements for home inspection reports; authorizing

29 | certain persons to qualify for home inspection licensure  
30 | notwithstanding the requirements of this part; creating  
31 | pt. XVI of ch. 468, F.S., relating to regulation of mold  
32 | remediators and mold assessors; providing a purpose;  
33 | providing exemptions; providing definitions; authorizing  
34 | the department to establish fees; limiting fee amounts;  
35 | providing for a mold assessor and mold remediator  
36 | licensure examination; providing qualifications to take  
37 | the licensure examinations; providing requirements for the  
38 | department to certify and license home inspectors;  
39 | providing for licensure by endorsement; requiring  
40 | continuing education for license renewal; providing  
41 | criteria for continuing education; providing for  
42 | inactivation of licenses; requiring the department to  
43 | establish fees for the reactivation and renewal of  
44 | inactive licenses; providing for certification of  
45 | partnerships and corporations offering mold assessment or  
46 | mold remediation services; requiring a certificate of  
47 | authorization for certain persons and entities practicing  
48 | home inspection services; providing for liability of  
49 | licensed mold assessors or mold remediators in certain  
50 | circumstances; providing for prohibitions and penalties;  
51 | providing grounds for disciplinary proceedings;  
52 | authorizing the department to impose specified penalties;  
53 | requiring mold assessors and mold remediators to maintain  
54 | specified insurance policies; providing requirements for  
55 | contracts to perform mold assessment or mold remediation;  
56 | authorizing certain persons to qualify for mold assessment

57 and mold remediation licensure notwithstanding the  
 58 requirements of this part; creating pt. XVII of ch. 468,  
 59 F.S., relating to the regulation of wind mitigation  
 60 assessors; providing definitions; authorizing the  
 61 Department of Business and Professional Regulation to  
 62 certify and license wind mitigation assessors; providing  
 63 licensure qualifications; providing exemptions; providing  
 64 prohibitions and penalties; requiring wind mitigation  
 65 assessors to maintain a specified insurance policy;  
 66 providing that wind mitigation assessors are not required  
 67 to provide certain estimates; providing an effective date.

68

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

70

71 Section 1. Part XV of chapter 468, Florida Statutes,  
 72 consisting of sections 468.83, 468.831, 468.8311, 468.8312,  
 73 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318,  
 74 468.8319, 468.832, 468.8321, 468.8322, 468.8323, and 468.8324,  
 75 is created to read:

76 468.83 Purpose.--The Legislature recognizes that there is  
 77 a need to require the licensing of home inspectors and to ensure  
 78 that consumers of home inspection services can rely on the  
 79 competence of home inspectors, as determined by educational and  
 80 experience requirements and testing. Therefore, the Legislature  
 81 deems it necessary in the interest of the public welfare to  
 82 regulate home inspectors in this state.

83 468.831 Exemptions.--A person is not required to comply  
 84 with this part when acting within his or her authorized scope of

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85 practice, except when such person holds himself or herself out  
86 for hire to the public as a "certified home inspector,"  
87 "registered home inspector," "licensed home inspector," "home  
88 inspector," "professional home inspector," or any combination  
89 thereof stating or implying licensure under this part if he or  
90 she is one or more of the following:

91 (1) A contractor licensed under chapter 489.

92 (2) An architect licensed under chapter 481.

93 (3) An engineer licensed under chapter 471.

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

96 (5) A certified real estate appraiser, licensed real  
97 estate appraiser, or registered real estate appraiser licensed  
98 under part II of chapter 475.

99 (6) A home inspector whose report is being provided to,  
100 and is solely for the benefit of, the Federal Housing  
101 Administration or the Veterans Administration.

102 (7) A home inspector conducting inspections for wood-  
103 destroying organisms on behalf of a licensee under chapter 482.

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

105 (9) An insurance adjuster licensed under part VI of  
106 chapter 626.

107 (10) An officer appointed by the court.

108 (11) A certified energy auditor performing an energy audit  
109 of any home or building conducted under chapter 366 or rules  
110 adopted by the Public Service Commission.

111 468.8311 Definitions.--As used in this part, the term:

112           (1) "Department" means the Department of Business and  
 113 Professional Regulation.

114           (2) "Home" means any residential real property, or  
 115 manufactured or modular home, which is a single-family dwelling,  
 116 duplex, triplex, quadruplex, condominium unit, or cooperative  
 117 unit. The term does not include the common areas of condominiums  
 118 or cooperatives.

119           (3) "Home inspector" means any person who provides or  
 120 offers to provide home inspection services for a fee or other  
 121 compensation.

122           (4) "Home inspection services" means a limited visual  
 123 examination of one or more of the readily accessible installed  
 124 systems and components of a home, including the structure,  
 125 electrical system, HVAC system, roof covering, plumbing system,  
 126 interior components, exterior components, and site conditions  
 127 that affect the structure, for the purposes of providing a  
 128 written professional opinion of the condition of the home.

129           468.8312 Fees.--

130           (1) The department, by rule, may establish fees to be paid  
 131 for applications, examination, reexamination, licensing and  
 132 renewal, inactive status application and reactivation of  
 133 inactive licenses, recordkeeping, and applications for providers  
 134 of continuing education. The department may also establish by  
 135 rule a delinquency fee. Fees shall be based on department  
 136 estimates of the revenue required to implement the provisions of  
 137 this part. All fees shall be remitted with the appropriate  
 138 application, examination, or license.

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139       (2) The initial application and examination fee shall not  
140 exceed \$125 plus the actual per applicant cost to the department  
141 to purchase an examination, if the department chooses to  
142 purchase the examination. The examination fee shall be in an  
143 amount that covers the cost of obtaining and administering the  
144 examination and shall be refunded if the applicant is found  
145 ineligible to sit for the examination. The application fee shall  
146 be nonrefundable.

