

By the Committees on Criminal Justice; Regulated Industries; and Senator Wise

591-2507-07

1 A bill to be entitled

2 An act relating to regulation of building

3 inspection professionals; creating pt. XV of

4 ch. 468, F.S., relating to regulation of home

5 inspectors; providing a purpose; providing

6 exemptions; providing definitions; authorizing

7 the Department of Business and Professional

8 Regulation to establish fees; limiting fee

9 amounts; providing for a home inspector

10 licensure examination; providing qualifications

11 to take the licensure examination; providing

12 requirements for the department to certify and

13 license home inspectors; providing for

14 licensure by endorsement; requiring continuing

15 education for license renewal; providing

16 criteria for continuing education; providing

17 for inactivation of licenses; requiring the

18 department to establish fees for the

19 reactivation and renewal of inactive licenses;

20 providing for certification of partnerships and

21 corporations offering home inspection services;

22 requiring a certificate of authorization for

23 certain persons and entities practicing home

24 inspection services; providing for prohibitions

25 and penalties; providing grounds for

26 disciplinary proceedings; authorizing the

27 department to impose specified penalties;

28 requiring home inspectors to provide a

29 specified disclosure to consumers; requiring

30 home inspectors to maintain a specified

31 insurance policy; requiring home inspectors to

1 provide a written report to homeowners upon
2 completion of each home inspection; providing
3 content requirements for home inspection
4 reports; authorizing certain persons to qualify
5 for home inspection licensure notwithstanding
6 the requirements of this part; creating pt. XVI
7 of ch. 468, F.S., relating to regulation of
8 mold remediators and mold assessors; providing
9 a purpose; providing exemptions; providing
10 definitions; authorizing the department to
11 establish fees; limiting fee amounts; providing
12 for a mold assessor and mold remediator
13 licensure examination; providing qualifications
14 to take the licensure examinations; 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 mold assessment or mold
25 remediation services; requiring a certificate
26 of authorization for certain persons and
27 entities practicing home inspection services;
28 providing for prohibitions and penalties;
29 providing grounds for disciplinary proceedings;
30 authorizing the department to impose specified
31 penalties; requiring mold assessors and mold

1 remediators to maintain specified insurance
2 policies; providing requirements for contracts
3 to perform mold assessment or mold remediation;
4 authorizing certain persons to qualify for mold
5 assessment and mold remediation licensure
6 notwithstanding the requirements of this part;
7 authorizing additional positions and providing
8 appropriations; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Part XV of chapter 468, Florida Statutes,
13 consisting of sections 468.83, 468.831, 468.8311, 468.8312,
14 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318,
15 468.8319, 468.832, 468.8321, 468.8322, 468.8323, and 468.8324,
16 is created to read:

17 468.83 Purpose.--The Legislature recognizes that there
18 is a need to require the licensing of home inspectors and to
19 ensure that consumers of home inspection services can rely on
20 the competence of home inspectors, as determined by
21 educational and experience requirements and testing.
22 Therefore, the Legislature deems it necessary in the interest
23 of the public welfare to regulate home inspectors in this
24 state.

25 468.831 Exemptions.--The following persons are not
26 required to comply with any provision of this part:

27 (1) An authorized government employee of the United
28 states, this state, or any municipality, county, or other
29 political subdivision who is conducting home inspection
30 services within the scope of that employment, as long as the
31

1 employee does not hold out for hire to the general public or
2 otherwise engage in home inspection services.

3 (2) A person acting within his or her authorized scope
4 of practice as licensed under federal, state, or local codes
5 or statutes, except when such person holds himself or herself
6 out for hire to the public as a "certified home inspector,"
7 "registered home inspector," "licensed home inspector," "home
8 inspector," "professional home inspector," or any combination
9 thereof stating or implying licensure under this part.

10 (3) An officer appointed by the court.

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

15 (5) A certified energy auditor performing an energy
16 audit of any home or building or other duties conducted by or
17 for a utility under chapter 366 or rules adopted by the Public
18 Service Commission.

