

1 F.S.; adding to the board a member who is a
2 mold assessor or mold remediator; providing an
3 appropriation and authorizing additional
4 positions; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

8 Section 1. It is the intent of the Legislature
9 pursuant to s. 11.62, Florida Statutes, that the professions
10 and occupations covered by this act be regulated in a manner
11 that does not unnecessarily restrict entry into the profession
12 or occupation pursuant to this act. The Legislature finds that
13 this provides a measure of protection for homeowners by
14 providing the requirements for education, experience, and
15 testing which are necessary to protect homeowners' investments
16 in their homes.

17 Section 2. Part IV of chapter 489, Florida Statutes,
18 consisting of ss. 489.601, 489.603, 489.604, 489.605, 489.606,
19 489.607, 489.608, 489.609, 489.61, 489.611, 489.612, 489.613,
20 489.614, 489.615, 489.616, and 489.618, is created to read:

21 PART IV

22 MOLD ASSESSMENT AND MOLD REMEDIATION IN RESIDENTIAL,
23 INSTITUTIONAL, GOVERNMENTAL, AND COMMERCIAL BUILDINGS

24 489.601 Legislative purpose.--The Legislature finds it
25 necessary in the interest of the public health, safety, and
26 welfare and in order to prevent damage to the real and
27 personal property of the residents of this state and avert
28 economic injury to the residents of this state to regulate
29 individuals and companies that hold themselves out to the
30 public as qualified to perform mold-related activities in
31

1 residential, institutional, governmental, and commercial
2 buildings.

3 489.603 Exemptions.--Sections 489.601-489.618 do not
4 apply to:

5 (1) A Division I and Division II contractor licensed
6 under this chapter, an individual in the manufactured housing
7 industry who is licensed under chapter 320, or individuals or
8 business organizations licensed under chapter 471 or part I of
9 chapter 481, when engaged in mold-related activities
10 incidental to activities within the scope of his or her
11 license.

12 (2) An authorized employee of the United States, this
13 state, or any municipality, county, or other political
14 subdivision; of a public or private school; or of a private
15 business organization who has completed training courses in
16 mold assessment or mold remediation approved by the board or a
17 certification program approved by the board and who is
18 conducting mold assessment or mold remediation within the
19 scope of that employment, as long as the employee does not
20 hold out for hire or otherwise engage in mold assessment or
21 mold remediation.

22 (3) A full-time employee engaged in routine
23 maintenance of public and private buildings, structures, and
24 facilities as long as the employee does not hold out for hire
25 or otherwise engage in mold assessment or mold remediation.

26 489.604 Definitions.--As used in this part, the term:

27 (1) "Board" means the Construction Industry Licensing
28 Board.

29 (2) "Business organization" means any partnership,
30 corporation, business trust, joint venture, or other business
31 organization.

1 (3) "Department" means the Department of Business and
2 Professional Regulation.

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

7 (5) "Mold assessment" means:

8 (a) An inspection, investigation, or survey of a
9 dwelling or other structure to provide the owner or occupant
10 with information regarding the presence, identification, or
11 evaluation of mold;

12 (b) The development of a mold-management plan,
13 development of a remediation protocol, and a postabatement
14 evaluation of a property;

15 (c) The collection or analysis of a mold sample; or

16 (d) The evaluation of a property for moisture damage
17 or moisture-incursion conditions that are likely to result in
18 fungus growth. A pre-purchase evaluation of a property must
19 include an assessment of moisture incursion and fungus growth.

20 (6) "Mold assessor" means any person or business
21 organization that performs a mold assessment.

22 (7) "Mold remediation" means the removal, cleaning,
23 sanitizing, demolition, or other treatment, including
24 preventive activities, of mold or mold-contaminated matter
25 that was not purposely grown at that location.

26 (8) "Mold remediator" means any person or business
27 organization that performs mold remediation. A mold remediator
28 may not perform any work that requires a license under any
29 other part of this chapter unless the mold remediator is also
30 licensed under that part.

31

1 (9) "Primary qualifying agent" means a person who
2 possesses the requisite skill, knowledge, and experience, and
3 has the responsibility, to supervise, direct, manage, and
4 control the mold assessment or mold-remediation activities of
5 the business organization with which he or she is connected;
6 who has the responsibility to supervise, direct, manage, and
7 control mold assessment or mold-remediation activities; and
8 whose technical and personal qualifications have been
9 determined by investigation and examination as provided in
10 this part, as attested by the department.

