

1 A bill to be entitled
2 An act relating to regulation of building
3 inspection professionals; amending s. 634.301,
4 F.S.; redefining the terms "home warranty" or
5 "warranty" for purposes of part II of ch. 634,
6 F.S., relating to home warranty associations;
7 creating pt. XV of ch. 468, F.S., relating to
8 regulation of home inspectors; providing a
9 purpose; providing exemptions; providing
10 definitions; authorizing the Department of
11 Business and Professional Regulation to
12 establish fees; limiting fee amounts; providing
13 for a home inspector licensure examination;
14 providing qualifications to take the licensure
15 examination; providing requirements for the
16 department to certify and license home
17 inspectors; providing for licensure by
18 endorsement; requiring continuing education for
19 license renewal; providing criteria for
20 continuing education; providing for
21 inactivation of licenses; requiring the
22 department to establish fees for the
23 reactivation and renewal of inactive licenses;
24 providing for certification of partnerships and
25 corporations offering home inspection services;
26 requiring a certificate of authorization for
27 certain persons and entities practicing home
28 inspection services; providing for prohibitions
29 and penalties; providing grounds for
30 disciplinary proceedings; authorizing the
31 department to impose specified penalties;

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

1 providing for prohibitions and penalties;
2 providing grounds for disciplinary proceedings;
3 authorizing the department to impose specified
4 penalties; requiring mold assessors and mold
5 remediators to maintain specified insurance
6 policies; providing requirements for contracts
7 to perform mold assessment or mold remediation;
8 authorizing certain persons to qualify for mold
9 assessment and mold remediation licensure
10 notwithstanding the requirements of this part;
11 authorizing additional positions and providing
12 appropriations; providing an effective date.

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

Section 1. Subsection (3) of section 634.301, Florida Statutes, is amended to read:

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

(3) "Home warranty" or "warranty" means any contract or agreement:

(a) Offered in connection with the sale of residential property;

(b) Offered in connection with a loan of \$5,000 or more which is secured by residential property that is the subject of the warranty, but not in connection with the sale of such property; ~~or~~

(c) Offered in connection with a home improvement of \$7,500 or more for residential property that is the subject of the warranty, but not in connection with the sale of such property; or

1 (d) Offered in connection with a home service
2 inspection as defined under s. 468.8311(4) or a mold
3 assessment as defined under s. 468.8411(3);
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5 whereby a person undertakes to indemnify the warranty holder
6 against the cost of repair or replacement, or actually
7 furnishes repair or replacement, of any structural component
8 or appliance of a home, necessitated by wear and tear or an
9 inherent defect of any such structural component or appliance
10 or necessitated by the failure of an inspection to detect the
11 likelihood of any such loss. However, this part does not
12 prohibit the giving of usual performance guarantees by either
13 the builder of a home or the manufacturer or seller of an
14 appliance, as long as no identifiable charge is made for such
15 guarantee. This part does not permit the provision of
16 indemnification against consequential damages arising from the
17 failure of any structural component or appliance of a home,
18 which practice constitutes the transaction of insurance
19 subject to all requirements of the insurance code. This part
20 does not apply to service contracts entered into between
21 consumers and nonprofit organizations or cooperatives the
22 members of which consist of condominium associations and
23 condominium owners and which perform repairs and maintenance
24 for appliances or maintenance of the residential property.
25 This part does not apply to a contract or agreement offered in
26 connection with a sale of residential property by a warranty
27 association in compliance with part III, provided such
28 contract or agreement only relates to the systems and
29 appliances of the covered residential property and does not
30 cover any structural component of the residential property.
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1 Section 2. Part XV of chapter 468, Florida Statutes,
2 consisting of sections 468.83, 468.831, 468.8311, 468.8312,
3 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318,
4 468.8319, 468.832, 468.8321, 468.8322, 468.8323, and 468.8324,
5 is created to read:

6 468.83 Purpose.--The Legislature recognizes that there
7 is a need to require the licensing of home inspectors and to
8 ensure that consumers of home inspection services can rely on
9 the competence of home inspectors, as determined by
10 educational and experience requirements and testing.
11 Therefore, the Legislature deems it necessary in the interest
12 of the public welfare to regulate home inspectors in this
13 state.

