

By Senator Wise

5-1076-07

1 A bill to be entitled
2 An act relating to the regulation of building
3 inspection professionals; creating part XV of
4 ch. 468, F.S., relating to regulation of home
5 inspectors; providing a purpose; exempting
6 certain professionals from licensure
7 requirements; providing definitions;
8 authorizing the Department of Business and
9 Professional Regulation to establish fees for
10 license application, examination, renewal, and
11 other purposes; limiting fee amounts; requiring
12 an examination in order for licensure as a home
13 inspector; providing qualifications for taking
14 the licensure examination; providing
15 requirements for the department to certify and
16 license home inspectors; providing for
17 licensure by endorsement; requiring continuing
18 education for license renewal; providing
19 criteria for continuing education; providing
20 for inactivation of licenses; requiring the
21 department to establish fees for the
22 reactivation and renewal of inactive licenses;
23 providing for certification of partnerships and
24 corporations offering home inspection services;
25 requiring a certificate of authorization for
26 certain persons and entities practicing home
27 inspection services; providing for prohibitions
28 and penalties; providing grounds for
29 disciplinary proceedings; authorizing the
30 department to impose specified penalties;
31 requiring home inspectors to provide a

1 specified disclosure to consumers; requiring
2 home inspectors to maintain general liability
3 insurance of a certain amount; requiring home
4 inspectors to provide a written report to
5 homeowners upon completion of each home
6 inspection; providing content requirements for
7 home inspection reports; authorizing certain
8 persons to qualify for home inspection
9 licensure notwithstanding the requirements of
10 the act; creating part XVI of ch. 468, F.S.,
11 relating to regulation of mold remediators and
12 mold assessors; providing a purpose; exempting
13 certain professionals from licensure
14 requirements; providing definitions;
15 authorizing the department to establish fees
16 for license application, examination, renewal,
17 and other purposes; limiting fee amounts;
18 requiring an examination for licensure as a
19 mold assessor and mold remediator; providing
20 qualifications for taking the licensure
21 examinations; providing requirements for the
22 department to certify and license home
23 inspectors; providing for licensure by
24 endorsement; requiring continuing education for
25 license renewal; providing criteria for
26 continuing education; providing for
27 inactivation of licenses; requiring the
28 department to establish fees for the
29 reactivation and renewal of inactive licenses;
30 providing for certification of partnerships and
31 corporations offering mold assessment or mold

1 remediation services; requiring a certificate
2 of authorization for certain persons and
3 entities practicing home inspection services;
4 providing for liability of licensed mold
5 assessors or mold remediators in certain
6 circumstances; providing for scope of
7 licensure; providing for prohibitions and
8 penalties; providing grounds for disciplinary
9 proceedings; authorizing the department to
10 impose specified penalties; requiring mold
11 assessors and mold remediators to maintain
12 certain types of insurance of specified
13 amounts; providing requirements for contracts
14 to perform mold assessment or mold remediation;
15 authorizing certain persons to qualify for mold
16 assessment and mold remediation licensure
17 notwithstanding the requirements of the act;
18 creating part XVII of ch. 468, F.S., relating
19 to the regulation of wind-mitigation assessors;
20 providing definitions; authorizing the
21 Department of Business and Professional
22 Regulation to certify and license
23 wind-mitigation assessors; providing licensure
24 qualifications; providing exemptions; providing
25 prohibitions and penalties; requiring
26 wind-mitigation assessors to maintain general
27 liability insurance of a specified amount;
28 providing that wind-mitigation assessors are
29 not required to provide certain estimates;
30 providing an effective date.

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

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3 Section 1. Part XV of chapter 468, Florida Statutes,
4 consisting of sections 468.83, 468.831, 468.8311, 468.8312,
5 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318,
6 468.8319, 468.832, 468.8321, 468.8322, 468.8323, and 468.8324,
7 is created to read:

8 468.83 Purpose.--The Legislature recognizes that there
9 is a need to require the licensing of home inspectors and to
10 ensure that consumers of home inspection services can rely on
11 the competence of home inspectors, as determined by
12 educational and experience requirements and testing.
13 Therefore, the Legislature deems it necessary in the interest
14 of the public welfare to regulate home inspectors in this
15 state.

16 468.831 Exemptions.--A person is not required to
17 comply with this part when acting within his or her authorized
18 scope of practice, except when such person holds himself or
19 herself out for hire to the public as a "certified home
20 inspector," "registered home inspector," "licensed home
21 inspector," "home inspector," "professional home inspector,"
22 or any combination thereof stating or implying licensure under
23 this part if he or she is one or more of the following:

- 24 (1) A contractor licensed under chapter 489.
25 (2) An architect licensed under chapter 481.
26 (3) An engineer licensed under chapter 471.
27 (4) A building code administrator, plans examiner, or
28 building code inspector licensed under part XII of this
29 chapter.

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1 (5) A certified real estate appraiser, licensed real
2 estate appraiser, or registered real estate appraiser licensed
3 under part II of chapter 475.

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

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

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

11 (9) An insurance adjuster licensed under part VI of
12 chapter 626.

13 (10) An officer appointed by the court.

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

17 468.8311 Definitions.--As used in this part, the term:

18 (1) "Department" means the Department of Business and
19 Professional Regulation.