11 (10) "Secondary qualifying agent" means a person who
12 possesses the requisite skill, knowledge, and experience, and
13 has the responsibility, to supervise, direct, manage, and
14 control mold assessment and mold-remediation activities, and
15 whose technical and personal qualifications have been
16 determined by investigation and examination as provided in
17 this part, as attested by the department.

18 489.605 Fees.--The board shall, by rule, establish
19 reasonable fees to be paid for applications, examinations,
20 licensing and renewal, recordmaking, and recordkeeping. Fees
21 for application, initial licensure, license renewal, or
22 license reactivation for mold assessors or mold remediators
23 may not exceed \$500 per applicant. The board may, by rule,
24 establish late renewal fees, in an amount not to exceed the
25 initial licensure fee.

26 489.606 Examination.--

27 (1) A person who desires to be licensed as a mold
28 assessor or mold remediator must apply to the department for
29 licensure.

30 (2) An applicant may take the licensure examination to
31 practice in this state as a mold assessor or mold remediator

1 if the applicant is of good moral character, is a graduate of
2 an approved course of study in mold assessment or mold
3 remediation, and has a specific experience record as
4 prescribed by rule.

5 (3) The board shall adopt rules providing for the
6 review and approval of training programs in mold assessment
7 and mold remediation. The board may adopt rules providing for
8 the acceptance of the approval and accreditation of schools
9 and courses of study by nationally accepted accreditation
10 organizations.

11 (4)(a) As used in this section, "good moral character"
12 means a personal history of honesty, fairness, and respect for
13 the rights of others and for the laws of this state and
14 nation.

15 (b) The board may refuse to certify an applicant for
16 failure to satisfy this requirement only if:

17 1. The board finds that there is a substantial
18 connection between the lack of good moral character of the
19 applicant and the professional responsibilities of a mold
20 assessor or mold remediator; and

21 2. This finding is supported by clear and convincing
22 evidence.

23 (c) If an applicant is found to be unqualified for a
24 license because of a lack of good moral character, the board
25 must furnish to the applicant a statement containing the
26 findings of the board, a complete record of the evidence upon
27 which the determination was based, and a notice of the rights
28 of the applicant to a rehearing and appeal.

29 489.607 Licensure.--The department shall license any
30 applicant who the board certifies is qualified to practice
31 mold assessment or mold remediation and who:

1 (1) Pays the initial licensing fee;
2 (2) Submits with the application for licensure as a
3 mold assessor or a mold remediator evidence that he or she has
4 successfully completed the board-approved courses as
5 prescribed by rule;
6 (3) Provides evidence of financial stability; and
7 (4)(a) Passes a department-approved examination of
8 qualifications and knowledge relating to mold assessment and
9 mold remediation; or
10 (b) In lieu of passing a department-approved
11 examination, shows proof that he or she has been certified by
12 an organization that requires the same testing and examination
13 as the department requires.
14 489.608 Licensure of business organizations;
15 qualifying agents.--
16 (1) If an individual proposes to engage in mold
17 remediation or mold assessment in that individual's own name,
18 the license may be issued only to that individual.
19 (2)(a) If the applicant proposes to engage in mold
20 remediation or mold assessment as a business organization in
21 any name other than the applicant's legal name, the business
22 organization must apply for licensure through a qualifying
23 agent or the individual applicant must apply for licensure
24 under the fictitious name.
25 (b) The application must state the name of the
26 business organization and of each of its partners, the name of
27 the corporation and of each of its officers and directors and
28 of each of its stockholders who is also an officer or
29 director, the name of the business trust and of each of its
30 trustees, or the name of such other business organization and
31 of each of its members.

1 1. The application for primary qualifying agent must
2 include an affidavit on a form provided by the department
3 which attests that the applicant's signature is required on
4 all checks, drafts, or payments, regardless of the form of
5 payment, made by the business organization, and that the
6 applicant has final approval authority for all work performed
7 by the business organization.

8 2. The application for financially responsible officer
9 must include an affidavit on a form provided by the department
10 which attests that the applicant's signature is required on
11 all checks, drafts, or payments, regardless of the form of
12 payment, made by the business organization, and that the
13 applicant has authority to act for the business organization
14 in all financial matters.

15 3. The application for secondary qualifying agent must
16 include an affidavit on a form provided by the department
17 which attests that the applicant has authority to supervise
18 all mold assessment or mold-remediation work performed by the
19 business organization as provided in s. 489.609.