14 468.831 Exemptions.--The following persons are not
15 required to comply with any provision of this part:

16 (1) An authorized government employee of the United
17 states, this state, or any municipality, county, or other
18 political subdivision who is conducting home inspection
19 services within the scope of that employment, as long as the
20 employee does not hold out for hire to the general public or
21 otherwise engage in home inspection services.

22 (2) A person acting within his or her authorized scope
23 of practice as licensed under federal, state, or local codes
24 or statutes, except when such person holds himself or herself
25 out for hire to the public as a "certified home inspector,"
26 "registered home inspector," "licensed home inspector," "home
27 inspector," "professional home inspector," or any combination
28 thereof stating or implying licensure under this part.

29 (3) An officer appointed by the court.

30 (4) A person performing safety inspections of utility
31 equipment in or on a home or building or other duties

1 conducted by or for a utility under chapter 366 or rules
2 adopted by the Public Service Commission.

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

7 468.8311 Definitions.--As used in this part, the term:

8 (1) "Department" means the Department of Business and
9 Professional Regulation.

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

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

18 (4) "Home inspection services" means a limited visual
19 examination of one or more of the following readily accessible
20 installed systems and components of a home: the structure,
21 electrical system, HVAC system, roof covering, plumbing
22 system, interior components, exterior components, and site
23 conditions that affect the structure, for the purposes of
24 providing a written professional opinion of the condition of
25 the home.

26 468.8312 Fees.--

27 (1) The department, by rule, may establish fees to be
28 paid for applications, examination, reexamination, licensing
29 and renewal, inactive status application and reactivation of
30 inactive licenses, recordkeeping, and applications for
31 providers of continuing education. The department may also

1 establish by rule a delinquency fee. Fees shall be based on
2 department estimates of the revenue required to implement the
3 provisions of this part. All fees shall be remitted with the
4 appropriate application, examination, or license.

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

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

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

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

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

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

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

23 468.8313 Examinations.--

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

27 (2) An applicant shall be entitled to take the
28 licensure examination for the purpose of determining whether
29 he or she is qualified to practice in this state as a home
30 inspector if the applicant is of good moral character and has
31 completed a course of study of no less than 120 hours that

1 covers all of the following components of a home, structure,
2 electrical system, HVAC system, roof covering, plumbing
3 system, interior components, exterior components, and site
4 conditions that affect the structure.

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

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

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

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

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

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

20 (c) When an applicant is found to be unqualified for a
21 license because of lack of good moral character, the
22 department shall furnish the applicant a statement containing
23 the findings of the department, a complete record of the
24 evidence upon which the determination was based, and a notice
25 of the rights of the applicant to a rehearing and appeal.

26 (6) The department may adopt rules pursuant to ss.
27 120.536(1) and 120.54 to implement the provisions of this
28 section.

29 468.8314 Licensure.--
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1 (1) The department shall license any applicant who the
2 department certifies is qualified to practice home inspection
3 services.

4 (2) The department shall certify for licensure any
5 applicant who satisfies the requirements of s. 468.8313 and
6 who has passed the licensing examination. The department may
7 refuse to certify any applicant who has violated any of the
8 provisions of s. 468.832.

9 (3) The department shall certify as qualified for a
10 license by endorsement an applicant who is of good moral
11 character as determined in s. 468.8313; holds a valid license
12 to practice home inspection services in another state or
13 territory of the United States, whose educational requirements
14 are substantially equivalent to those required by this part;
15 and has passed a national, regional, state, or territorial
16 licensing examination that is substantially equivalent to the
17 examination required by this part.

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

23 468.8315 Renewal of license.--

24 (1) The department shall renew a license upon receipt
25 of the renewal application and upon certification by the
26 department that the licensee has satisfactorily completed the
27 continuing education requirements of s. 468.8316.

