

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 prohibitions and  
49 penalties; providing grounds for disciplinary proceedings;  
50 authorizing the department to impose specified penalties;  
51 requiring mold assessors and mold remediators to maintain  
52 specified insurance policies; providing requirements for  
53 contracts to perform mold assessment or mold remediation;  
54 authorizing certain persons to qualify for mold assessment  
55 and mold remediation licensure notwithstanding the

56 requirements of this part; providing appropriations;  
 57 providing an effective date.

58

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

60

61 Section 1. Part XV of chapter 468, Florida Statutes,  
 62 consisting of sections 468.83, 468.831, 468.8311, 468.8312,  
 63 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318,  
 64 468.8319, 468.832, 468.8321, 468.8322, 468.8323, and 468.8324,  
 65 is created to read:

66 468.83 Purpose.--The Legislature recognizes that there is  
 67 a need to require the licensing of home inspectors and to ensure  
 68 that consumers of home inspection services can rely on the  
 69 competence of home inspectors, as determined by educational and  
 70 experience requirements and testing. Therefore, the Legislature  
 71 deems it necessary in the interest of the public welfare to  
 72 regulate home inspectors in this state.

73 468.831 Exemptions.--A person is not required to comply  
 74 with this part when acting within his or her authorized scope of  
 75 practice, except when such person holds himself or herself out  
 76 for hire to the public as a "certified home inspector,"  
 77 "registered home inspector," "licensed home inspector," "home  
 78 inspector," "professional home inspector," or any combination  
 79 thereof stating or implying licensure under this part if he or  
 80 she is one or more of the following:

- 81 (1) A contractor licensed under chapter 489.
- 82 (2) An architect licensed under chapter 481.
- 83 (3) An engineer licensed under chapter 471.

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

86           (5) A certified real estate appraiser, licensed real  
 87 estate appraiser, or registered real estate appraiser licensed  
 88 under part II of chapter 475.

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

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

94           (8) A home inspector conducting inspections for quality  
 95 control and on behalf of a general contractor licensed under  
 96 chapter 489.

97           (9) A firesafety inspector certified under s. 633.081.

98           (10) An insurance adjuster licensed under part VI of  
 99 chapter 626.

100           (11) An officer appointed by the court.

101           (12) A person performing safety inspections of utility  
 102 equipment in or on a home or building or other duties conducted  
 103 by or for a utility under chapter 366 or rules adopted by the  
 104 Public Service Commission.

105           (13) A certified energy auditor performing an energy audit  
 106 of any home or building or other duties conducted by or for a  
 107 utility under chapter 366 or rules adopted by the Public Service  
 108 Commission.

109           468.8311 Definitions.--As used in this part, the term:

110           (1) "Department" means the Department of Business and  
 111 Professional Regulation.

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

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

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

127       468.8312 Fees.--

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

137       (2) The initial application and examination fee shall not  
 138 exceed \$125 plus the actual per applicant cost to the department  
 139 to purchase an examination, if the department chooses to

140 purchase the examination. The examination fee shall be in an  
 141 amount that covers the cost of obtaining and administering the  
 142 examination and shall be refunded if the applicant is found  
 143 ineligible to sit for the examination. The application fee shall  
 144 be nonrefundable.

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

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

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

149 (6) The fee for licensure by endorsement shall not exceed  
 150 \$200.

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

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

155 468.8313 Examinations.--

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

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

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

164 (b) Has completed a course of study of no less than 120  
 165 hours that covers all of the following components of a home:  
 166 structure, electrical system, HVAC system, roof covering,  
 167 plumbing system, interior components, exterior components, and

168 site conditions that affect the structure.

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

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

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

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

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

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

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

190 (6) The department may adopt rules pursuant to ss.  
 191 120.536(1) and 120.54 to implement the provisions of this  
 192 section.

193 468.8314 Licensure.--

194 (1) The department shall license any applicant who the  
 195 department certifies is qualified to practice home inspection

196 services.