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

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

28 (4) "Home inspection services" means a limited visual
29 examination of one or more of the readily accessible installed
30 systems and components of a home, including the structure,
31 electrical system, HVAC system, roof covering, plumbing

1 system, interior components, exterior components, and site
2 conditions that affect the structure, for the purposes of
3 providing a written professional opinion of the condition of
4 the home.

5 468.8312 Fees.--

6 (1) The department, by rule, may establish fees to be
7 paid for application, examination, reexamination, licensing
8 and renewal, application for inactive status and reactivation
9 of an inactive license, recordkeeping, and application for
10 providers of continuing education. The department may also
11 establish by rule a delinquency fee. Fees shall be based on
12 department estimates of the revenue required to administer the
13 provisions of this part. All fees shall be remitted with the
14 appropriate application, examination, or license.

15 (2) The initial application and examination fee may
16 not exceed \$125 plus the actual per-applicant cost to the
17 department to purchase an examination, if the department
18 chooses to purchase the examination. The examination fee shall
19 be in an amount that covers the cost of obtaining and
20 administering the examination and shall be refunded if the
21 applicant is found ineligible to sit for the examination. The
22 application fee is nonrefundable.

23 (3) The initial license fee may not exceed \$200.

24 (4) The fee for a certificate of authorization may not
25 exceed \$125.

26 (5) The biennial renewal fee may not exceed \$200.

27 (6) The fee for licensure by endorsement may not
28 exceed \$200.

29 (7) The fee for application for inactive status or for
30 reactivation of an inactive license may not exceed \$200.

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

3 468.8313 Examinations.--

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

7 (2) An applicant is entitled to take the licensure
8 examination for the purpose of determining whether he or she
9 is qualified to practice in this state as a home inspector if
10 the applicant is of good moral character and has satisfied the
11 following requirements:

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

14 (b) Has completed a course of study of no less than
15 120 hours that covers all of the following components of a
16 home: structure, electrical system, HVAC system, roof
17 covering, plumbing system, interior components, exterior
18 components, and site conditions that affect the structure.

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

21 (4) The department may review and approve examinations
22 by a nationally recognized entity that sets programs and
23 standards that ensure competence as a home inspector.

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

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

29 1. There is a substantial connection between the lack
30 of good moral character of the applicant and the professional
31 responsibilities of a licensed home inspector; and

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

3 (c) When an applicant is found to be unqualified for a
4 license because of lack of good moral character, the
5 department shall furnish the applicant a statement containing
6 the findings of the department, a complete record of the
7 evidence upon which the determination was based, and a notice
8 of the rights of the applicant to a rehearing and appeal.

9 (6) The department may adopt rules pursuant to ss.
10 120.536(1) and 120.54 to administer the provisions of this
11 section.

12 468.8314 Licensure.--

13 (1) The department shall license any applicant who the
14 department certifies is qualified to practice home inspection
15 services.

16 (2) The department shall certify for licensure any
17 applicant who satisfies the requirements of s. 468.8313 and
18 who has passed the licensing examination. The department may
19 refuse to certify an applicant who has violated any of the
20 provisions of s. 468.832.

21 (3) The department shall certify as qualified for a
22 license by endorsement an applicant who is of good moral
23 character as determined in s. 468.8313; holds a valid license
24 to practice home inspection services in another state or
25 territory of the United States which has educational
26 requirements that are substantially equivalent to those
27 required by this part; and has passed a national, regional,
28 state, or territorial licensing examination that is
29 substantially equivalent to the examination required by this
30 part.

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

6 468.8315 Renewal of license.--

7 (1) The department shall renew a license upon receipt
8 of the renewal application and upon certification by the
9 department that the licensee has satisfactorily completed the
10 continuing education requirements of s. 468.8316.

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

13 468.8316 Continuing education.--

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

20 (2) The department may prescribe by rule additional
21 continuing professional education hours, not to exceed 25
22 percent of the total hours required, for failure to complete
23 the hours required for renewal by the end of the
24 reestablishment period.

25 468.8317 Inactive license.--

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

29 (2) A license that has become inactive may be
30 reactivated upon application to the department. The department
31 may prescribe by rule continuing education requirements as a

1 condition of reactivating a license. The continuing education
2 requirements for reactivating a license may not exceed 14
3 hours for each year that the license was inactive.

4 (3) The department shall adopt rules relating to
5 licenses that have become inactive and for the renewal of
6 inactive licenses. The department shall prescribe by rule a
7 fee not to exceed \$50 for the reactivation of an inactive
8 license and a fee not to exceed \$50 for the renewal of an
9 inactive license.

10 468.8318 Certification of corporations and
11 partnerships.--

12 (1) The department shall issue a certificate of
13 authorization to a corporation or partnership offering home
14 inspection services to the public if the corporation or
15 partnership satisfies all of the requirements of this part.