147       (3) The initial license fee shall not exceed \$200.

148       (4) The fee for a certificate of authorization shall not  
149 exceed \$125.

150       (5) The biennial renewal fee shall not exceed \$200.

151       (6) The fee for licensure by endorsement shall not exceed  
152 \$200.

153       (7) The fee for application for inactive status or for  
154 reactivation of an inactive license shall not exceed \$200.

155       (8) The fee for applications from providers of continuing  
156 education may not exceed \$500.

157       468.8313 Examinations.--

158       (1) A person desiring to be licensed as a home inspector  
159 shall apply to the department to take a licensure examination.

160       (2) An applicant shall be entitled to take the licensure  
161 examination for the purpose of determining whether he or she is  
162 qualified to practice in this state as a home inspector if the  
163 applicant is of good moral character and has satisfied the  
164 following requirements:

165       (a) Has received a high school diploma or its equivalent.

166        (b) Has completed a course of study of no less than 120  
167 hours that covers all of the following components of a home:  
168 structure, electrical system, HVAC system, roof covering,  
169 plumbing system, interior components, exterior components, and  
170 site conditions that affect the structure.

171        (3) The department shall review and approve courses of  
172 study in home inspection.

173        (4) The department may review and approve examinations by  
174 a nationally recognized entity that offers programs or sets  
175 standards that ensure competence as a home inspector.

176        (5) (a) "Good moral character" means a personal history of  
177 honesty, fairness, and respect for the rights of others and for  
178 the laws of this state and nation.

179        (b) The department may refuse to certify an applicant for  
180 failure to satisfy this requirement only if:

181        1. There is a substantial connection between the lack of  
182 good moral character of the applicant and the professional  
183 responsibilities of a licensed home inspector; and

184        2. The finding by the department of lack of good moral  
185 character is supported by clear and convincing evidence.

186        (c) When an applicant is found to be unqualified for a  
187 license because of lack of good moral character, the department  
188 shall furnish the applicant a statement containing the findings  
189 of the department, a complete record of the evidence upon which  
190 the determination was based, and a notice of the rights of the  
191 applicant to a rehearing and appeal.

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192       (6) The department may adopt rules pursuant to ss.  
193 120.536(1) and 120.54 to implement the provisions of this  
194 section.

195       468.8314 Licensure.--

196       (1) The department shall license any applicant who the  
197 department certifies is qualified to practice home inspection  
198 services.

199       (2) The department shall certify for licensure any  
200 applicant who satisfies the requirements of s. 468.8313 and who  
201 has passed the licensing examination. The department may refuse  
202 to certify any applicant who has violated any of the provisions  
203 of s. 468.832.

204       (3) The department shall certify as qualified for a  
205 license by endorsement an applicant who is of good moral  
206 character as determined in s. 468.8313; holds a valid license to  
207 practice home inspection services in another state or territory  
208 of the United States, whose educational requirements are  
209 substantially equivalent to those required by this part; and has  
210 passed a national, regional, state, or territorial licensing  
211 examination that is substantially equivalent to the examination  
212 required by this part.

213       (4) The department shall not issue a license by  
214 endorsement to any applicant who is under investigation in  
215 another state for any act that would constitute a violation of  
216 this part or chapter 455 until such time as the investigation is  
217 complete and disciplinary proceedings have been terminated.

218       468.8315 Renewal of license.--



219       (1) The department shall renew a license upon receipt of  
 220 the renewal application and upon certification by the department  
 221 that the licensee has satisfactorily completed the continuing  
 222 education requirements of s. 468.8316.

223       (2) The department shall adopt rules establishing a  
 224 procedure for the biennial renewal of licenses.

225       468.8316 Continuing education.--

226       (1) The department may not renew a license until the  
 227 licensee submits proof satisfactory to the department that  
 228 during the 2 years prior to his or her application for renewal  
 229 the licensee has completed at least 14 hours of continuing  
 230 education. Criteria and course content shall be approved by the  
 231 department by rule.

232       (2) The department may prescribe by rule additional  
 233 continuing professional education hours, not to exceed 25  
 234 percent of the total hours required, for failure to complete the  
 235 hours required for renewal by the end of the reestablishment  
 236 period.

237       468.8317 Inactive license.--

238       (1) A licensee may request that his or her license be  
 239 placed in an inactive status by making application to the  
 240 department.

241       (2) A license that has become inactive may be reactivated  
 242 upon application to the department. The department may prescribe  
 243 by rule continuing education requirements as a condition of  
 244 reactivating a license. The continuing education requirements  
 245 for reactivating a license may not exceed 14 hours for each year  
 246 the license was inactive.

247       (3) The department shall adopt rules relating to licenses  
 248 which have become inactive and for the renewal of inactive  
 249 licenses. The department shall prescribe by rule a fee not to  
 250 exceed \$50 for the reactivation of an inactive license and a fee  
 251 not to exceed \$50 for the renewal of an inactive license.

252       468.8318 Certification of corporations and partnerships.--

253       (1) The department shall issue a certificate of  
 254 authorization to a corporation or partnership offering home  
 255 inspection services to the public if the corporation or  
 256 partnership satisfies all of the requirements of this part.