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

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

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

216 468.8315 Renewal of license.--

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

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

223 468.8316 Continuing education.--



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

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

235       468.8317 Inactive license.--

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

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

245       (3) The department shall adopt rules relating to licenses  
 246 which have become inactive and for the renewal of inactive  
 247 licenses. The department shall prescribe by rule a fee not to  
 248 exceed \$200 for the reactivation of an inactive license and a  
 249 fee not to exceed \$200 for the renewal of an inactive license.

250       468.8318 Certification of corporations and partnerships.--

251       (1) The department shall issue a certificate of

CS/HB 1399

2007

252 authorization to a corporation or partnership offering home  
253 inspection services to the public if the corporation or  
254 partnership satisfies all of the requirements of this part.

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

275 (3) For the purposes of this section, a certificate of  
276 authorization shall be required for a corporation, partnership,  
277 association, or person practicing under a fictitious name and  
278 offering home inspection services to the public; however, when  
279 an individual is practicing home inspection services in his or

280 her own given name, he or she shall not be required to register  
281 under this section.

282 (4) Each certificate of authorization shall be renewed  
283 every 2 years. Each partnership and corporation certified under  
284 this section shall notify the department within 1 month of any  
285 change in the information contained in the application upon  
286 which the certification is based.

287 (5) Disciplinary action against a corporation or  
288 partnership shall be administered in the same manner and on the  
289 same grounds as disciplinary action against a licensed home  
290 inspector.

291 468.8319 Prohibitions; penalties.--

292 (1) A home inspector, a company that employs a home  
293 inspector, or a company that is controlled by a company that  
294 also has a financial interest in a company employing a home  
295 inspector may not:

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

298 (b) Use the name or title "certified home inspector,"  
299 "registered home inspector," "licensed home inspector," "home  
300 inspector," "professional home inspector," or any combination  
301 thereof unless the person has complied with the provisions of  
302 this part;

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

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

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

308       (f) Perform or offer to perform, prior to closing, for any  
 309 additional fee, any repairs to a home on which the inspector or  
 310 the inspector's company has prepared a home inspection report.  
 311 This paragraph does not apply to a home warranty company that is  
 312 affiliated with or retains a home inspector to perform repairs  
 313 pursuant to a claim made under a home warranty contract;

314       (g) Inspect for a fee any property in which the inspector  
 315 or the inspector's company has any financial or transfer  
 316 interest;

317       (h) Offer or deliver any compensation, inducement, or  
 318 reward to any broker or agent therefor for the referral of the  
 319 owner of the inspected property to the inspector or the  
 320 inspection company; or

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

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

328       468.832 Disciplinary proceedings.--

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

331       (a) Violation of any provision of this part or s.  
 332 455.227(1);

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

335       (c) Having a license to practice home inspection services

336 revoked, suspended, or otherwise acted against, including the  
 337 denial of licensure, by the licensing authority of another  
 338 state, territory, or country;

339 (d) Being convicted or found guilty of, or entering a plea  
 340 of nolo contendere to, regardless of adjudication, a crime in  
 341 any jurisdiction that directly relates to the practice of home  
 342 inspection services or the ability to practice home inspection  
 343 services;

344 (e) Making or filing a report or record that the licensee  
 345 knows to be false, willfully failing to file a report or record  
 346 required by state or federal law, willfully impeding or  
 347 obstructing such filing, or inducing another person to impede or  
 348 obstruct such filing. Such reports or records shall include only  
 349 those that are signed in the capacity of a licensed home  
 350 inspector;

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

353 (g) Engaging in fraud or deceit, or of negligence,  
 354 incompetency, or misconduct, in the practice of home inspection  
 355 services;

356 (h) Failing to perform any statutory or legal obligation  
 357 placed upon a licensed home inspector; violating any provision  
 358 of this chapter, a rule of the department, or a lawful order of  
 359 the department previously entered in a disciplinary hearing; or  
 360 failing to comply with a lawfully issued subpoena of the  
 361 department; or

362 (i) Practicing on a revoked, suspended, inactive, or  
 363 delinquent license.