16 (2) The practice of or the offer to practice home
17 inspection services by licensees through a corporation or
18 partnership offering home inspection services to the public,
19 or by a corporation or partnership offering such services to
20 the public through licensees under this part as agents,
21 employees, officers, or partners, is permitted subject to the
22 provisions of this part if all personnel of the corporation or
23 partnership who act in its behalf as home inspectors in this
24 state are licensed as provided by this part and if the
25 corporation or partnership has been issued a certificate of
26 authorization by the department as provided in this section.
27 This section does not allow a corporation to hold a license to
28 practice home inspection services. A corporation or
29 partnership is not relieved of responsibility for the conduct
30 or acts of its agents, employees, or officers by reason of its
31 compliance with this section, and an individual practicing

1 home inspection services is not relieved of responsibility for
2 professional services performed by reason of his or her
3 employment or relationship with a corporation or partnership.

4 (3) For purposes of this section, a certificate of
5 authorization is required in order for a corporation,
6 partnership, association, or person practicing under a
7 fictitious name to offer home inspection services to the
8 public; however, if an individual is practicing home
9 inspection services in his or her own given name, he or she is
10 not required to register under this section.

11 (4) The fact that any licensed home inspector
12 practices through a corporation or partnership does not
13 relieve the licensee from personal liability for negligence,
14 misconduct, or wrongful acts committed by him or her.
15 Partnerships and all partners are jointly and severally liable
16 for the negligence, misconduct, or wrongful acts committed by
17 their agents, employees, or partners while acting in a
18 professional capacity. Any officer, agent, or employee of a
19 business organization other than a partnership is personally
20 liable and accountable only for negligent acts, wrongful acts,
21 or misconduct committed by him or her or committed by any
22 person under his or her direct supervision and control while
23 rendering professional services on behalf of the business
24 organization. The personal liability of a shareholder or owner
25 of a business organization, in his or her capacity as
26 shareholder or owner, is no greater than that of a
27 shareholder-employee of a corporation incorporated under
28 chapter 607. The business organization is liable up to the
29 full value of its property for any negligent acts, wrongful
30 acts, or misconduct committed by any of its officers, agents,
31 or employees while the officers, agents, or employees are

1 engaged on its behalf in the rendering of professional
2 services.

3 (5) Each certificate of authorization shall be renewed
4 every 2 years. Each partnership and corporation certified
5 under this section shall notify the department within 1 month
6 following any change in the information contained in the
7 application upon which the certification is based.

8 (6) Disciplinary action against a corporation or
9 partnership shall be administered in the same manner and on
10 the same grounds as disciplinary action against a licensed
11 home inspector.

12 468.8319 Prohibitions; penalties.--

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

17 (a) Practice or offer to practice home inspection
18 services unless the person has complied with the provisions of
19 this part.

20 (b) Use the name or title "certified home inspector,"
21 "registered home inspector," "licensed home inspector," "home
22 inspector," "professional home inspector," or any combination
23 thereof unless the person has complied with the provisions of
24 this part.

25 (c) Present as his or her own the license of another.

26 (d) Knowingly give false or forged evidence to the
27 department or an employee thereof.

28 (e) Use or attempt to use a license that has been
29 suspended or revoked.

30 (f) Perform or offer to perform, prior to closing, for
31 any additional fee, any repairs to a home on which the

1 inspector or the inspector's company has prepared a home
2 inspection report. This paragraph does not apply to a home
3 warranty company that is affiliated with or retains a home
4 inspector to perform repairs pursuant to a claim made under a
5 home warranty contract.

6 (g) Inspect for a fee any property in which the
7 inspector or the inspector's company has any financial or
8 transfer interest.

9 (h) Offer or deliver any compensation, inducement, or
10 reward to any broker or agent therefor for the referral of the
11 owner of the inspected property to the inspector or the
12 inspection company.

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

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

21 468.832 Disciplinary proceedings.--

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

24 (a) Violation of any provision of this part or s.
25 455.227(1);

26 (b) Attempting to procure a license to practice home
27 inspection services by bribery or fraudulent
28 misrepresentation;

29 (c) Having a license to practice home inspection
30 services revoked, suspended, or otherwise acted against,

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1 including the denial of licensure, by the licensing authority
2 of another state, territory, or country;

3 (d) Being convicted or found guilty of, or entering a
4 plea of nolo contendere to, regardless of adjudication, a
5 crime in any jurisdiction which directly relates to the
6 practice of home inspection services or the ability to
7 practice home inspection services;

8 (e) Making or filing a report or record that the
9 licensee knows to be false, willfully failing to file a report
10 or record required by state or federal law, willfully impeding
11 or obstructing such filing, or inducing another person to
12 impede or obstruct such filing. Such reports or records
13 include only those that are signed in the capacity of a
14 licensed home inspector;

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

18 (g) Engaging in fraud or deceit, negligence,
19 incompetency, or misconduct in the practice of home inspection
20 services;

21 (h) Failing to perform any statutory or legal
22 obligation placed upon a licensed home inspector; violating
23 any provision of this chapter, a rule of the department, or a
24 lawful order of the department previously entered in a
25 disciplinary hearing; or failing to comply with a lawfully
26 issued subpoena of the department; or

27 (i) Practicing on a revoked, suspended, inactive, or
28 delinquent license.