257       (2) The practice of or the offer to practice home  
 258 inspection services by licensees through a corporation or  
 259 partnership offering home inspection services to the public, or  
 260 by a corporation or partnership offering such services to the  
 261 public through licensees under this part as agents, employees,  
 262 officers, or partners, is permitted subject to the provisions of  
 263 this part, provided that all personnel of the corporation or  
 264 partnership who act in its behalf as home inspectors in this  
 265 state are licensed as provided by this part; and further  
 266 provided that the corporation or partnership has been issued a  
 267 certificate of authorization by the department as provided in  
 268 this section. Nothing in this section shall be construed to  
 269 allow a corporation to hold a license to practice home  
 270 inspection services. No corporation or partnership shall be  
 271 relieved of responsibility for the conduct or acts of its  
 272 agents, employees, or officers by reason of its compliance with  
 273 this section, nor shall any individual practicing home  
 274 inspection services be relieved of responsibility for

275 professional services performed by reason of his or her  
276 employment or relationship with a corporation or partnership.

277 (3) For the purposes of this section, a certificate of  
278 authorization shall be required for a corporation, partnership,  
279 association, or person practicing under a fictitious name and  
280 offering home inspection services to the public; however, when  
281 an individual is practicing home inspection services in his or  
282 her own given name, he or she shall not be required to register  
283 under this section.

284 (4) The fact that any licensed home inspector practices  
285 through a corporation or partnership shall not relieve the  
286 licensee from personal liability for negligence, misconduct, or  
287 wrongful acts committed by him or her. Partnerships and all  
288 partners shall be jointly and severally liable for the  
289 negligence, misconduct, or wrongful acts committed by their  
290 agents, employees, or partners while acting in a professional  
291 capacity. Any officer, agent, or employee of a business  
292 organization other than a partnership shall be personally liable  
293 and accountable only for negligent acts, wrongful acts, or  
294 misconduct committed by him or her or committed by any person  
295 under his or her direct supervision and control while rendering  
296 professional services on behalf of the business organization.  
297 The personal liability of a shareholder or owner of a business  
298 organization, in his or her capacity as shareholder or owner,  
299 shall be no greater than that of a shareholder-employee of a  
300 corporation incorporated under chapter 607. The business  
301 organization shall be liable up to the full value of its  
302 property for any negligent acts, wrongful acts, or misconduct

303 committed by any of its officers, agents, or employees while the  
304 officers, agents, or employees are engaged on its behalf in the  
305 rendering of professional services.

306 (5) Each certificate of authorization shall be renewed  
307 every 2 years. Each partnership and corporation certified under  
308 this section shall notify the department within 1 month of any  
309 change in the information contained in the application upon  
310 which the certification is based.

311 (6) Disciplinary action against a corporation or  
312 partnership shall be administered in the same manner and on the  
313 same grounds as disciplinary action against a licensed home  
314 inspector.

315 468.8319 Prohibitions; penalties.--

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

320 (a) Practice or offer to practice home inspection services  
321 unless the person has complied with the provisions of this part;

322 (b) Use the name or title "certified home inspector,"  
323 "registered home inspector," "licensed home inspector," "home  
324 inspector," "professional home inspector," or any combination  
325 thereof unless the person has complied with the provisions of  
326 this part;

327 (c) Present as his or her own the license of another;

328 (d) Knowingly give false or forged evidence to the  
329 department or an employee thereof;

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330        (e) Use or attempt to use a license that has been  
331 suspended or revoked;

332        (f) Perform or offer to perform, prior to closing, for any  
333 additional fee, any repairs to a home on which the inspector or  
334 the inspector's company has prepared a home inspection report.  
335 This paragraph does not apply to a home warranty company that is  
336 affiliated with or retains a home inspector to perform repairs  
337 pursuant to a claim made under a home warranty contract;

338        (g) Inspect for a fee any property in which the inspector  
339 or the inspector's company has any financial or transfer  
340 interest;

341        (h) Offer or deliver any compensation, inducement, or  
342 reward to any broker or agent therefor for the referral of the  
343 owner of the inspected property to the inspector or the  
344 inspection company; or

345        (i) Accept an engagement to make an omission or prepare a  
346 report in which the inspection itself, or the fee payable for  
347 the inspection, is contingent upon either the conclusions in the  
348 report, preestablished findings, or the close of escrow.

349        (2) Any person who is found to be in violation of any  
350 provision of this section commits a misdemeanor of the first  
351 degree, punishable as provided in s. 775.082 or s. 775.083.

352        468.832 Disciplinary proceedings.--

353        (1) The following acts constitute grounds for which the  
354 disciplinary actions in subsection (2) may be taken:

355        (a) Violation of any provision of this part or s.  
356 455.227(1);

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357        (b) Attempting to procure a license to practice home  
358 inspection services by bribery or fraudulent misrepresentation;

359        (c) Having a license to practice home inspection services  
360 revoked, suspended, or otherwise acted against, including the  
361 denial of licensure, by the licensing authority of another  
362 state, territory, or country;

363        (d) Being convicted or found guilty of, or entering a plea  
364 of nolo contendere to, regardless of adjudication, a crime in  
365 any jurisdiction that directly relates to the practice of home  
366 inspection services or the ability to practice home inspection  
367 services;

368        (e) Making or filing a report or record that the licensee  
369 knows to be false, willfully failing to file a report or record  
370 required by state or federal law, willfully impeding or  
371 obstructing such filing, or inducing another person to impede or  
372 obstruct such filing. Such reports or records shall include only  
373 those that are signed in the capacity of a licensed home  
374 inspector;

375        (f) Advertising goods or services in a manner that is  
376 fraudulent, false, deceptive, or misleading in form or content;

377        (g) Engaging in fraud or deceit, or of negligence,  
378 incompetency, or misconduct, in the practice of home inspection  
379 services;

380        (h) Failing to perform any statutory or legal obligation  
381 placed upon a licensed home inspector; violating any provision  
382 of this chapter, a rule of the department, or a lawful order of  
383 the department previously entered in a disciplinary hearing; or