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

30 468.8316 Continuing education.--

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

7 (2) The department may prescribe by rule additional
8 continuing professional education hours, not to exceed 25
9 percent of the total hours required, for failure to complete
10 the hours required for renewal by the end of the
11 reestablishment period.

12 468.8317 Inactive license.--

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

16 (2) A license that has become inactive may be
17 reactivated upon application to the department. The department
18 may prescribe by rule continuing education requirements as a
19 condition of reactivating a license. The continuing education
20 requirements for reactivating a license may not exceed 14
21 hours for each year the license was inactive.

22 (3) The department shall adopt rules relating to
23 licenses which have become inactive and for the renewal of
24 inactive licenses. The department shall prescribe by rule a
25 fee not to exceed \$200 for the reactivation of an inactive
26 license and a fee not to exceed \$200 for the renewal of an
27 inactive license.

28 468.8318 Certification of corporations and
29 partnerships.--

30 (1) The department shall issue a certificate of
31 authorization to a corporation or partnership offering home

1 inspection services to the public if the corporation or
2 partnership satisfies all of the requirements of this part.

3 (2) The practice of or the offer to practice home
4 inspection services by licensees through a corporation or
5 partnership offering home inspection services to the public,
6 or by a corporation or partnership offering such services to
7 the public through licensees under this part as agents,
8 employees, officers, or partners, is permitted subject to the
9 provisions of this part, provided that all personnel of the
10 corporation or partnership who act in its behalf as home
11 inspectors in this state are licensed as provided by this
12 part; and further provided that the corporation or partnership
13 has been issued a certificate of authorization by the
14 department as provided in this section. Nothing in this
15 section shall be construed to allow a corporation to hold a
16 license to practice home inspection services. No corporation
17 or partnership shall be relieved of responsibility for the
18 conduct or acts of its agents, employees, or officers by
19 reason of its compliance with this section, nor shall any
20 individual practicing home inspection services be relieved of
21 responsibility for professional services performed by reason
22 of his or her employment or relationship with a corporation or
23 partnership.

24 (3) For the purposes of this section, a certificate of
25 authorization shall be required for a corporation,
26 partnership, association, or person practicing under a
27 fictitious name and offering home inspection services to the
28 public; however, when an individual is practicing home
29 inspection services in his or her own given name, he or she
30 shall not be required to register under this section.

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

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

10 468.8319 Prohibitions; penalties.--

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

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

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

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

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

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

28 (f) Perform or offer to perform, prior to closing, for
29 any additional fee, any repairs to a home on which the
30 inspector or the inspector's company has prepared a home
31 inspection report. This paragraph does not apply to a home

1 warranty company that is affiliated with or retains a home
2 inspector to perform repairs pursuant to a claim made under a
3 home warranty contract;

4 (g) Inspect for a fee any property in which the
5 inspector or the inspector's company has any financial or
6 transfer interest;

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

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

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

19 468.832 Disciplinary proceedings.--

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

22 (a) Violation of any provision of this part or s.
23 455.227(1);

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

27 (c) Having a license to practice home inspection
28 services revoked, suspended, or otherwise acted against,
29 including the denial of licensure, by the licensing authority
30 of another state, territory, or country;

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

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

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

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

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

25 (i) Practicing on a revoked, suspended, inactive, or
26 delinquent license.

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

31 (a) Denial of an application for licensure.

- 1 (b) Revocation or suspension of a license.
- 2 (c) Imposition of an administrative fine not to exceed
- 3 \$5,000 for each count or separate offense.
- 4 (d) Issuance of a reprimand.
- 5 (e) Placement of the home inspector on probation for a
- 6 period of time and subject to such conditions as the
- 7 department may specify.
- 8 (f) Restriction of the authorized scope of practice by
- 9 the home inspector.
- 10 (3) In addition to any other sanction imposed under
- 11 this part, in any final order that imposes sanctions, the
- 12 department may assess costs related to the investigation and
- 13 prosecution of the case.
- 14 468.8321 Disclosures.--Prior to contracting for or
- 15 commencing a home inspection, a home inspector shall provide
- 16 to the consumer a copy of his or her license to practice home
- 17 inspection services in this state and a written disclosure
- 18 that contains the scope and any exclusions of the home
- 19 inspection.
- 20 468.8322 Insurance.--A home inspector shall maintain a
- 21 commercial general liability insurance policy in an amount of
- 22 not less than \$300,000.
- 23 468.8323 Home inspection report.--Upon completion of
- 24 each home inspection for compensation, the home inspector
- 25 shall provide a written report prepared for the client.
- 26 (1) The home inspector shall report:
- 27 (a) On those systems and components inspected that, in
- 28 the professional opinion of the inspector, are significantly
- 29 deficient or are near the end of their service lives.
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1 (b) If self-evident, a reason why the system or
2 component reported under paragraph (a) is significantly
3 deficient or near the end of its service life.