29 (2) When the department finds any home inspector
30 guilty of any of the grounds set forth in subsection (1), it
31

1 may enter an order imposing one or more of the following
2 penalties:
3 (a) Denial of an application for licensure.
4 (b) Revocation or suspension of a license.
5 (c) Imposition of an administrative fine not to exceed
6 \$1,000 for each count or separate offense.
7 (d) Issuance of a reprimand.
8 (e) Placement of the home inspector on probation for a
9 period of time and subject to such conditions as the
10 department may specify.
11 (f) Restriction of the authorized scope of practice by
12 the home inspector.
13 (3) The department shall reissue the license of a
14 disciplined home inspector upon certification that he or she
15 has complied with all of the terms and conditions set forth in
16 the final order.
17 468.8321 Disclosures.--Before contracting for or
18 commencing a home inspection, a home inspector shall provide
19 to the consumer:
20 (1) A copy of his or her license to practice home
21 inspection services in this state; and
22 (2) A written disclosure that contains the following
23 information:
24 (a) A statement of whether he or she maintains the
25 liability insurance required by this part;
26 (b) The scope and any exclusions of the home
27 inspection; and
28 (c) A statement of his or her experience that includes
29 the number of years of experience he or she has as a home
30 inspector.
31

1 468.8322 Insurance.--A home inspector shall maintain a
2 commercial general liability insurance policy in an amount of
3 not less than \$300,000.

4 468.8323 Home inspection report.--Upon completion of
5 each home inspection for compensation, the home inspector
6 shall provide a written report prepared for the homeowner.

7 (1) The home inspector shall report:

8 (a) On those systems and components inspected which,
9 in the professional opinion of the inspector, are
10 significantly deficient or are near the end of their service
11 lives.

12 (b) The reason why, if not self-evident, the system or
13 component reported under paragraph (a) is significantly
14 deficient or near the end of its service life.

15 (c) Any systems and components that were present at
16 the time of the inspection but were not inspected, and the
17 reason they were not inspected.

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

21 468.8324 Grandfather clause.--Until January 1, 2009,
22 notwithstanding any other provision of this part, a person may
23 qualify to be licensed by the department as a home inspector
24 if he or she:

25 (1) Has received a high school diploma or its
26 equivalent;

27 (2) Has been engaged in the practice of home
28 inspection for compensation for at least 3 years before July
29 1, 2007;

30 (3) Is of good moral character as defined in s.
31 468.8313; and

1 (4) Has not committed any acts that would be grounds
2 for disciplinary actions had the person been licensed under
3 this part.

4 Section 2. Part XVI of chapter 468, Florida Statutes,
5 consisting of sections 468.84, 468.841, 468.8411, 468.8412,
6 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,
7 468.8419, 468.842, 468.8421, 468.8422, 468.8423, and 468.8424,
8 is created to read:

9 468.84 Legislative purpose.--The Legislature finds it
10 necessary, in the interest of the public safety and welfare,
11 to prevent damage to real and personal property, to avert
12 economic injury to the residents of this state, and to
13 regulate persons and companies that hold themselves out to the
14 public as qualified to perform mold-related services.

15 468.841 Exemptions.--

16 (1) The following persons are not required to comply
17 with any provision of this part relating to mold assessment:

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

20 (b) A person who performs mold assessment on property
21 owned or leased by the person, the person's employer, or an
22 entity affiliated with the person's employer through common
23 ownership, or on property operated or managed by the person's
24 employer or an entity affiliated with the person's employer
25 through common ownership. This exemption does not apply if the
26 person, employer, or affiliated entity engages in the business
27 of performing mold assessment for the public or seeks to
28 conduct assessment of Condition 2 or Condition 3 as defined
29 for indoor environments relative to mold.

30 (c) An employee of a mold assessor while directly
31 supervised by the mold assessor.

1 (d) Persons or business organizations acting within
2 the scope of the respective licenses required under chapter
3 471, part I of chapter 481, chapter 482, or chapter 489, or
4 acting on behalf of an insurer under part VI of chapter 626,
5 or persons in the manufactured housing industry who are
6 licensed under chapter 320, except when any such persons or
7 business organizations hold themselves out for hire to the
8 public as a "certified mold assessor," "registered mold
9 assessor," "licensed mold assessor," "mold assessor,"
10 "professional mold assessor," or any combination thereof
11 stating or implying licensure under this part.

12 (e) An authorized employee of the United States, this
13 state, or any municipality, county, other political
14 subdivision, or public or private school who is conducting
15 mold assessment within the scope of that employment, as long
16 as the employee does not hold out for hire to the general
17 public or otherwise engage in mold assessment.

18 (2) The following persons are not required to comply
19 with any provision of this part relating to mold remediation:

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

22 (b) A person who performs mold remediation on property
23 owned or leased by the person, the person's employer, or an
24 entity affiliated with the person's employer through common
25 ownership, or on property operated or managed by the person's
26 employer or an entity affiliated with the person's employer
27 through common ownership. This exemption does not apply if the
28 person, employer, or affiliated entity engages in the business
29 of performing mold remediation for the public or seeks to
30 conduct assessment of Condition 2 or Condition 3 as defined
31 for indoor environments relative to mold.

1 (c) An employee of a mold remediator while directly
2 supervised by the mold remediator.