19 468.8311 Definitions.--As used in this part, the term:

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

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

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

30 (4) "Home inspection services" means a limited visual
31 examination of one or more of the following readily accessible

1 installed systems and components of a home: the structure,
2 electrical system, HVAC system, roof covering, plumbing
3 system, interior components, exterior components, and site
4 conditions that affect the structure, for the purposes of
5 providing a written professional opinion of the condition of
6 the home.

7 468.8312 Fees.--

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

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

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

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

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

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

31

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

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

5 468.8313 Examinations.--

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

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

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

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

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

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

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

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

31

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

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

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

12 (6) The department may adopt rules pursuant to ss.
13 120.536(1) and 120.54 to implement the provisions of this
14 section.

15 468.8314 Licensure.--

16 (1) The department shall license any applicant who the
17 department certifies is qualified to practice home inspection
18 services.

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

24 (3) The department shall certify as qualified for a
25 license by endorsement an applicant who is of good moral
26 character as determined in s. 468.8313; holds a valid license
27 to practice home inspection services in another state or
28 territory of the United States, whose educational requirements
29 are substantially equivalent to those required by this part;
30 and has passed a national, regional, state, or territorial
31

1 licensing examination that is substantially equivalent to the
2 examination required by this part.

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

8 468.8315 Renewal of license.--

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

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

15 468.8316 Continuing education.--

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

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

27 468.8317 Inactive license.--

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

31

1 (2) A license that has become inactive may be
2 reactivated upon application to the department. The department
3 may prescribe by rule continuing education requirements as a
4 condition of reactivating a license. The continuing education
5 requirements for reactivating a license may not exceed 14
6 hours for each year the license was inactive.

7 (3) The department shall adopt rules relating to
8 licenses which have become inactive and for the renewal of
9 inactive licenses. The department shall prescribe by rule a
10 fee not to exceed \$200 for the reactivation of an inactive
11 license and a fee not to exceed \$200 for the renewal of an
12 inactive license.

13 468.8318 Certification of corporations and
14 partnerships.--

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

19 (2) The practice of or the offer to practice home
20 inspection services by licensees through a corporation or
21 partnership offering home inspection services to the public,
22 or by a corporation or partnership offering such services to
23 the public through licensees under this part as agents,
24 employees, officers, or partners, is permitted subject to the
25 provisions of this part, provided that all personnel of the
26 corporation or partnership who act in its behalf as home
27 inspectors in this state are licensed as provided by this
28 part; and further provided that the corporation or partnership
29 has been issued a certificate of authorization by the
30 department as provided in this section. Nothing in this
31 section shall be construed to allow a corporation to hold a

1 license to practice home inspection services. No corporation
2 or partnership shall be relieved of responsibility for the
3 conduct or acts of its agents, employees, or officers by
4 reason of its compliance with this section, nor shall any
5 individual practicing home inspection services be relieved of
6 responsibility for professional services performed by reason
7 of his or her employment or relationship with a corporation or
8 partnership.

9 (3) For the purposes of this section, a certificate of
10 authorization shall be required for a corporation,
11 partnership, association, or person practicing under a
12 fictitious name and offering home inspection services to the
13 public; however, when an individual is practicing home
14 inspection services in his or her own given name, he or she
15 shall not be required to register under this section.

16 (4) Each certificate of authorization shall be renewed
17 every 2 years. Each partnership and corporation certified
18 under this section shall notify the department within 1 month
19 of any change in the information contained in the application
20 upon which the certification is based.

21 (5) Disciplinary action against a corporation or
22 partnership shall be administered in the same manner and on
23 the same grounds as disciplinary action against a licensed
24 home inspector.