384 failing to comply with a lawfully issued subpoena of the  
 385 department; or  
 386 (i) Practicing on a revoked, suspended, inactive, or  
 387 delinquent license.  
 388 (2) When the department finds any home inspector guilty of  
 389 any of the grounds set forth in subsection (1), it may enter an  
 390 order imposing one or more of the following penalties:  
 391 (a) Denial of an application for licensure.  
 392 (b) Revocation or suspension of a license.  
 393 (c) Imposition of an administrative fine not to exceed  
 394 \$1,000 for each count or separate offense.  
 395 (d) Issuance of a reprimand.  
 396 (e) Placement of the home inspector on probation for a  
 397 period of time and subject to such conditions as the department  
 398 may specify.  
 399 (f) Restriction of the authorized scope of practice by the  
 400 home inspector.  
 401 (3) The department shall reissue the license of a  
 402 disciplined home inspector upon certification that he or she has  
 403 complied with all of the terms and conditions set forth in the  
 404 final order.  
 405 468.8321 Disclosures.--Prior to contracting for or  
 406 commencing a home inspection, a home inspector shall provide to  
 407 the consumer:  
 408 (1) A copy of his or her license to practice home  
 409 inspection services in this state;  
 410 (2) A written disclosure that contains the following  
 411 information:

412        (a) A statement of whether he or she maintains the  
 413 liability insurance required by this part;  
 414        (b) The scope and any exclusions of the home inspection;  
 415 and  
 416        (c) A statement of his or her experience that includes the  
 417 number of years of experience he or she has as a home inspector.

418        468.8322 Insurance.--A home inspector shall maintain a  
 419 commercial general liability insurance policy in an amount of  
 420 not less than \$300,000.

421        468.8323 Home inspection report.--Upon completion of each  
 422 home inspection for compensation, the home inspector shall  
 423 provide a written report prepared for the homeowner.

424        (1) The home inspector shall report:

425        (a) On those systems and components inspected that, in the  
 426 professional opinion of the inspector, are significantly  
 427 deficient or are near the end of their service lives.

428        (b) A reason why, if not self-evident, the system or  
 429 component reported under paragraph (a) is significantly  
 430 deficient or near the end of its service life.

431        (c) Any systems and components that were present at the  
 432 time of the inspection but were not inspected, and a reason they  
 433 were not inspected.

434        (2) A home inspector is not required to provide estimates  
 435 related to the cost of repair of an inspected property.

436        468.8324 Grandfather clause.--Until January 1, 2009,  
 437 notwithstanding any other provision of this part, a person may  
 438 qualify to be licensed by the department as a home inspector if  
 439 he or she:



- 440       (1) Has received a high school diploma or its equivalent;
- 441       (2) Has been engaged in the practice of home inspection
- 442 for compensation for at least 3 years prior to the effective
- 443 date of this part;
- 444       (3) Is of good moral character as defined in s. 468.8313;
- 445 and
- 446       (4) Has not committed any acts which would be grounds for
- 447 disciplinary actions had the person been licensed under this
- 448 part.

449       Section 2. Part XVI of chapter 468, Florida Statutes,  
 450 consisting of sections 468.84, 468.841, 468.8411, 468.8412,  
 451 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,  
 452 468.8419, 468.842, 468.8421, 468.8422, and 468.8423, is created  
 453 to read:

454       468.84 Legislative purpose.--The Legislature finds it  
 455 necessary in the interest of the public safety and welfare, to  
 456 prevent damage to the real and personal property, to avert  
 457 economic injury to the residents of this state, and to regulate  
 458 persons and companies that hold themselves out to the public as  
 459 qualified to perform mold-related services.

460       468.841 Exemptions.--

461       (1) The following persons are not required to comply with  
 462 any provisions of this part relating to mold assessment:

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

465       (b) A person who performs mold assessment on property  
 466 owned or leased by the person, the person's employer, or an  
 467 entity affiliated with the person's employer through common

468 ownership, or on property operated or managed by the person's  
469 employer or an entity affiliated with the person's employer  
470 through common ownership. This exemption does not apply if the  
471 person, employer, or affiliated entity engages in the business  
472 of performing mold assessment for the public.

473 (c) An employee of a mold assessor while directly  
474 supervised by the mold assessor.

475 (d) Persons or business organizations acting within the  
476 scope of the respective licenses required under chapter 471,  
477 part I of chapter 481, chapter 482, or chapter 489, are acting  
478 on behalf of an insurer under part VI of chapter 626, or are  
479 persons in the manufactured housing industry who are licensed  
480 under chapter 320, except when any such persons or business  
481 organizations hold themselves out for hire to the public as a  
482 "certified mold assessor," "registered mold assessor," "licensed  
483 mold assessor," "mold assessor," "professional mold assessor,"  
484 or any combination thereof stating or implying licensure under  
485 this part.

486 (e) An authorized employee of the United States, this  
487 state, or any municipality, county, or other political  
488 subdivision, or public or private school and who is conducting  
489 mold assessment within the scope of that employment, as long as  
490 the employee does not hold out for hire to the general public or  
491 otherwise engage in mold assessment.

492 (2) The following persons are not required to comply with  
493 any provisions of this part relating to mold remediation:

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

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496       (b) A person who performs mold remediation on property  
497 owned or leased by the person, the person's employer, or an  
498 entity affiliated with the person's employer through common  
499 ownership, or on property operated or managed by the person's  
500 employer or an entity affiliated with the person's employer  
501 through common ownership. This exemption does not apply if the  
502 person, employer, or affiliated entity engages in the business  
503 of performing mold remediation for the public.

504       (c) An employee of a mold remediator while directly  
505 supervised by the mold remediator.