3 (d) Persons or business organizations that are acting
4 within the scope of the respective licenses required under
5 chapter 471, part I of chapter 481, chapter 482, or chapter
6 489, or acting on behalf of an insurer under part VI of
7 chapter 626, or persons in the manufactured housing industry
8 who are licensed under chapter 320, except when any such
9 persons or business organizations hold themselves out for hire
10 to the public as a "certified mold assessor," "registered mold
11 assessor," "licensed mold assessor," "mold assessor,"
12 "professional mold assessor," or any combination thereof
13 stating or implying licensure under this part.

14 (e) An authorized employee of the United States, this
15 state, any municipality, county, or other political
16 subdivision, or public or private school and who is conducting
17 mold remediation within the scope of that employment, as long
18 as the employee does not hold out for hire to the general
19 public or otherwise engage in mold remediation.

20 468.8411 Definitions.--As used in this part, the term:

21 (1) "Department" means the Department of Business and
22 Professional Regulation.

23 (2) "Mold" means an organism of the class fungi which
24 causes disintegration of organic matter and produces spores,
25 and includes any spores, hyphae, and mycotoxins produced by
26 mold.

27 (3) "Mold assessment" means a process performed by an
28 indoor environmental professional (IEP) which includes the
29 evaluation of data obtained from a building history and
30 inspection to formulate an initial hypothesis about the
31 origin, identity, location, and extent of amplification of

1 mold contamination. If necessary, a sampling plan is developed
2 and samples are collected and sent to a qualified laboratory
3 for analysis. The subsequent data is interpreted by the indoor
4 environmental professional. The indoor environmental
5 professional or other qualified individual may then develop a
6 remediation plan.

7 (4) For the purposes of this part, the following
8 conditions are defined in the Standard and Reference Guide for
9 Professional Mold Remediation by the Institute of Inspection,
10 Cleaning and Restoration Certification for indoor environments
11 relative to mold:

12 (a) Condition 1 means an indoor environment that may
13 have settled spores, fungal fragments, or traces of actual
14 growth whose identity, location, and quantity are reflective
15 of normal fungal ecology for a similar indoor environment.

16 (b) Condition 2 means an indoor environment that is
17 primarily contaminated with settled spores that were dispersed
18 directly or indirectly from a Condition 3 area and that may
19 have traces of actual growth.

20 (c) Condition 3 means an indoor environment that is
21 contaminated with the presence of actual mold growth and
22 associated spores. Actual growth includes growth that is
23 active or dormant, visible or hidden.

24 (5) "Mold assessor" means any person who performs or
25 directly supervises a mold assessment. A mold assessor may not
26 perform or offer to perform a mold assessment unless the
27 assessor has documented training for water, mold, and
28 respiratory protection training.

29 (6) "Mold remediation" means the removal, cleaning,
30 sanitizing, demolition, or other treatment, including
31 preventive activities, of mold or mold-contaminated matter

1 that was not purposely grown at that location; however, such
2 removal, cleaning, sanitizing, demolition, or other treatment,
3 including preventive activities, may not be work that requires
4 a license under chapter 489 unless it is performed by a person
5 who is licensed under that chapter or the work complies with
6 that chapter.

7 (7) "Mold remediator" means any person who performs
8 mold remediation. A mold remediator may not perform any work
9 that requires a license under chapter 489 unless the mold
10 remediator is also licensed under that chapter or complies
11 with that chapter. A mold remediator may not perform or offer
12 to perform mold remediation unless the remediator has
13 documented training for water, mold, and respiratory
14 protection training.

15 468.8412 Fees.--

16 (1) The department may establish by rule fees to be
17 paid for application, examination, reexamination, licensing
18 and renewal, application for inactive status and reactivation
19 of an inactive license, and application for providers of
20 continuing education. The department may also establish by
21 rule a delinquency fee. Fees shall be based on department
22 estimates of the revenue required to administer the provisions
23 of this part. All fees shall be remitted with the application,
24 examination, reexamination, licensing and renewal, application
25 for inactive status and reactivation of an inactive license,
26 and application for providers of continuing education.

27 (2) The application fee may not exceed \$125 and is
28 nonrefundable. The examination fee may not exceed \$125 plus
29 the actual per-applicant cost to the department to purchase
30 the examination, if the department chooses to purchase the
31 examination. The examination fee shall be in an amount that

1 covers the cost of obtaining and administering the examination
2 and is refunded if the applicant is found ineligible to sit
3 for the examination.

4 (3) The fee for an initial license may not exceed
5 \$200.

6 (4) The fee for an initial certificate of
7 authorization may not exceed \$200.

8 (5) The fee for a biennial license renewal may not
9 exceed \$400.

10 (6) The fee for a biennial certificate of
11 authorization renewal may not exceed \$400.

12 (7) The fee for licensure by endorsement may not
13 exceed \$200.

14 (8) The fee for application for inactive status may
15 not exceed \$100.

16 (9) The fee for reactivation of an inactive license
17 may not exceed \$200.

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

20 468.8413 Examinations.--

21 (1) A person desiring to be licensed as a mold
22 assessor or mold remediator shall apply to the department to
23 take a licensure examination.