25 468.8319 Prohibitions; penalties.--

26 (1) A home inspector, a company that employs a home
27 inspector, or a company that is controlled by a company that
28 also has a financial interest in a company employing a home
29 inspector may not:

30
31

- 1 (a) Practice or offer to practice home inspection
2 services unless the person has complied with the provisions of
3 this part;
- 4 (b) Use the name or title "certified home inspector,"
5 "registered home inspector," "licensed home inspector," "home
6 inspector," "professional home inspector," or any combination
7 thereof unless the person has complied with the provisions of
8 this part;
- 9 (c) Present as his or her own the license of another;
- 10 (d) Knowingly give false or forged evidence to the
11 department or an employee thereof;
- 12 (e) Use or attempt to use a license that has been
13 suspended or revoked;
- 14 (f) Perform or offer to perform, prior to closing, for
15 any additional fee, any repairs to a home on which the
16 inspector or the inspector's company has prepared a home
17 inspection report. This paragraph does not apply to a home
18 warranty company that is affiliated with or retains a home
19 inspector to perform repairs pursuant to a claim made under a
20 home warranty contract;
- 21 (g) Inspect for a fee any property in which the
22 inspector or the inspector's company has any financial or
23 transfer interest;
- 24 (h) Offer or deliver any compensation, inducement, or
25 reward to any broker or agent therefor for the referral of the
26 owner of the inspected property to the inspector or the
27 inspection company; or
- 28 (i) Accept an engagement to make an omission or
29 prepare a report in which the inspection itself, or the fee
30 payable for the inspection, is contingent upon either the
31

1 conclusions in the report, preestablished findings, or the
2 close of escrow.

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

6 468.832 Disciplinary proceedings.--

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

9 (a) Violation of any provision of this part or s.
10 455.227(1);

11 (b) Attempting to procure a license to practice home
12 inspection services by bribery or fraudulent
13 misrepresentation;

14 (c) Having a license to practice home inspection
15 services revoked, suspended, or otherwise acted against,
16 including the denial of licensure, by the licensing authority
17 of another state, territory, or country;

18 (d) Being convicted or found guilty of, or entering a
19 plea of nolo contendere to, regardless of adjudication, a
20 crime in any jurisdiction that directly relates to the
21 practice of home inspection services or the ability to
22 practice home inspection services;

23 (e) Making or filing a report or record that the
24 licensee knows to be false, willfully failing to file a report
25 or record required by state or federal law, willfully impeding
26 or obstructing such filing, or inducing another person to
27 impede or obstruct such filing. Such reports or records shall
28 include only those that are signed in the capacity of a
29 licensed home inspector;

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

4 (g) Engaging in fraud or deceit, or of negligence,
5 incompetency, or misconduct, in the practice of home
6 inspection services;

7 (h) Failing to perform any statutory or legal
8 obligation placed upon a licensed home inspector; violating
9 any provision of this chapter, a rule of the department, or a
10 lawful order of the department previously entered in a
11 disciplinary hearing; or failing to comply with a lawfully
12 issued subpoena of the department; or

13 (i) Practicing on a revoked, suspended, inactive, or
14 delinquent license.

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

19 (a) Denial of an application for licensure.

20 (b) Revocation or suspension of a license.

21 (c) Imposition of an administrative fine not to exceed
22 \$5,000 for each count or separate offense.

23 (d) Issuance of a reprimand.

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

27 (f) Restriction of the authorized scope of practice by
28 the home inspector.

29 (3) In addition to any other sanction imposed under
30 this part, in any final order that imposes sanctions, the
31

1 department may assess costs related to the investigation and
2 prosecution of the case.

3 468.8321 Disclosures.--Prior to contracting for or
4 commencing a home inspection, a home inspector shall provide
5 to the consumer a copy of his or her license to practice home
6 inspection services in this state and a written disclosure
7 that contains the scope and any exclusions of the home
8 inspection.

9 468.8322 Insurance.--A home inspector shall maintain a
10 commercial general liability insurance policy in an amount of
11 not less than \$300,000.