364 (2) When the department finds any home inspector guilty of  
 365 any of the grounds set forth in subsection (1), it may enter an  
 366 order imposing one or more of the following penalties:

367 (a) Denial of an application for licensure.

368 (b) Revocation or suspension of a license.

369 (c) Imposition of an administrative fine not to exceed  
 370 \$5,000 for each count or separate offense.

371 (d) Issuance of a reprimand.

372 (e) Placement of the home inspector on probation for a  
 373 period of time and subject to such conditions as the department  
 374 may specify.

375 (f) Restriction of the authorized scope of practice by the  
 376 home inspector.

377 (3) In addition to any other sanction imposed under this  
 378 part, in any final order that imposes sanctions, the department  
 379 may assess costs related to the investigation and prosecution of  
 380 the case.

381 468.8321 Disclosures.--Prior to contracting for or  
 382 commencing a home inspection, a home inspector shall provide to  
 383 the consumer a copy of his or her license to practice home  
 384 inspection services in this state and a written disclosure that  
 385 contains the scope and any exclusions of the home inspection.

386 468.8322 Insurance.--A home inspector shall maintain a  
 387 commercial general liability insurance policy in an amount of  
 388 not less than \$300,000.

389 468.8323 Home inspection report.--Upon completion of each  
 390 home inspection for compensation, the home inspector shall  
 391 provide a written report prepared for the client.

- 392       (1) The home inspector shall report:
- 393       (a) On those systems and components inspected that, in the  
 394 professional opinion of the inspector, are significantly  
 395 deficient or are near the end of their service lives.
- 396       (b) If self-evident, a reason why the system or component  
 397 reported under paragraph (a) is significantly deficient or near  
 398 the end of its service life.
- 399       (c) Any systems and components that were present at the  
 400 time of the inspection but were not inspected, and a reason they  
 401 were not inspected.
- 402       (2) A home inspector is not required to provide estimates  
 403 related to the cost of repair of an inspected property.
- 404       468.8324 Grandfather clause.--Until January 1, 2009,  
 405 notwithstanding any other provision of this part, a person may  
 406 qualify to be licensed by the department as a home inspector if  
 407 he or she:
- 408       (1) Has received a high school diploma or its equivalent;
- 409       (2) Has been engaged in the practice of home inspection  
 410 for compensation for at least 3 years prior to the effective  
 411 date of this part;
- 412       (3) Is of good moral character as defined in s. 468.8313;  
 413 and
- 414       (4) Has not committed any acts which would be grounds for  
 415 disciplinary actions had the person been licensed under this  
 416 part.

417       Section 2. Part XVI of chapter 468, Florida Statutes,  
 418 consisting of sections 468.84, 468.841, 468.8411, 468.8412,  
 419 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,

420 468.8419, 468.842, 468.8421, 468.8422, and 468.8423, is created  
421 to read:

422 468.84 Legislative purpose.--The Legislature finds it  
423 necessary in the interest of the public safety and welfare, to  
424 prevent damage to the real and personal property, to avert  
425 economic injury to the residents of this state, and to regulate  
426 persons and companies that hold themselves out to the public as  
427 qualified to perform mold-related services.

428 468.841 Exemptions.--

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

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

433 (b) A person who performs mold assessment on property  
434 owned or leased by the person, the person's employer, or an  
435 entity affiliated with the person's employer through common  
436 ownership, or on property operated or managed by the person's  
437 employer or an entity affiliated with the person's employer  
438 through common ownership. This exemption does not apply if the  
439 person, employer, or affiliated entity engages in the business  
440 of performing mold assessment for the public.

441 (c) An employee of a mold assessor while directly  
442 supervised by the mold assessor.