4 (c) Any systems and components that were present at
5 the time of the inspection but were not inspected, and a
6 reason they were not inspected.

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

10 468.8324 Grandfather clause.--A person who performs
11 home inspection services as defined in this part may qualify
12 to be licensed by the department as a home inspector if the
13 person meets the licensure requirements of this part by July
14 1, 2010.

15 Section 3. Part XVI of chapter 468, Florida Statutes,
16 consisting of sections 468.84, 468.841, 468.8411, 468.8412,
17 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,
18 468.8419, 468.842, 468.8421, 468.8422, and 468.8423, is
19 created to read:

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

26 468.841 Exemptions.--

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

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

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1 (b) A person who performs mold assessment on property
2 owned or leased by the person, the person's employer, or an
3 entity affiliated with the person's employer through common
4 ownership, or on property operated or managed by the person's
5 employer or an entity affiliated with the person's employer
6 through common ownership. This exemption does not apply if the
7 person, employer, or affiliated entity engages in the business
8 of performing mold assessment for the public.

9 (c) An employee of a mold assessor while directly
10 supervised by the mold assessor.

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

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

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

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

1 (b) A person who performs mold remediation on property
2 owned or leased by the person, the person's employer, or an
3 entity affiliated with the person's employer through common
4 ownership, or on property operated or managed by the person's
5 employer or an entity affiliated with the person's employer
6 through common ownership. This exemption does not apply if the
7 person, employer, or affiliated entity engages in the business
8 of performing mold remediation for the public.

9 (c) An employee of a mold remediator while directly
10 supervised by the mold remediator.

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

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

28 468.8411 Definitions.--As used in this part, the term:

29 (1) "Department" means the Department of Business and
30 Professional Regulation.

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

5 (3) "Mold assessment" means a process performed by a
6 mold assessor that includes the physical sampling and detailed
7 evaluation of data obtained from a building history and
8 inspection to formulate an initial hypothesis about the
9 origin, identity, location, and extent of amplification of
10 mold growth of greater than ten square feet.

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

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

22 (6) "Mold remediator" means any person who performs
23 mold remediation. A mold remediator may not perform any work
24 that requires a license under chapter 489 unless the mold
25 remediator is also licensed under that chapter or complies
26 with that chapter.

27 468.8412 Fees.--

28 (1) The department, by rule, may establish fees to be
29 paid for application, examination, reexamination, licensing
30 and renewal, inactive status application and reactivation of
31 inactive licenses, and application for providers of continuing

1 education. The department may also establish by rule a
2 delinquency fee. Fees shall be based on department estimates
3 of the revenue required to implement the provisions of this
4 part. All fees shall be remitted with the application,
5 examination, reexamination, licensing and renewal, inactive
6 status application and reactivation of inactive licenses, and
7 application for providers of continuing education.

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

16 (3) The fee for an initial license shall not exceed
17 \$200.

