

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 inspection  
2 service as defined under s. 468.8311(4) or a mold assessment  
3 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.

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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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