12 468.8323 Home inspection report.--Upon completion of
13 each home inspection for compensation, the home inspector
14 shall provide a written report prepared for the client.

15 (1) The home inspector shall report:

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

19 (b) If self-evident, a reason why the system or
20 component reported under paragraph (a) is significantly
21 deficient or near the end of its service life.

22 (c) Any systems and components that were present at
23 the time of the inspection but were not inspected, and a
24 reason they were not inspected.

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

28 468.8324 Grandfather clause.--Until January 1, 2009,
29 notwithstanding any other provision of this part, a person may
30 qualify to be licensed by the department as a home inspector
31 if he or she:

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

3 (2) Has been engaged in the practice of home
4 inspection for compensation for at least 3 years prior to the
5 effective date of this part;

6 (3) Is of good moral character as defined in s.
7 468.8313; and

8 (4) Has not committed any acts which would be grounds
9 for disciplinary actions had the person been licensed under
10 this part.

11 Section 2. Part XVI of chapter 468, Florida Statutes,
12 consisting of sections 468.84, 468.841, 468.8411, 468.8412,
13 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,
14 468.8419, 468.842, 468.8421, 468.8422, and 468.8423, is
15 created to read:

16 468.84 Legislative purpose.--The Legislature finds it
17 necessary in the interest of the public safety and welfare, to
18 prevent damage to the real and personal property, to avert
19 economic injury to the residents of this state, and to
20 regulate persons and companies that hold themselves out to the
21 public as qualified to perform mold-related services.

22 468.841 Exemptions.--

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

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

27 (b) A person who performs mold assessment on property
28 owned or leased by the person, the person's employer, or an
29 entity affiliated with the person's employer through common
30 ownership, or on property operated or managed by the person's
31 employer or an entity affiliated with the person's employer

1 through common ownership. This exemption does not apply if the
2 person, employer, or affiliated entity engages in the business
3 of performing mold assessment for the public.

4 (c) An employee of a mold assessor while directly
5 supervised by the mold assessor.

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

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

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

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

27 (b) A person who performs mold remediation on property
28 owned or leased by the person, the person's employer, or an
29 entity affiliated with the person's employer through common
30 ownership, or on property operated or managed by the person's
31 employer or an entity affiliated with the person's employer

1 through common ownership. This exemption does not apply if the
2 person, employer, or affiliated entity engages in the business
3 of performing mold remediation for the public.

4 (c) An employee of a mold remediator while directly
5 supervised by the mold remediator.

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

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

23 468.8411 Definitions.--As used in this part, the term:

24 (1) "Department" means the Department of Business and
25 Professional Regulation.

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

30 (3) "Mold assessment" means a process performed by a
31 mold assessor that includes the physical sampling and detailed

1 evaluation of data obtained from a building history and
2 inspection to formulate an initial hypothesis about the
3 origin, identity, location, and extent of amplification of
4 mold growth of greater than ten square feet.

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

7 (5) "Mold remediation" means the removal, cleaning,
8 sanitizing, demolition, or other treatment, including
9 preventive activities, of mold or mold-contaminated matter of
10 greater than ten square feet that was not purposely grown at
11 that location; however, such removal, cleaning, sanitizing,
12 demolition, or other treatment, including preventive
13 activities, may not be work that requires a license under
14 chapter 489 unless performed by a person who is licensed under
15 that chapter or the work complies with that chapter.

16 (6) "Mold remediator" means any person who performs
17 mold remediation. A mold remediator may not perform any work
18 that requires a license under chapter 489 unless the mold
19 remediator is also licensed under that chapter or complies
20 with that chapter.

21 468.8412 Fees.--

22 (1) The department, by rule, may establish fees to be
23 paid for application, examination, reexamination, licensing
24 and renewal, inactive status application and reactivation of
25 inactive licenses, and application for providers of continuing
26 education. The department may also establish by rule a
27 delinquency fee. Fees shall be based on department estimates
28 of the revenue required to implement the provisions of this
29 part. All fees shall be remitted with the application,
30 examination, reexamination, licensing and renewal, inactive

31

1 status application and reactivation of inactive licenses, and
2 application for providers of continuing education.