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

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

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

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

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

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

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

1 468.8413 Examinations.--
2 (1) A person desiring to be licensed as a mold
3 assessor or mold remediator shall apply to the department to
4 take a licensure examination.
5 (2) An applicant shall be entitled to take the
6 licensure examination to practice in this state as a mold
7 assessor or mold remediator if the applicant is of good moral
8 character and has satisfied one of the following requirements:
9 (a)1. For a mold remediator, at least a 2-year degree
10 in microbiology, engineering, architecture, industrial
11 hygiene, occupational safety, or a related field of science
12 from an accredited institution and a minimum of 1 year of
13 documented field experience in a field related to mold
14 remediation; or
15 2. A high school diploma or the equivalent with a
16 minimum of 4 years of documented field experience in a field
17 related to mold remediation.
18 (b)1. For a mold assessor, at least a 2-year degree in
19 microbiology, engineering, architecture, industrial hygiene,
20 occupational safety, or a related field of science from an
21 accredited institution and a minimum of 1 year of documented
22 field experience in conducting microbial sampling or
23 investigations; or
24 2. A high school diploma or the equivalent with a
25 minimum of 4 years of documented field experience in
26 conducting microbial sampling or investigations.
27 (3) The department shall review and approve courses of
28 study in mold assessment and mold remediation.
29 (4)(a) Good moral character means a personal history
30 of honesty, fairness, and respect for the rights of others and
31 for the laws of this state and nation.

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

3 1. There is a substantial connection between the lack
4 of good moral character of the applicant and the professional
5 responsibilities of a licensed mold assessor or mold
6 remediator; and

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

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

15 (5) The department may adopt rules pursuant to ss.
16 120.536(1) and 120.54 to implement the provisions of this
17 section.

18 468.8414 Licensure.--

19 (1) The department shall license any applicant who the
20 department certifies is qualified to practice mold assessment
21 or mold remediation.

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

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

31

1 (a) Is qualified to take the examination as set forth
2 in s. 468.8413 and has passed a certification examination
3 offered by a nationally recognized organization that certifies
4 persons in the specialty of mold assessment or mold
5 remediation that has been approved by the department as
6 substantially equivalent to the requirements of this part and
7 s. 455.217; or

8 (b) Holds a valid license to practice mold assessment
9 or mold remediation issued by another state or territory of
10 the United States if the criteria for issuance of the license
11 were substantially the same as the licensure criteria that is
12 established by this part as determined by the department.

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

18 468.8415 Renewal of license.--

19 (1) The department shall renew a license upon receipt
20 of the renewal application and fee and upon certification by
21 the department that the licensee has satisfactorily completed
22 the continuing education requirements of s. 468.8416.

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

25 468.8416 Continuing education.--

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

1 (2) The department may prescribe by rule additional
2 continuing professional education hours, not to exceed 25
3 percent of the total hours required, for failure to complete
4 the hours required for renewal by the end of the renewal
5 period.

6 468.8417 Inactive license.--

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

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

16 (3) The department shall adopt rules relating to
17 licenses that have become inactive and for the renewal of
18 inactive licenses. The department shall prescribe by rule a
19 fee not to exceed \$200 for the reactivation of an inactive
20 license and a fee not to exceed \$200 for the renewal of an
21 inactive license.

22 468.8418 Certification of partnerships and
23 corporations.--

24 (1) The department shall issue a certificate of
25 authorization to a corporation or partnership offering mold
26 assessment or mold remediation services to the public if the
27 corporation or partnership satisfies all of the requirements
28 of this part.

29 (2) The practice of or the offer to practice mold
30 assessment or mold remediation by licensees through a
31 corporation or partnership offering mold assessment or mold

1 remediation to the public, or by a corporation or partnership
2 offering such services to the public through licensees under
3 this part as agents, employees, officers, or partners, is
4 permitted subject to the provisions of this part, provided
5 that the corporation or partnership has been issued a
6 certificate of authorization by the department as provided in
7 this section. Nothing in this section shall be construed to
8 allow a corporation to hold a license to practice mold
9 assessment or mold remediation. No corporation or partnership
10 shall be relieved of responsibility for the conduct or acts of
11 its agents, employees, or officers by reason of its compliance
12 with this section, nor shall any individual practicing mold
13 assessment or mold remediation be relieved of responsibility
14 for professional services performed by reason of his or her
15 employment or relationship with a corporation or partnership.