443 (d) Persons or business organizations acting within the  
444 scope of the respective licenses required under chapter 471,  
445 part I of chapter 481, chapter 482, or chapter 489, are acting  
446 on behalf of an insurer under part VI of chapter 626, or are  
447 persons in the manufactured housing industry who are licensed



448 under chapter 320, except when any such persons or business  
449 organizations hold themselves out for hire to the public as a  
450 "certified mold assessor," "registered mold assessor," "licensed  
451 mold assessor," "mold assessor," "professional mold assessor,"  
452 or any combination thereof stating or implying licensure under  
453 this part.

454 (e) An authorized employee of the United States, this  
455 state, or any municipality, county, or other political  
456 subdivision, or public or private school and who is conducting  
457 mold assessment within the scope of that employment, as long as  
458 the employee does not hold out for hire to the general public or  
459 otherwise engage in mold assessment.

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

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

464 (b) A person who performs mold remediation on property  
465 owned or leased by the person, the person's employer, or an  
466 entity affiliated with the person's employer through common  
467 ownership, or on property operated or managed by the person's  
468 employer or an entity affiliated with the person's employer  
469 through common ownership. This exemption does not apply if the  
470 person, employer, or affiliated entity engages in the business  
471 of performing mold remediation for the public.

472 (c) An employee of a mold remediator while directly  
473 supervised by the mold remediator.

474 (d) Persons or business organizations that are acting  
475 within the scope of the respective licenses required under

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

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

491 468.8411 Definitions.--As used in this part, the term:

492 (1) "Department" means the Department of Business and  
493 Professional Regulation.

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

497 (3) "Mold assessment" means a process performed by a mold  
498 assessor that includes the physical sampling and detailed  
499 evaluation of data obtained from a building history and  
500 inspection to formulate an initial hypothesis about the origin,  
501 identity, location, and extent of amplification of mold growth  
502 of greater than 10 square feet.

503 (4) "Mold assessor" means any person who performs or

504 directly supervises a mold assessment.

505 (5) "Mold remediation" means the removal, cleaning,  
506 sanitizing, demolition, or other treatment, including preventive  
507 activities, of mold or mold-contaminated matter of greater than  
508 10 square feet that was not purposely grown at that location;  
509 however, such removal, cleaning, sanitizing, demolition, or  
510 other treatment, including preventive activities, may not be  
511 work that requires a license under chapter 489 unless performed  
512 by a person who is licensed under that chapter or the work  
513 complies with that chapter.

514 (6) "Mold remediator" means any person who performs mold  
515 remediation. A mold remediator may not perform any work that  
516 requires a license under chapter 489 unless the mold remediator  
517 is also licensed under that chapter or complies with that  
518 chapter.

519 468.8412 Fees.--

520 (1) The department, by rule, may establish fees to be paid  
521 for application, examination, reexamination, licensing and  
522 renewal, inactive status application and reactivation of  
523 inactive licenses, and application for providers of continuing  
524 education. The department may also establish by rule a  
525 delinquency fee. Fees shall be based on department estimates of  
526 the revenue required to implement the provisions of this part.  
527 All fees shall be remitted with the application, examination,  
528 reexamination, licensing and renewal, inactive status  
529 application and reactivation of inactive licenses, and  
530 application for providers of continuing education.

531 (2) The application fee shall not exceed \$125 and is

532 nonrefundable. The examination fee shall not exceed \$125 plus  
 533 the actual per applicant cost to the department to purchase the  
 534 examination, if the department chooses to purchase the  
 535 examination. The examination fee shall be in an amount that  
 536 covers the cost of obtaining and administering the examination  
 537 and shall be refunded if the applicant is found ineligible to  
 538 sit for the examination.

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

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

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

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

546 (7) The fee for licensure by endorsement shall not exceed  
 547 \$200.

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

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

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

554 468.8413 Examinations.--

555 (1) A person desiring to be licensed as a mold assessor or  
 556 mold remediator shall apply to the department to take a  
 557 licensure examination.