3 (2) The application fee shall not exceed \$125 and is
4 nonrefundable. The examination fee shall not exceed \$125 plus
5 the actual per applicant cost to the department to purchase
6 the examination, if the department chooses to purchase the
7 examination. The examination fee shall be in an amount that
8 covers the cost of obtaining and administering the examination
9 and shall be refunded if the applicant is found ineligible to
10 sit for the examination.

11 (3) The fee for an initial license shall not exceed
12 \$200.

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

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

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

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

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

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

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

27 468.8413 Examinations.--

28 (1) A person desiring to be licensed as a mold
29 assessor or mold remediator shall apply to the department to
30 take a licensure examination.

31

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

5 (a)1. For a mold remediator, at least a 2-year degree
6 in microbiology, engineering, architecture, industrial
7 hygiene, occupational safety, or a related field of science
8 from an accredited institution and a minimum of 1 year of
9 documented field experience in a field related to mold
10 remediation; or

11 2. A high school diploma or the equivalent with a
12 minimum of 4 years of documented field experience in a field
13 related to mold remediation.

14 (b)1. For a mold assessor, at least a 2-year degree in
15 microbiology, engineering, architecture, industrial hygiene,
16 occupational safety, or a related field of science from an
17 accredited institution and a minimum of 1 year of documented
18 field experience in conducting microbial sampling or
19 investigations; or

20 2. A high school diploma or the equivalent with a
21 minimum of 4 years of documented field experience in
22 conducting microbial sampling or investigations.

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

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

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

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

1 responsibilities of a licensed mold assessor or mold
2 remediator; and

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

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

11 (5) The department may adopt rules pursuant to ss.
12 120.536(1) and 120.54 to implement the provisions of this
13 section.

14 468.8414 Licensure.--

15 (1) The department shall license any applicant who the
16 department certifies is qualified to practice mold assessment
17 or mold remediation.

18 (2) The department shall certify for licensure any
19 applicant who satisfies the requirements of s. 468.8413, who
20 has passed the licensing examination, and who has documented
21 training in water, mold, and respiratory protection. The
22 department may refuse to certify any applicant who has
23 violated any of the provisions of this part.

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

27 (a) Is qualified to take the examination as set forth
28 in s. 468.8413 and has passed a certification examination
29 offered by a nationally recognized organization that certifies
30 persons in the specialty of mold assessment or mold
31 remediation that has been approved by the department as

1 substantially equivalent to the requirements of this part and
2 s. 455.217; or

3 (b) Holds a valid license to practice mold assessment
4 or mold remediation issued by another state or territory of
5 the United States if the criteria for issuance of the license
6 were substantially the same as the licensure criteria that is
7 established by this part as determined by the department.

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

13 468.8415 Renewal of license.--

14 (1) The department shall renew a license upon receipt
15 of the renewal application and fee and upon certification by
16 the department that the licensee has satisfactorily completed
17 the continuing education requirements of s. 468.8416.

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

20 468.8416 Continuing education.--

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

27 (2) The department may prescribe by rule additional
28 continuing professional education hours, not to exceed 25
29 percent of the total hours required, for failure to complete
30 the hours required for renewal by the end of the renewal
31 period.

1 468.8417 Inactive license.--

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

5 (2) A license that has become inactive may be
6 reactivated upon application to the department. The department
7 may prescribe by rule continuing education requirements as a
8 condition of reactivating a license. The continuing education
9 requirements for reactivating a license may not exceed 14
10 hours for each year the license was inactive.

11 (3) The department shall adopt rules relating to
12 licenses that have become inactive and for the renewal of
13 inactive licenses. The department shall prescribe by rule a
14 fee not to exceed \$200 for the reactivation of an inactive
15 license and a fee not to exceed \$200 for the renewal of an
16 inactive license.