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

23 (4) Each certificate of authorization shall be renewed
24 every 2 years. Each partnership and corporation certified
25 under this section shall notify the department within 1 month
26 of any change in the information contained in the application
27 upon which the certification is based.

28 (5) Disciplinary action against a corporation or
29 partnership shall be administered in the same manner and on
30 the same grounds as disciplinary action against a licensed
31 mold assessor or mold remediator.

1 468.8419 Prohibitions; penalties.--

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) Use the name or title "certified mold remediator,"
16 "registered mold remediator," "licensed mold remediator,"
17 "mold remediator," "professional mold remediator," or any
18 combination thereof unless the person has complied with the
19 provisions of this part.

20 (d) Perform or offer to perform any mold assessment to
21 a structure on which the mold remediator or the mold
22 remediator's company provided a mold remediation within the
23 last 12 months.

24 (e) Remediate for a fee any property in which the mold
25 remediator or the mold remediator's company has any financial
26 or transfer interest.

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

31

1 (g) Offer any compensation, inducement, or reward to a
2 mold assessor or mold assessor's company for the referral of
3 any business from the mold assessor or the mold assessor's
4 company.

5 (3) Any person who violates any provision of this
6 section commits:

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

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

11 (c) A felony of the third degree for a third or
12 subsequent violation, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084.

14 468.842 Disciplinary proceedings.--

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

17 (a) Violation of any provision of this part or s.
18 455.227(1);

19 (b) Attempting to procure a license to practice mold
20 assessment or mold remediation by bribery or fraudulent
21 misrepresentations;

22 (c) Having a license to practice mold assessment or
23 mold remediation revoked, suspended, or otherwise acted
24 against, including the denial of licensure, by the licensing
25 authority of another state, territory, or country;

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

31

1 (e) Making or filing a report or record that the
2 licensee knows to be false, willfully failing to file a report
3 or record required by state or federal law, willfully impeding
4 or obstructing such filing, or inducing another person to
5 impede or obstruct such filing. Such reports or records shall
6 include only those that are signed in the capacity of a
7 registered mold assessor or mold remediator;

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

11 (g) Engaging in fraud or deceit, or of negligence,
12 incompetency, or misconduct, in the practice of mold
13 assessment or mold remediation;

14 (h) Failing to perform any statutory or legal
15 obligation placed upon a licensed mold assessor or mold
16 remediator; violating any provision of this chapter, a rule of
17 the department, or a lawful order of the department previously
18 entered in a disciplinary hearing; or failing to comply with a
19 lawfully issued subpoena of the department; or

20 (i) Practicing on a revoked, suspended, inactive, or
21 delinquent license.

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

26 (a) Denial of an application for licensure.

27 (b) Revocation or suspension of a license.

28 (c) Imposition of an administrative fine not to exceed
29 \$5,000 for each count or separate offense.

30 (d) Issuance of a reprimand.

31

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

4 (f) Restriction of the authorized scope of practice by
5 the mold assessor or mold remediator.

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

10 468.8421 Insurance.--

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

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

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

24 468.8423 Grandfather clause.--A person who performs
25 mold assessment or mold remediation as defined in this part
26 may qualify to be licensed by the department as a mold
27 assessor or mold remediator if the person meets the licensure
28 requirements of this part by July 1, 2010.

29 Section 4. For the 2007-2008 fiscal year, two
30 full-time equivalent positions and 65,044 in associated salary
31 rate are authorized, and the sums of \$100,371 in recurring

1 funds and \$8,959 in nonrecurring funds from the Professional
2 Regulation Trust Fund of the Department of Business and
3 Professional Regulation are appropriated for the purpose of
4 carrying out professional board activities related to this
5 act. In addition, for the 2007-2008 fiscal year, one full-time
6 equivalent position and 25,479 in associated salary rate are
7 authorized, and the sums of \$57,105 in recurring funds and
8 \$29,726 in nonrecurring funds from the Administrative Trust
9 Fund of the Department of Business and Professional Regulation
10 are appropriated for the purpose of carrying out the central
11 administrative functions provided in this act.

12 Section 5. This act shall take effect July 1, 2010.
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