506       (d) Persons or business organizations that are acting  
507 within the scope of the respective licenses required under  
508 chapter 471, part I of chapter 481, chapter 482, or chapter 489,  
509 are acting on behalf of an insurer under part VI of chapter 626,  
510 or are persons in the manufactured housing industry who are  
511 licensed under chapter 320, except when any such persons or  
512 business organizations hold themselves out for hire to the  
513 public as a "certified mold assessor," "registered mold  
514 assessor," "licensed mold assessor," "mold assessor,"  
515 "professional mold assessor," or any combination thereof stating  
516 or implying licensure under this part.

517       (e) An authorized employee of the United States, this  
518 state, or any municipality, county, or other political  
519 subdivision, or public or private school and who is conducting  
520 mold remediation within the scope of that employment, as long as  
521 the employee does not hold out for hire to the general public or  
522 otherwise engage in mold remediation.

523       468.8411 Definitions.--As used in this part, the term:

524           (1) "Department" means the Department of Business and  
 525 Professional Regulation.

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

529           (3) "Mold assessment" means a process performed by a mold  
 530 assessor that includes the physical sampling and detailed  
 531 evaluation of data obtained from a building history and  
 532 inspection to formulate an initial hypothesis about the origin,  
 533 identity, location, and extent of amplification of mold growth  
 534 of greater than ten square feet.

535           (4) "Mold assessor" means any person who performs or  
 536 directly supervises a mold assessment.

537           (5) "Mold remediation" means the removal, cleaning,  
 538 sanitizing, demolition, or other treatment, including preventive  
 539 activities, of mold or mold-contaminated matter that was not  
 540 purposely grown at that location; however, such removal,  
 541 cleaning, sanitizing, demolition, or other treatment, including  
 542 preventive activities, may not be work that requires a license  
 543 under chapter 489 unless performed by a person who is licensed  
 544 under that chapter or the work complies with that chapter.

545           (6) "Mold remediator" means any person who performs mold  
 546 remediation. A mold remediator may not perform any work that  
 547 requires a license under chapter 489 unless the mold remediator  
 548 is also licensed under that chapter or complies with that  
 549 chapter.

550           468.8412 Fees.--

551       (1) The department, by rule, may establish fees to be paid  
552 for application, examination, reexamination, licensing and  
553 renewal, inactive status application and reactivation of  
554 inactive licenses, and application for providers of continuing  
555 education. The department may also establish by rule a  
556 delinquency fee. Fees shall be based on department estimates of  
557 the revenue required to implement the provisions of this part.  
558 All fees shall be remitted with the application, examination,  
559 reexamination, licensing and renewal, inactive status  
560 application and reactivation of inactive licenses, and  
561 application for providers of continuing education.

562       (2) The application fee shall not exceed \$125 and is  
563 nonrefundable. The examination fee shall not exceed \$125 plus  
564 the actual per applicant cost to the department to purchase the  
565 examination, if the department chooses to purchase the  
566 examination. The examination fee shall be in an amount that  
567 covers the cost of obtaining and administering the examination  
568 and shall be refunded if the applicant is found ineligible to  
569 sit for the examination.

570       (3) The fee for an initial license shall not exceed \$200.

571       (4) The fee for an initial certificate of authorization  
572 shall not exceed \$200.

573       (5) The fee for a biennial license renewal shall not  
574 exceed \$400.

575       (6) The fee for a biennial certificate of authorization  
576 renewal shall not exceed \$400.

577       (7) The fee for licensure by endorsement shall not exceed  
578 \$200.

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579       (8) The fee for application for inactive status shall not  
580 exceed \$100.

581       (9) The fee for reactivation of an inactive license shall  
582 not exceed \$200.

583       (10) The fee for applications from providers of continuing  
584 education may not exceed \$500.

585       468.8413 Examinations.--

586       (1) A person desiring to be licensed as a mold assessor or  
587 mold remediator shall apply to the department to take a  
588 licensure examination.

589       (2) An applicant shall be entitled to take the licensure  
590 examination to practice in this state as a mold assessor or mold  
591 remediator if the applicant is of good moral character and has  
592 satisfied one of the following requirements:

593       (a)1. For a mold remediator, at least a 2-year degree in  
594 microbiology, engineering, architecture, industrial hygiene,  
595 occupational safety, or a related field of science from an  
596 accredited institution and a minimum of 1 year of documented  
597 field experience in a field related to mold remediation; or

598       2. A high school diploma or the equivalent with a minimum  
599 of 4 years of documented field experience in a field related to  
600 mold remediation.

601       (b)1. For a mold assessor, at least a 2-year degree in  
602 microbiology, engineering, architecture, industrial hygiene,  
603 occupational safety, or a related field of science from an  
604 accredited institution and a minimum of 1 year of documented  
605 field experience in conducting microbial sampling or  
606 investigations; or

607           2. A high school diploma or the equivalent with a minimum  
 608 of 4 years of documented field experience in conducting  
 609 microbial sampling or investigations.

610           (3) The department shall review and approve courses of  
 611 study in mold assessment and mold remediation.

612           (4) (a) Good moral character means a personal history of  
 613 honesty, fairness, and respect for the rights of others and for  
 614 the laws of this state and nation.

615           (b) The department may refuse to certify an applicant for  
 616 failure to satisfy this requirement only if:

617           1. There is a substantial connection between the lack of  
 618 good moral character of the applicant and the professional  
 619 responsibilities of a licensed mold assessor or mold remediator;  
 620 and

621           2. The finding by the department of lack of good moral  
 622 character is supported by clear and convincing evidence.