17 468.8418 Certification of partnerships and
18 corporations.--

19 (1) The department shall issue a certificate of
20 authorization to a corporation or partnership offering mold
21 assessment or mold remediation services to the public if the
22 corporation or partnership satisfies all of the requirements
23 of this part.

24 (2) The practice of or the offer to practice mold
25 assessment or mold remediation by licensees through a
26 corporation or partnership offering mold assessment or mold
27 remediation to the public, or by a corporation or partnership
28 offering such services to the public through licensees under
29 this part as agents, employees, officers, or partners, is
30 permitted subject to the provisions of this part, provided
31 that the corporation or partnership has been issued a

1 certificate of authorization by the department as provided in
2 this section. Nothing in this section shall be construed to
3 allow a corporation to hold a license to practice mold
4 assessment or mold remediation. No corporation or partnership
5 shall be relieved of responsibility for the conduct or acts of
6 its agents, employees, or officers by reason of its compliance
7 with this section, nor shall any individual practicing mold
8 assessment or mold remediation be relieved of responsibility
9 for professional services performed by reason of his or her
10 employment or relationship with a corporation or partnership.

11 (3) For the purposes of this section, a certificate of
12 authorization shall be required for a corporation,
13 partnership, association, or person practicing under a
14 fictitious name, offering mold assessment or mold remediation;
15 however, when an individual is practicing mold assessment or
16 mold remediation under his or her own given name, he or she
17 shall not be required to register under this section.

18 (4) Each certificate of authorization shall be renewed
19 every 2 years. Each partnership and corporation certified
20 under this section shall notify the department within 1 month
21 of any change in the information contained in the application
22 upon which the certification is based.

23 (5) Disciplinary action against a corporation or
24 partnership shall be administered in the same manner and on
25 the same grounds as disciplinary action against a licensed
26 mold assessor or mold remediator.

27 468.8419 Prohibitions; penalties.--

28 (1) A mold assessor, a company that employs a mold
29 assessor, or a company that is controlled by a company that
30 also has a financial interest in a company employing a mold
31 assessor may not:

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

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

7 (c) Use the name or title "certified mold assessor,"
8 "registered mold assessor," "licensed mold assessor," "mold
9 assessor," "professional mold assessor," or any combination
10 thereof unless the person has complied with the provisions
11 this part.

12 (d) Perform or offer to perform any mold remediation
13 to a structure on which the mold assessor or the mold
14 assessor's company provided a mold assessment within the last
15 12 months.

16 (e) Inspect for a fee any property in which the
17 assessor or the assessor's company has any financial or
18 transfer interest.

19 (f) Accept any compensation, inducement, or reward
20 from a mold remediator or mold remediator's company for the
21 referral of any business to the mold remediator or the mold
22 remediator's company.

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

27 (h) Accept an engagement to make an omission of the
28 assessment or conduct an assessment in which the assessment
29 itself, or the fee payable for the assessment, is contingent
30 upon the conclusions of the assessment.

31

1 (2) A mold remediator, a company that employs a mold
2 remediator, or a company that is controlled by a company that
3 also has a financial interest in a company employing a mold
4 remediator may not:

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

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

11 (c) Use the name or title "certified mold remediator,"
12 "registered mold remediator," "licensed mold remediator,"
13 "mold remediator," "professional mold remediator," or any
14 combination thereof unless the person has complied with the
15 provisions of this part.

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

20 (e) Remediate for a fee any property in which the mold
21 remediator or the mold remediator's company has any financial
22 or transfer interest.

23 (f) Accept any compensation, inducement, or reward
24 from a mold assessor or mold assessor's company for the
25 referral of any business from the mold assessor or the mold
26 assessor's company.

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

31

1 (3) Any person who violates any provision of this
2 section commits:

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

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

7 (c) A felony of the third degree for a third or
8 subsequent violation, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084.