24 (2) An applicant is entitled to take the licensure
25 examination to practice in this state as a mold assessor or
26 mold remediator if the applicant is of good moral character
27 and has satisfied one of the following requirements:

28 (a)1. For a mold remediator, at least a 2-year degree
29 in microbiology, engineering, architecture, industrial
30 hygiene, occupational safety, or a related field of science
31 from an accredited institution and a minimum of 1 year of

1 documented field experience in a field related to mold
2 remediation; or
3 2. A high school diploma or the equivalent with a
4 minimum of 4 years of documented field experience in a field
5 related to mold remediation.
6 (b)1. For a mold assessor, at least a 2-year degree in
7 microbiology, engineering, architecture, industrial hygiene,
8 occupational safety, or a related field of science from an
9 accredited institution and a minimum of 1 year of documented
10 field experience in conducting microbial sampling or
11 investigations; or
12 2. A high school diploma or the equivalent with a
13 minimum of 4 years of documented field experience in
14 conducting microbial sampling or investigations.
15 (3) The department shall review and approve courses of
16 study in mold assessment and mold remediation.
17 (4)(a) Good moral character means a personal history
18 of honesty, fairness, and respect for the rights of others and
19 for the laws of this state and nation.
20 (b) The department may refuse to certify an applicant
21 for failure to satisfy this requirement only if:
22 1. There is a substantial connection between the lack
23 of good moral character of the applicant and the professional
24 responsibilities of a licensed mold assessor or mold
25 remediator; and
26 2. The finding by the department of lack of good moral
27 character is supported by clear and convincing evidence.
28 (c) If an applicant is found to be unqualified for a
29 license because of a lack of good moral character, the
30 department shall furnish to the applicant a statement
31 containing the findings of the department, a complete record

1 of the evidence upon which the determination was based, and a
2 notice of the rights of the applicant to a rehearing and
3 appeal.

4 (5) The department may adopt rules pursuant to ss.
5 120.536(1) and 120.54 to administer the provisions of this
6 section.

7 468.8414 Licensure.--

8 (1) The department shall license any applicant who the
9 department certifies is qualified to practice mold assessment
10 or mold remediation.

11 (2) The department shall certify for licensure any
12 applicant who satisfies the requirements of s. 468.8413 and
13 who has passed the licensing examination. The department may
14 refuse to certify any applicant who has violated any of the
15 provisions of this part.

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

19 (a) Is qualified to take the examination as set forth
20 in s. 468.8413 and has passed a certification examination
21 offered by a nationally recognized organization that certifies
22 persons in the specialty of mold assessment or mold
23 remediation which has been approved by the department as
24 substantially equivalent to the requirements of this part and
25 s. 455.217; or

26 (b) Holds a valid license to practice mold assessment
27 or mold remediation issued by another state or territory of
28 the United States if the criteria for issuance of the license
29 were substantially the same as the licensure criteria that are
30 established by this part as determined by the department.

31

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

6 468.8415 Renewal of license.--

7 (1) The department shall renew a license upon receipt
8 of the renewal application and fee and upon certification by
9 the department that the licensee has satisfactorily completed
10 the continuing education requirements of s. 468.8416.

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

13 468.8416 Continuing education.--

14 (1) The department may not renew a license until the
15 licensee submits proof satisfactory to it that during the 2
16 years prior to his or her application for renewal the licensee
17 has completed at least 14 hours of continuing education.

18 Criteria and course content shall be approved by the
19 department by rule.

20 (2) The department may prescribe by rule additional
21 continuing professional education hours, not to exceed 25
22 percent of the total hours required, for failure to complete
23 the hours required for renewal by the end of the renewal
24 period.

25 468.8417 Inactive license.--

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

29 (2) A license that has become inactive may be
30 reactivated upon application to the department. The department
31 may prescribe by rule continuing education requirements as a

1 condition of reactivating a license. The continuing education
2 requirements for reactivating a license may not exceed 14
3 hours for each year that the license was inactive.

4 (3) The department shall adopt rules relating to
5 licenses that have become inactive and for the renewal of
6 inactive licenses. The department shall prescribe by rule a
7 fee not to exceed \$50 for the reactivation of an inactive
8 license and a fee not to exceed \$50 for the renewal of an
9 inactive license.

10 468.8418 Certification of partnerships and
11 corporations.--

12 (1) The department shall issue a certificate of
13 authorization to a corporation or partnership offering mold
14 assessment or mold remediation services to the public if the
15 corporation or partnership satisfies all of the requirements
16 of this part.

17 (2) The practice of or the offer to practice mold
18 assessment or mold remediation by licensees through a
19 corporation or partnership offering mold assessment or mold
20 remediation to the public, or by a corporation or partnership
21 offering such services to the public through licensees under
22 this part as agents, employees, officers, or partners, is
23 permitted subject to the provisions of this part if all
24 personnel of the corporation or partnership who act on its
25 behalf as mold assessors or mold remediators in this state are
26 licensed as provided by this part, and if the corporation or
27 partnership has been issued a certificate of authorization by
28 the department as provided in this section. This section does
29 not authorize a corporation to hold a license to practice mold
30 assessment or mold remediation. A corporation or partnership
31 is not relieved of responsibility for the conduct or acts of

1 its agents, employees, or officers by reason of its compliance
2 with this section, and an individual practicing mold
3 assessment or mold remediation is not relieved of
4 responsibility for professional services performed by reason
5 of his or her employment or relationship with a corporation or
6 partnership.