623           (c) When an applicant is found to be unqualified for a  
 624 license because of a lack of good moral character, the  
 625 department shall furnish the applicant a statement containing  
 626 the findings of the department, a complete record of the  
 627 evidence upon which the determination was based, and a notice of  
 628 the rights of the applicant to a rehearing and appeal.

629           (5) The department may adopt rules pursuant to ss.  
 630 120.536(1) and 120.54 to implement the provisions of this  
 631 section.

632           468.8414 Licensure.--

633       (1) The department shall license any applicant who the  
634 department certifies is qualified to practice mold assessment or  
635 mold remediation.

636       (2) The department shall certify for licensure any  
637 applicant who satisfies the requirements of s. 468.8413, who has  
638 passed the licensing examination, and who has documented  
639 training in water, mold, and respiratory protection. The  
640 department may refuse to certify any applicant who has violated  
641 any of the provisions of this part.

642       (3) The department shall certify as qualified for a  
643 license by endorsement an applicant who is of good moral  
644 character and:

645       (a) Is qualified to take the examination as set forth in  
646 s. 468.8413 and has passed a certification examination offered  
647 by a nationally recognized organization that certifies persons  
648 in the specialty of mold assessment or mold remediation that has  
649 been approved by the department as substantially equivalent to  
650 the requirements of this part and s. 455.217; or

651       (b) Holds a valid license to practice mold assessment or  
652 mold remediation issued by another state or territory of the  
653 United States if the criteria for issuance of the license were  
654 substantially the same as the licensure criteria that is  
655 established by this part as determined by the department.

656       (4) The department shall not issue a license by  
657 endorsement to any applicant who is under investigation in  
658 another state for any act that would constitute a violation of  
659 this part or chapter 455 until such time as the investigation is  
660 complete and disciplinary proceedings have been terminated.



661 468.8415 Renewal of license.--

662 (1) The department shall renew a license upon receipt of  
 663 the renewal application and fee and upon certification by the  
 664 department that the licensee has satisfactorily completed the  
 665 continuing education requirements of s. 468.8416.

666 (2) The department shall adopt rules establishing a  
 667 procedure for the biennial renewal of licenses.

668 468.8416 Continuing education.--

669 (1) The department may not renew a license until the  
 670 licensee submits proof satisfactory to it that during the 2  
 671 years prior to his or her application for renewal the licensee  
 672 has completed at least 14 hours of continuing education.  
 673 Criteria and course content shall be approved by the department  
 674 by rule.

675 (2) The department may prescribe by rule additional  
 676 continuing professional education hours, not to exceed 25  
 677 percent of the total hours required, for failure to complete the  
 678 hours required for renewal by the end of the renewal period.

679 468.8417 Inactive license.--

680 (1) A licensee may request that his or her license be  
 681 placed in an inactive status by making application to the  
 682 department.

683 (2) A license that has become inactive may be reactivated  
 684 upon application to the department. The department may prescribe  
 685 by rule continuing education requirements as a condition of  
 686 reactivating a license. The continuing education requirements  
 687 for reactivating a license may not exceed 14 hours for each year  
 688 the license was inactive.

689       (3) The department shall adopt rules relating to licenses  
 690 that have become inactive and for the renewal of inactive  
 691 licenses. The department shall prescribe by rule a fee not to  
 692 exceed \$50 for the reactivation of an inactive license and a fee  
 693 not to exceed \$50 for the renewal of an inactive license.

694       468.8418 Certification of partnerships and corporations.--

695       (1) The department shall issue a certificate of  
 696 authorization to a corporation or partnership offering mold  
 697 assessment or mold remediation services to the public if the  
 698 corporation or partnership satisfies all of the requirements of  
 699 this part.

700       (2) The practice of or the offer to practice mold  
 701 assessment or mold remediation by licensees through a  
 702 corporation or partnership offering mold assessment or mold  
 703 remediation to the public, or by a corporation or partnership  
 704 offering such services to the public through licensees under  
 705 this part as agents, employees, officers, or partners, is  
 706 permitted subject to the provisions of this part, provided that  
 707 all personnel of the corporation or partnership who act on its  
 708 behalf as mold assessors or mold remediators in this state are  
 709 licensed as provided by this part, and, further, provided that  
 710 the corporation or partnership has been issued a certificate of  
 711 authorization by the department as provided in this section.  
 712 Nothing in this section shall be construed to allow a  
 713 corporation to hold a license to practice mold assessment or  
 714 mold remediation. No corporation or partnership shall be  
 715 relieved of responsibility for the conduct or acts of its  
 716 agents, employees, or officers by reason of its compliance with

717 this section, nor shall any individual practicing mold  
 718 assessment or mold remediation be relieved of responsibility for  
 719 professional services performed by reason of his or her  
 720 employment or relationship with a corporation or partnership.

721 (3) For the purposes of this section, a certificate of  
 722 authorization shall be required for a corporation, partnership,  
 723 association, or person practicing under a fictitious name,  
 724 offering mold assessment or mold remediation; however, when an  
 725 individual is practicing mold assessment or mold remediation  
 726 under his or her own given name, he or she shall not be required  
 727 to register under this section.

728 (4) The fact that any licensed mold assessor or mold  
 729 remediator practices through a corporation or partnership shall  
 730 not relieve the licensee from personal liability for negligence,  
 731 misconduct, or wrongful acts committed by him or her.  
 732 Partnerships and all partners shall be jointly and severally  
 733 liable for the negligence, misconduct, or wrongful acts  
 734 committed by their agents, employees, or partners while acting  
 735 in a professional capacity. Any officer, agent, or employee of a  
 736 business organization other than a partnership shall be  
 737 personally liable and accountable only for negligent acts,  
 738 wrongful acts, or misconduct committed by him or her or  
 739 committed by any person under his or her direct supervision and  
 740 control while rendering professional services on behalf of the  
 741 business organization. The personal liability of a shareholder  
 742 or owner of a business organization, in his or her capacity as  
 743 shareholder or owner, shall be no greater than that of a  
 744 shareholder-employee of a corporation incorporated under chapter

745 607. The business organization shall be liable up to the full  
 746 value of its property for any negligent acts, wrongful acts, or  
 747 misconduct committed by any of its officers, agents, or  
 748 employees while they are engaged on its behalf in the rendering  
 749 of professional services.