558 (2) An applicant shall be entitled to take the licensure  
 559 examination to practice in this state as a mold assessor or mold

560 remediator if the applicant is of good moral character and has  
 561 satisfied one of the following requirements:

562 (a)1. For a mold remediator, at least a 2-year degree in  
 563 microbiology, engineering, architecture, industrial hygiene,  
 564 occupational safety, or a related field of science from an  
 565 accredited institution and a minimum of 1 year of documented  
 566 field experience in a field related to mold remediation; or

567 2. A high school diploma or the equivalent with a minimum  
 568 of 4 years of documented field experience in a field related to  
 569 mold remediation.

570 (b)1. For a mold assessor, at least a 2-year degree in  
 571 microbiology, engineering, architecture, industrial hygiene,  
 572 occupational safety, or a related field of science from an  
 573 accredited institution and a minimum of 1 year of documented  
 574 field experience in conducting microbial sampling or  
 575 investigations; or

576 2. A high school diploma or the equivalent with a minimum  
 577 of 4 years of documented field experience in conducting  
 578 microbial sampling or investigations.

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

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

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

586 1. There is a substantial connection between the lack of  
 587 good moral character of the applicant and the professional

588 responsibilities of a licensed mold assessor or mold remediator;  
 589 and

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

592 (c) When an applicant is found to be unqualified for a  
 593 license because of a lack of good moral character, the  
 594 department shall furnish the applicant a statement containing  
 595 the findings of the department, a complete record of the  
 596 evidence upon which the determination was based, and a notice of  
 597 the rights of the applicant to a rehearing and appeal.

598 (5) The department may adopt rules pursuant to ss.  
 599 120.536(1) and 120.54 to implement the provisions of this  
 600 section.

601 468.8414 Licensure.--

602 (1) The department shall license any applicant who the  
 603 department certifies is qualified to practice mold assessment or  
 604 mold remediation.

605 (2) The department shall certify for licensure any  
 606 applicant who satisfies the requirements of s. 468.8413, who has  
 607 passed the licensing examination, and who has documented  
 608 training in water, mold, and respiratory protection. The  
 609 department may refuse to certify any applicant who has violated  
 610 any of the provisions of this part.

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

614 (a) Is qualified to take the examination as set forth in  
 615 s. 468.8413 and has passed a certification examination offered

616 by a nationally recognized organization that certifies persons  
 617 in the specialty of mold assessment or mold remediation that has  
 618 been approved by the department as substantially equivalent to  
 619 the requirements of this part and s. 455.217; or

620 (b) Holds a valid license to practice mold assessment or  
 621 mold remediation issued by another state or territory of the  
 622 United States if the criteria for issuance of the license were  
 623 substantially the same as the licensure criteria that is  
 624 established by this part as determined by the department.

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

630 468.8415 Renewal of license.--

631 (1) The department shall renew a license upon receipt of  
 632 the renewal application and fee and upon certification by the  
 633 department that the licensee has satisfactorily completed the  
 634 continuing education requirements of s. 468.8416.

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

637 468.8416 Continuing education.--

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

644           (2) The department may prescribe by rule additional  
 645 continuing professional education hours, not to exceed 25  
 646 percent of the total hours required, for failure to complete the  
 647 hours required for renewal by the end of the renewal period.

648           468.8417 Inactive license.--

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

652           (2) A license that has become inactive may be reactivated  
 653 upon application to the department. The department may prescribe  
 654 by rule continuing education requirements as a condition of  
 655 reactivating a license. The continuing education requirements  
 656 for reactivating a license may not exceed 14 hours for each year  
 657 the license was inactive.

658           (3) The department shall adopt rules relating to licenses  
 659 that have become inactive and for the renewal of inactive  
 660 licenses. The department shall prescribe by rule a fee not to  
 661 exceed \$200 for the reactivation of an inactive license and a  
 662 fee not to exceed \$200 for the renewal of an inactive license.

663           468.8418 Certification of partnerships and corporations.--

664           (1) The department shall issue a certificate of  
 665 authorization to a corporation or partnership offering mold  
 666 assessment or mold remediation services to the public if the  
 667 corporation or partnership satisfies all of the requirements of  
 668 this part.