7 (3) For purposes of this section, a certificate of
8 authorization is required in order for a corporation,
9 partnership, association, or person practicing under a
10 fictitious name to offer mold assessment or mold remediation;
11 however, if an individual is practicing mold assessment or
12 mold remediation under his or her own given name, he or she is
13 not required to register under this section.

14 (4) The fact that a licensed mold assessor or mold
15 remediator practices through a corporation or partnership does
16 not relieve the licensee from personal liability for
17 negligence, misconduct, or wrongful acts committed by him or
18 her. Partnerships and all partners are jointly and severally
19 liable for the negligence, misconduct, or wrongful acts
20 committed by their agents, employees, or partners while acting
21 in a professional capacity. Any officer, agent, or employee of
22 a business organization other than a partnership is personally
23 liable and accountable only for negligent acts, wrongful acts,
24 or misconduct committed by him or her or committed by any
25 person under his or her direct supervision and control while
26 rendering professional services on behalf of the business
27 organization. The personal liability of a shareholder or owner
28 of a business organization, in his or her capacity as
29 shareholder or owner, is no greater than that of a
30 shareholder-employee of a corporation incorporated under
31 chapter 607. The business organization is liable up to the

1 full value of its property for any negligent acts, wrongful
2 acts, or misconduct committed by any of its officers, agents,
3 or employees while they are engaged on its behalf in the
4 rendering of professional services.

5 (5) Each certificate of authorization shall be renewed
6 every 2 years. Each partnership and corporation certified
7 under this section shall notify the department within 1 month
8 following any change in the information contained in the
9 application upon which the certification is based.

10 (6) Disciplinary action against a corporation or
11 partnership shall be administered in the same manner and on
12 the same grounds as disciplinary action against a licensed
13 mold assessor or mold remediator.

14 468.8419 Scope of licensure.--Notwithstanding any
15 other provision of this part, a mold assessor or mold
16 remediator licensed under this part may perform or offer to
17 perform both mold assessment and mold remediation to a
18 structure at the same time if the area upon which the mold
19 assessment and mold remediation is to be performed is
20 Condition 1 mold as defined in s. 468.8411(4)(a).

21 468.842 Prohibitions; penalties.--

22 (1) A mold assessor, a company that employs a mold
23 assessor, or a company that is controlled by a company that
24 also has a financial interest in a company employing a mold
25 assessor may not:

26 (a) Perform or offer to perform any mold assessment
27 unless the person has complied with the provisions of this
28 part.

29 (b) Use the name or title "certified mold assessor,"
30 "registered mold assessor," "licensed mold assessor," "mold
31 assessor," "professional mold assessor," or any combination

1 thereof unless the person has complied with the provisions
2 this part.

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

7 (d) Inspect for a fee any property in which the
8 assessor or the assessor's company has any financial or
9 transfer interest.

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

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

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

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

26 (a) Perform or offer to perform any mold remediation
27 unless the person has complied with the provisions of this
28 part.

29 (b) Use the name or title "certified mold remediator,"
30 "registered mold remediator," "licensed mold remediator,"
31 "mold remediator," "professional mold remediator," or any

1 combination thereof unless the person has complied with the
2 provisions of this part.

3 (c) Perform or offer to perform any mold assessment of
4 a structure on which the mold remediator or the mold
5 remediator's company provided a mold remediation within the
6 last 12 months.

7 (d) Remediate for a fee any property in which the mold
8 remediator or the mold remediator's company has any financial
9 or transfer interest.

10 (e) Accept any compensation, inducement, or reward
11 from a mold assessor or mold assessor's company for the
12 referral of any business from the mold assessor or the mold
13 assessor's company.

14 (f) Offer any compensation, inducement, or reward to a
15 mold assessor or mold assessor's company for the referral of
16 any business from the mold assessor or the mold assessor's
17 company.

18 (3) Any person who violates any provision of this
19 section commits:

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

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

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

27 468.8421 Disciplinary proceedings.--

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

30 (a) Violation of any provision of this part or s.
31 455.227(1);

1 (b) Attempting to procure a license to practice mold
2 assessment or mold remediation by bribery or fraudulent
3 misrepresentation;

4 (c) Having a license to practice mold assessment or
5 mold remediation revoked, suspended, or otherwise acted
6 against, including the denial of licensure, by the licensing
7 authority of another state, territory, or country;

8 (d) Being convicted or found guilty of, or entering a
9 plea of nolo contendere to, regardless of adjudication, a
10 crime in any jurisdiction which directly relates to the
11 practice of mold assessment or mold remediation or the ability
12 to practice mold assessment or mold remediation;

13 (e) Making or filing a report or record that the
14 licensee knows to be false, willfully failing to file a report
15 or record required by state or federal law, willfully impeding
16 or obstructing such filing, or inducing another person to
17 impede or obstruct such filing. Such reports or records
18 include only those that are signed in the capacity of a
19 registered mold assessor or mold remediator;

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

23 (g) Engaging in fraud or deceit, negligence,
24 incompetency, or misconduct in the practice of mold assessment
25 or mold remediation;

26 (h) Failing to perform any statutory or legal
27 obligation placed upon a licensed mold assessor or mold
28 remediator; violating any provision of this chapter, a rule of
29 the department, or a lawful order of the department previously
30 entered in a disciplinary hearing; or failing to comply with a
31 lawfully issued subpoena of the department; or

1 (i) Practicing on a revoked, suspended, inactive, or
2 delinquent license.