750 (5) Each certificate of authorization shall be renewed  
 751 every 2 years. Each partnership and corporation certified under  
 752 this section shall notify the department within 1 month of any  
 753 change in the information contained in the application upon  
 754 which the certification is based.

755 (6) Disciplinary action against a corporation or  
 756 partnership shall be administered in the same manner and on the  
 757 same grounds as disciplinary action against a licensed mold  
 758 assessor or mold remediator.

759 468.8419 Prohibitions; penalties.--

760 (1) A mold assessor, a company that employs a mold  
 761 assessor, or a company that is controlled by a company that also  
 762 has a financial interest in a company employing a mold assessor  
 763 may not:

764 (a) Perform or offer to perform any mold assessment unless  
 765 the mold assessor has documented training in water, mold, and  
 766 respiratory protection under s. 468.8414(2).

767 (b) Perform or offer to perform any mold assessment unless  
 768 the person has complied with the provisions of this part.

769 (c) Use the name or title "certified mold assessor,"  
 770 "registered mold assessor," "licensed mold assessor," "mold  
 771 assessor," "professional mold assessor," or any combination

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772 thereof unless the person has complied with the provisions this  
773 part;

774 (d) Perform or offer to perform any mold remediation to a  
775 structure on which the mold assessor or the mold assessor's  
776 company provided a mold assessment within the last 12 months.

777 (e) Inspect for a fee any property in which the assessor  
778 or the assessor's company has any financial or transfer  
779 interest.

780 (f) Accept any compensation, inducement, or reward from a  
781 mold remediator or mold remediator's company for the referral of  
782 any business to the mold remediator or the mold remediator's  
783 company.

784 (g) Offer any compensation, inducement, or reward to a  
785 mold remediator or mold remediator's company for the referral of  
786 any business from the mold remediator or the mold remediator's  
787 company.

788 (h) Accept an engagement to make an omission of the  
789 assessment or conduct an assessment in which the assessment  
790 itself, or the fee payable for the assessment, is contingent  
791 upon the conclusions of the assessment.

792 (2) A mold remediator, a company that employs a mold  
793 remediator, or a company that is controlled by a company that  
794 also has a financial interest in a company employing a mold  
795 remediator may not:

796 (a) Perform or offer to perform any mold remediation  
797 unless the remediator has documented training in water, mold,  
798 and respiratory protection under s. 468.8414(2).

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799 (b) Perform or offer to perform any mold remediation  
800 unless the person has complied with the provisions of this part.

801 (c) Use the name or title "certified mold remediator,"  
802 "registered mold remediator," "licensed mold remediator," "mold  
803 remediator," "professional mold remediator," or any combination  
804 thereof unless the person has complied with the provisions of  
805 this part;

806 (d) Perform or offer to perform any mold assessment to a  
807 structure on which the mold remediator or the mold remediator's  
808 company provided a mold remediation within the last 12 months.

809 (e) Remediate for a fee any property in which the mold  
810 remediator or the mold remediator's company has any financial or  
811 transfer interest.

812 (f) Accept any compensation, inducement, or reward from a  
813 mold assessor or mold assessor's company for the referral of any  
814 business from the mold assessor or the mold assessor's company.

815 (g) Offer any compensation, inducement, or reward to a  
816 mold assessor or mold assessor's company for the referral of any  
817 business from the mold assessor or the mold assessor's company.

818 (3) Any person who violates any provision of this section  
819 commits:

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

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

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

827        468.842 Disciplinary proceedings.--  
828        (1) The following acts constitute grounds for which the  
829 disciplinary actions in subsection (2) may be taken:  
830        (a) Violation of any provision of this part or s.  
831 455.227(1);  
832        (b) Attempting to procure a license to practice mold  
833 assessment or mold remediation by bribery or fraudulent  
834 misrepresentations;  
835        (c) Having a license to practice mold assessment or mold  
836 remediation revoked, suspended, or otherwise acted against,  
837 including the denial of licensure, by the licensing authority of  
838 another state, territory, or country;  
839        (d) Being convicted or found guilty of, or entering a plea  
840 of nolo contendere to, regardless of adjudication, a crime in  
841 any jurisdiction that directly relates to the practice of mold  
842 assessment or mold remediation or the ability to practice mold  
843 assessment or mold remediation;  
844        (e) Making or filing a report or record that the licensee  
845 knows to be false, willfully failing to file a report or record  
846 required by state or federal law, willfully impeding or  
847 obstructing such filing, or inducing another person to impede or  
848 obstruct such filing. Such reports or records shall include only  
849 those that are signed in the capacity of a registered mold  
850 assessor or mold remediator;  
851        (f) Advertising goods or services in a manner that is  
852 fraudulent, false, deceptive, or misleading in form or content;

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853 (g) Engaging in fraud or deceit, or of negligence,  
854 incompetency, or misconduct, in the practice of mold assessment  
855 or mold remediation;

856 (h) Failing to perform any statutory or legal obligation  
857 placed upon a licensed mold assessor or mold remediator;  
858 violating any provision of this chapter, a rule of the  
859 department, or a lawful order of the department previously  
860 entered in a disciplinary hearing; or failing to comply with a  
861 lawfully issued subpoena of the department; or

862 (i) Practicing on a revoked, suspended, inactive, or  
863 delinquent license.