669           (2) The practice of or the offer to practice mold  
 670 assessment or mold remediation by licensees through a  
 671 corporation or partnership offering mold assessment or mold



672 remediation to the public, or by a corporation or partnership  
 673 offering such services to the public through licensees under  
 674 this part as agents, employees, officers, or partners, is  
 675 permitted subject to the provisions of this part, provided that  
 676 the corporation or partnership has been issued a certificate of  
 677 authorization by the department as provided in this section.  
 678 Nothing in this section shall be construed to allow a  
 679 corporation to hold a license to practice mold assessment or  
 680 mold remediation. No corporation or partnership shall be  
 681 relieved of responsibility for the conduct or acts of its  
 682 agents, employees, or officers by reason of its compliance with  
 683 this section, nor shall any individual practicing mold  
 684 assessment or mold remediation be relieved of responsibility for  
 685 professional services performed by reason of his or her  
 686 employment or relationship with a corporation or partnership.

687 (3) For the purposes of this section, a certificate of  
 688 authorization shall be required for a corporation, partnership,  
 689 association, or person practicing under a fictitious name,  
 690 offering mold assessment or mold remediation; however, when an  
 691 individual is practicing mold assessment or mold remediation  
 692 under his or her own given name, he or she shall not be required  
 693 to register under this section.

694 (4) Each certificate of authorization shall be renewed  
 695 every 2 years. Each partnership and corporation certified under  
 696 this section shall notify the department within 1 month of any  
 697 change in the information contained in the application upon  
 698 which the certification is based.

699 (5) Disciplinary action against a corporation or

700 partnership shall be administered in the same manner and on the  
 701 same grounds as disciplinary action against a licensed mold  
 702 assessor or mold remediator.

703 468.8419 Prohibitions; penalties.--

704 (1) A mold assessor, a company that employs a mold  
 705 assessor, or a company that is controlled by a company that also  
 706 has a financial interest in a company employing a mold assessor  
 707 may not:

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

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

713 (c) Use the name or title "certified mold assessor,"  
 714 "registered mold assessor," "licensed mold assessor," "mold  
 715 assessor," "professional mold assessor," or any combination  
 716 thereof unless the person has complied with the provisions this  
 717 part;

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

721 (e) Inspect for a fee any property in which the assessor  
 722 or the assessor's company has any financial or transfer  
 723 interest.

724 (f) Accept any compensation, inducement, or reward from a  
 725 mold remediator or mold remediator's company for the referral of  
 726 any business to the mold remediator or the mold remediator's  
 727 company.

728 (g) Offer any compensation, inducement, or reward to a  
 729 mold remediator or mold remediator's company for the referral of  
 730 any business from the mold remediator or the mold remediator's  
 731 company.

732 (h) Accept an engagement to make an omission of the  
 733 assessment or conduct an assessment in which the assessment  
 734 itself, or the fee payable for the assessment, is contingent  
 735 upon the conclusions of the assessment.

736 (2) A mold remediator, a company that employs a mold  
 737 remediator, or a company that is controlled by a company that  
 738 also has a financial interest in a company employing a mold  
 739 remediator may not:

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

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

745 (c) Use the name or title "certified mold remediator,"  
 746 "registered mold remediator," "licensed mold remediator," "mold  
 747 remediator," "professional mold remediator," or any combination  
 748 thereof unless the person has complied with the provisions of  
 749 this part;

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

753 (e) Remediate for a fee any property in which the mold  
 754 remediator or the mold remediator's company has any financial or  
 755 transfer interest.

756           (f) Accept any compensation, inducement, or reward from a  
 757 mold assessor or mold assessor's company for the referral of any  
 758 business from the mold assessor or the mold assessor's company.