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

7 (a) Denial of an application for licensure.

8 (b) Revocation or suspension of a license.

9 (c) Imposition of an administrative fine not to exceed
10 \$1,000 for each count or separate offense.

11 (d) Issuance of a reprimand.

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

15 (f) Restriction of the authorized scope of practice by
16 the mold assessor or mold remediator.

17 (3) The department shall reissue the license of a
18 disciplined mold assessor or mold remediator upon
19 certification that he or she has complied with all of the
20 terms and conditions set forth in the final order.

21 468.8422 Insurance.--

22 (1) A mold assessor shall maintain general liability
23 and errors and omissions insurance coverage in an amount of
24 not less than \$1 million.

25 (2) A mold remediator shall maintain a general
26 liability insurance policy in an amount of not less than \$1
27 million which includes specific coverage for mold-related
28 claims.

29 468.8423 Contracts.--A contract to perform mold
30 assessment or mold remediation must be in a document or
31 electronic record, signed or otherwise authenticated by the

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

5 468.8424 Grandfather clause.--A person who performs
6 mold assessment or mold remediation as defined in this part
7 may qualify to be licensed by the department as a mold
8 assessor or mold remediator if the person meets the licensure
9 requirements of this part by July 1, 2008.

10 Section 3. Part XVII of chapter 468, Florida Statutes,
11 consisting of sections 468.85, 468.851, 468.852, 468.853,
12 468.854, and 468.855, is created to read:

13 468.85 Definitions.--As used in this part, the term:

14 (1) "Department" means the Department of Business and
15 Professional Regulation.

16 (2) "Property" means any residential or commercial
17 real property that is a single-family dwelling, duplex,
18 triplex, quadruplex, condominium unit, or cooperative unit.
19 The term does not include the common areas of condominiums or
20 cooperatives.

21 (3) "Wind-mitigation assessor" means any person who
22 for a fee or other compensation has been specially trained and
23 licensed to render wind-mitigation assessments under this
24 part.

25 (4) "Wind-mitigation assessment" means a limited
26 visual examination of the structure, roof covering, exterior
27 components, and site conditions that affect the ability of the
28 property to withstand the effects of gale-force winds for the
29 purposes of providing a written professional opinion regarding
30 any measures that may reasonably be taken by the owner to
31 limit the damage such winds may cause to the property.

1 468.851 Licensure.--

2 (1) The department shall license any applicant who the
3 department certifies is qualified to practice wind-mitigation
4 assessment.

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

7 (a) Completion of classroom instruction in products,
8 designs, and construction techniques to improve the structural
9 soundness of a property. The classroom criteria and required
10 number of hours shall be approved by the Department of
11 Financial Services;

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

14 (c) Satisfactory completion of a drug-screening test;
15 and

16 (d) Satisfactory results from a fingerprint-based
17 criminal history check.

18 (3) A business entity may not provide or offer to
19 provide wind-mitigation assessments or use the title
20 "wind-mitigation assessments" to describe the business
21 entity's services unless each of the wind-mitigation assessors
22 employed by the business entity is licensed under this part.

23 468.852 Exemptions.--A person is not required to
24 comply with this part when acting within his or her authorized
25 scope of practice except when such person holds himself or
26 herself out for hire to the public as a "wind-mitigation
27 assessor" or any similar term stating or implying licensure
28 under this part if he or she is one or more of the following:

29 (1) A contractor licensed under chapter 489.

30 (2) An architect licensed under chapter 481.

31 (3) An engineer licensed under chapter 471.

1 (4) A building code administrator, plans examiner, or
2 building code inspector licensed under part XII of this
3 chapter.

4 (5) A certified real estate appraiser, licensed real
5 estate appraiser, or registered real estate appraiser licensed
6 under part XII of chapter 468.

7 468.853 Prohibited acts; penalties.--

8 (1) A wind-mitigation assessor or a company that
9 employs a wind-mitigation assessor may not:

10 (a) Perform or offer to perform for a fee any
11 mitigation to a home for which the specialist or the
12 specialist's company has rendered a wind-mitigation
13 assessment.

14 (b) Inspect for a fee any property in which the
15 specialist or the specialist's company has any financial or
16 transfer interest.

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

20 468.854 Insurance.--A wind-mitigation assessor shall
21 maintain a commercial general liability insurance policy in an
22 amount of not less than \$300,000.

23 468.855 Mitigation cost estimates.--Wind-mitigation
24 assessors are not required to provide estimates related to the
25 cost of mitigation of an inspected property, except as
26 provided in s. 215.5586.

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

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SENATE SUMMARY

Provides for the regulation of home inspectors, mold assessors, mold remediators, and wind-mitigation assessors by the Department of Business and Professional Regulation. Exempts certain professionals from the requirement of licensure. Provides for fees and licensure examinations. Requires continuing education in order to maintain licensure. Authorizes the department to adopt rules and impose penalties. (See bill for details.)