864 (2) When the department finds any mold assessor or mold  
865 remediator guilty of any of the grounds set forth in subsection  
866 (1), it may enter an order imposing one or more of the following  
867 penalties:

868 (a) Denial of an application for licensure.

869 (b) Revocation or suspension of a license.

870 (c) Imposition of an administrative fine not to exceed  
871 \$1,000 for each count or separate offense.

872 (d) Issuance of a reprimand.

873 (e) Placement of the mold assessor or mold remediator on  
874 probation for a period of time and subject to such conditions as  
875 the department may specify.

876 (f) Restriction of the authorized scope of practice by the  
877 mold assessor or mold remediator.

878 (3) The department shall reissue the license of a  
879 disciplined mold assessor or mold remediator upon certification



880 that he or she has complied with all of the terms and conditions  
 881 set forth in the final order.

882 468.8421 Insurance.--

883 (1) A mold assessor shall maintain general liability and  
 884 errors and omissions insurance coverage in an amount of not less  
 885 than \$1,000,000.

886 (2) A mold remediator shall maintain general liability  
 887 insurance policy in an amount of not less than \$1,000,000 that  
 888 includes specific coverage for mold related claims.

889 468.8422 Contracts.--A contract to perform mold assessment  
 890 or mold remediation shall be in a document or electronic record,  
 891 signed or otherwise authenticated by the parties. A mold  
 892 assessment contract is not required to provide estimates related  
 893 to the cost of repair of an assessed property. A mold assessment  
 894 contract is not required to provide estimates.

895 468.8423 Grandfather clause.--A person who performs mold  
 896 assessment or mold remediation as defined in this part may  
 897 qualify to be licensed by the department as a mold assessor or  
 898 mold remediator if the person meets the licensure requirements  
 899 of this part by July 1, 2008.

900 Section 3. Part XVII of chapter 468, Florida Statutes,  
 901 consisting of sections 468.85, 468.851, 468.852, 468.853,  
 902 468.854, and 468.855, is created to read:

903 468.85 Definitions.--As used in this part, the term:

904 (1) "Department" means the Department of Business and  
 905 Professional Regulation.

906 (2) "Property" means any residential or commercial real  
 907 property that is a single-family dwelling, duplex, triplex,

908 quadruplex, condominium unit, or cooperative unit. The term does  
 909 not include the common areas of condominiums or cooperatives.

910 (3) "Wind mitigation assessor" means any person who for a  
 911 fee or other compensation has been specially trained and  
 912 licensed to render wind mitigation assessments under this part.

913 (4) "Wind mitigation assessment" means a limited visual  
 914 examination of the structure, roof covering, exterior  
 915 components, and site conditions that affect the ability of the  
 916 property to withstand the effects of gale-force winds for the  
 917 purposes of providing a written professional opinion regarding  
 918 any measures that may reasonably be taken by the owner to limit  
 919 the damage such winds may cause to the property.

920 468.851 Licensure.--

921 (1) The department shall license any applicant who the  
 922 department certifies is qualified to practice wind mitigation  
 923 assessment.

924 (2) The department shall certify for licensure any person  
 925 who satisfies the following requirements:

926 (a) Completion of classroom instruction in products,  
 927 designs, and construction techniques to improve the structural  
 928 soundness of a property. The classroom criteria and required  
 929 number of hours shall be approved by the Department of Financial  
 930 Services;

931 (b) Satisfactory completion of a background screening,  
 932 using the level 2 standards set forth in chapter 435;

933 (c) Satisfactory completion of a drug-screen test; and

934 (d) Satisfactory results from a fingerprint-based criminal  
 935 history check.

936       (3) A business entity may not provide or offer to provide  
937 wind mitigation assessments or use the title "wind mitigation  
938 assessments" to describe the business entity's services, unless  
939 each of the wind mitigation assessors employed by the business  
940 entity are licensed under this part.

941       468.852 Exemptions.--A person is not required to comply  
942 with this part when acting within his or her authorized scope of  
943 practice, except when such person holds himself or herself out  
944 for hire to the public as a "wind mitigation assessor" or any  
945 similar term stating or implying licensure under this part if he  
946 or she is one or more of the following:

947       (1) A contractor licensed under chapter 489.

948       (2) An architect licensed under chapter 481.

949       (3) An engineer licensed under chapter 471.

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

952       (5) A certified real estate appraiser, licensed real  
953 estate appraiser, or registered real estate appraiser licensed  
954 under part XII of chapter 468.

955       468.853 Prohibited acts; penalties.--

956       (1) A wind mitigation assessor or a company that employs a  
957 wind mitigation assessor may not:

958       (a) Perform or offer to perform for a fee any mitigation  
959 to a home for which the specialist or the specialist's company  
960 has rendered a wind mitigation assessment.

961       (b) Inspect for a fee any property in which the specialist  
962 or the specialist's company has any financial or transfer  
963 interest.

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964           (2) Any person who is found to be in violation of any  
965 provision of this section commits a misdemeanor of the first  
966 degree, punishable as provided in s. 775.082 or s. 775.083.

967           468.854 Insurance.--A wind mitigation assessor shall  
968 maintain a commercial general liability insurance policy in an  
969 amount of not less than \$300,000.

970           468.855 Mitigation cost estimates.--Wind mitigation  
971 assessors are not required to provide estimates related to the  
972 cost of mitigation of an inspected property, except as provided  
973 in s. 215.5586.

974           Section 4. This act shall take effect July 1, 2007.