10 468.842 Disciplinary proceedings.--

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

13 (a) Violation of any provision of this part or s.
14 455.227(1);

15 (b) Attempting to procure a license to practice mold
16 assessment or mold remediation by bribery or fraudulent
17 misrepresentations;

18 (c) Having a license to practice mold assessment or
19 mold remediation revoked, suspended, or otherwise acted
20 against, including the denial of licensure, by the licensing
21 authority of another state, territory, or country;

22 (d) Being convicted or found guilty of, or entering a
23 plea of nolo contendere to, regardless of adjudication, a
24 crime in any jurisdiction that directly relates to the
25 practice of mold assessment or mold remediation or the ability
26 to practice mold assessment or mold remediation;

27 (e) Making or filing a report or record that the
28 licensee knows to be false, willfully failing to file a report
29 or record required by state or federal law, willfully impeding
30 or obstructing such filing, or inducing another person to
31 impede or obstruct such filing. Such reports or records shall

1 include only those that are signed in the capacity of a
2 registered mold assessor or mold remediator;
3 (f) Advertising goods or services in a manner that is
4 fraudulent, false, deceptive, or misleading in form or
5 content;
6 (g) Engaging in fraud or deceit, or of negligence,
7 incompetency, or misconduct, in the practice of mold
8 assessment or mold remediation;
9 (h) Failing to perform any statutory or legal
10 obligation placed upon a licensed mold assessor or mold
11 remediator; violating any provision of this chapter, a rule of
12 the department, or a lawful order of the department previously
13 entered in a disciplinary hearing; or failing to comply with a
14 lawfully issued subpoena of the department; or
15 (i) Practicing on a revoked, suspended, inactive, or
16 delinquent license.
17 (2) When the department finds any mold assessor or
18 mold remediator guilty of any of the grounds set forth in
19 subsection (1), it may enter an order imposing one or more of
20 the following penalties:
21 (a) Denial of an application for licensure.
22 (b) Revocation or suspension of a license.
23 (c) Imposition of an administrative fine not to exceed
24 \$5,000 for each count or separate offense.
25 (d) Issuance of a reprimand.
26 (e) Placement of the mold assessor or mold remediator
27 on probation for a period of time and subject to such
28 conditions as the department may specify.
29 (f) Restriction of the authorized scope of practice by
30 the mold assessor or mold remediator.
31

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

5 468.8421 Insurance.--

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

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

12 468.8422 Contracts.--A contract to perform mold
13 assessment or mold remediation shall be in a document or
14 electronic record, signed or otherwise authenticated by the
15 parties. A mold assessment contract is not required to provide
16 estimates related to the cost of repair of an assessed
17 property. A mold assessment contract is not required to
18 provide estimates.

19 468.8423 Grandfather clause.--A person who performs
20 mold assessment or mold remediation as defined in this part
21 may qualify to be licensed by the department as a mold
22 assessor or mold remediator if the person meets the licensure
23 requirements of this part by July 1, 2008.

24 Section 3. For the 2007-2008 fiscal year, two
25 full-time equivalent positions and 65,044 in associated salary
26 rate are authorized, and the sums of \$100,371 in recurring
27 funds and \$8,959 in nonrecurring funds from the Professional
28 Regulation Trust Fund of the Department of Business and
29 Professional Regulation are appropriated for the purpose of
30 carrying out professional board activities related to this
31 act. In addition, for the 2007-2008 fiscal year, one full-time

1 equivalent position and 25,479 in associated salary rate are
2 authorized, and the sums of \$57,105 in recurring funds and
3 \$29,726 in nonrecurring funds from the Administrative Trust
4 Fund of the Department of Business and Professional Regulation
5 are appropriated for the purpose of carrying out the central
6 administrative functions provided in this act.

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

8
9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 CS/SB 2234

12 Provides \$196,161 from the General Revenue Fund and authorizes
13 three full-time equivalent positions to carry out professional
14 board activities and administrative functions provided for in
15 the bill.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31