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

762           (3) Any person who violates any provision of this section  
 763 commits:

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

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

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

771           468.842 Disciplinary proceedings.--

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

774           (a) Violation of any provision of this part or s.  
 775 455.227(1);

776           (b) Attempting to procure a license to practice mold  
 777 assessment or mold remediation by bribery or fraudulent  
 778 misrepresentations;

779           (c) Having a license to practice mold assessment or mold  
 780 remediation revoked, suspended, or otherwise acted against,  
 781 including the denial of licensure, by the licensing authority of  
 782 another state, territory, or country;

783           (d) Being convicted or found guilty of, or entering a plea

784 of nolo contendere to, regardless of adjudication, a crime in  
785 any jurisdiction that directly relates to the practice of mold  
786 assessment or mold remediation or the ability to practice mold  
787 assessment or mold remediation;

788 (e) Making or filing a report or record that the licensee  
789 knows to be false, willfully failing to file a report or record  
790 required by state or federal law, willfully impeding or  
791 obstructing such filing, or inducing another person to impede or  
792 obstruct such filing. Such reports or records shall include only  
793 those that are signed in the capacity of a registered mold  
794 assessor or mold remediator;

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

797 (g) Engaging in fraud or deceit, or of negligence,  
798 incompetency, or misconduct, in the practice of mold assessment  
799 or mold remediation;

800 (h) Failing to perform any statutory or legal obligation  
801 placed upon a licensed mold assessor or mold remediator;  
802 violating any provision of this chapter, a rule of the  
803 department, or a lawful order of the department previously  
804 entered in a disciplinary hearing; or failing to comply with a  
805 lawfully issued subpoena of the department; or

806 (i) Practicing on a revoked, suspended, inactive, or  
807 delinquent license.

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

- 812        (a) Denial of an application for licensure.
- 813        (b) Revocation or suspension of a license.
- 814        (c) Imposition of an administrative fine not to exceed  
 815 \$5,000 for each count or separate offense.
- 816        (d) Issuance of a reprimand.
- 817        (e) Placement of the mold assessor or mold remediator on  
 818 probation for a period of time and subject to such conditions as  
 819 the department may specify.
- 820        (f) Restriction of the authorized scope of practice by the  
 821 mold assessor or mold remediator.
- 822        (3) In addition to any other sanction imposed under this  
 823 part, in any final order that imposes sanctions, the department  
 824 may assess costs related to the investigation and prosecution of  
 825 the case.
- 826        468.8421 Insurance.--
- 827        (1) A mold assessor shall maintain general liability and  
 828 errors and omissions insurance coverage in an amount of not less  
 829 than \$1,000,000.
- 830        (2) A mold remediator shall maintain general liability  
 831 insurance policy in an amount of not less than \$1,000,000 that  
 832 includes specific coverage for mold related claims.
- 833        468.8422 Contracts.--A contract to perform mold assessment  
 834 or mold remediation shall be in a document or electronic record,  
 835 signed or otherwise authenticated by the parties. A mold  
 836 assessment contract is not required to provide estimates related  
 837 to the cost of repair of an assessed property. A mold assessment  
 838 contract is not required to provide estimates.
- 839        468.8423 Grandfather clause.--A person who performs mold

CS/HB 1399

2007

840 assessment or mold remediation as defined in this part may  
841 qualify to be licensed by the department as a mold assessor or  
842 mold remediator if the person meets the licensure requirements  
843 of this part by July 1, 2008.

844 Section 3. For fiscal year 2007-2008, two full-time  
845 equivalent positions and 65,044 in associated salary rate are  
846 authorized, and the sums of \$100,371 in recurring funds and  
847 \$8,959 in nonrecurring funds from the Professional Regulation  
848 Trust Fund of the Department of Business and Professional  
849 Regulation are hereby appropriated for the purpose of carrying  
850 out professional board activities related to this act. In  
851 addition, for fiscal year 2007-2008, one full-time equivalent  
852 position and 25,479 in associated salary rate are authorized,  
853 and the sums of \$57,105 in recurring funds and \$29,726 in  
854 nonrecurring funds from the Administrative Trust Fund of the  
855 Department of Business and Professional Regulation are hereby  
856 appropriated for the purpose of carrying out the central  
857 administrative functions provided in this act.

858 Section 4. This act shall take effect October 1, 2007.