20 (c) As a prerequisite to the issuance of a license
21 under this section, the applicant must submit:

22 1. An affidavit on a form provided by the department
23 which attests that the applicant has obtained workers'
24 compensation insurance as required by chapter 440, public
25 liability insurance, property damage insurance, and errors and
26 omissions insurance in amounts determined by board rule. Such
27 insurance must include coverage for an applicant's failure to
28 properly perform mold assessment or mold remediation. The
29 department shall, by rule, establish a procedure to verify the
30 accuracy of such affidavits based upon a method approved by
31 the board.

1 2. Evidence of financial responsibility. The board
2 shall adopt rules to determine financial responsibility which
3 specify grounds on which the department may deny licensure.
4 Such criteria must include, but need not be limited to, credit
5 history and limits of bondability and credit.

6
7 Continuing proof of all insurance coverages referenced in this
8 paragraph shall be a requisite condition to maintaining a
9 license issued under this part.

10 (d) A joint venture, including a joint venture
11 composed of qualified business organizations, is a separate
12 and distinct organization that must be qualified in accordance
13 with department rules.

14 (e) A license that is issued upon application of a
15 business organization must be in the name of the business
16 organization, and the name of the qualifying agent must be
17 noted thereon. If there is a change in any information that is
18 required to be stated on the application, the business
19 organization shall, within 45 days after the change occurs,
20 mail the correct information to the department.

21 (f) The applicant must furnish evidence of statutory
22 compliance if a fictitious name is used, notwithstanding s.
23 865.09(7).

24 (3) The qualifying agent must be licensed under this
25 part in order for the business organization to be licensed. If
26 the qualifying agent ceases to be affiliated with the business
27 organization, the agent must so inform the department. In
28 addition, if the qualifying agent is the only licensed
29 individual affiliated with the business organization, the
30 business organization must notify the department of the
31 termination of the qualifying agent, and the business

1 organization has 60 days after the termination of the
2 qualifying agent's affiliation with the business organization
3 in which to employ another qualifying agent. The business
4 organization may not engage in mold assessment or mold
5 remediation until a qualifying agent is employed, unless the
6 department has granted a temporary nonrenewable license to the
7 financially responsible officer, the president, a partner, or,
8 in the case of a limited partnership, the general partner, who
9 assumes all responsibilities of a primary qualifying agent for
10 the business organization. This temporary license allows the
11 business organization to proceed only with incomplete
12 contracts.

13 (4)(a) The qualifying agent shall inform the
14 department in writing if the agent proposes to engage in mold
15 assessment or mold remediation in the agent's own name or in
16 affiliation with another business organization, and the agent
17 or the new business organization shall supply the same
18 information to the department as is required of initial
19 applicants under this part.

20 (b) Upon a favorable determination by the board, after
21 investigation of the financial responsibility, credit, and
22 business reputation of the qualifying agent and the new
23 business organization, the board shall issue, without any
24 examination, a new license in the business organization's
25 name, and the name of the qualifying agent must be noted
26 thereon.

27 (5)(a) Each mold assessor or mold remediator shall
28 affix the mold assessor's or mold remediator's signature and
29 license number to each document prepared or approved for use
30 by the licensee which is related to any mold assessment or
31 mold-remediation project and filed for public record with a

1 governmental agency, and to any report, specification, offer,
2 bid, or contract submitted to a client.

3 (b) The license number of each mold assessor or mold
4 remediator must appear in any printed matter or any newspaper,
5 airwave transmission, phone directory, or other advertising
6 medium offering or related to mold assessment or mold
7 remediation, as provided by department rule.

8 (6) Each qualifying agent shall pay the department an
9 amount equal to the original fee for licensure of a new
10 business organization. If the qualifying agent for a business
11 organization desires to qualify additional business
12 organizations, the board shall require the agent to present
13 evidence of ability and financial responsibility of each such
14 organization. The issuance of such certificate of authority is
15 discretionary with the board.

16 489.609 Responsibilities.--

17 (1) A qualifying agent is a primary qualifying agent
18 unless he or she is a secondary qualifying agent under this
19 section.

20 (a) All primary qualifying agents for a business
21 organization are jointly and equally responsible for
22 supervising all operations of the business organization; for
23 all field work at all sites; and for financial matters, both
24 for the organization in general and for each specific job.

25 (b) Upon approval by the board, a business
26 organization may designate a financially responsible officer
27 for purposes of licensure. A financially responsible officer
28 is responsible for all financial aspects of the business
29 organization and may not be designated as the primary
30 qualifying agent. The designated financially responsible
31 officer shall furnish evidence of his or her financial

1 responsibility, credit, and business reputation, or that of
2 the business organization he or she desires to qualify, as
3 determined appropriate by the board.

4 (c) If a business organization has a licensed
5 financially responsible officer, the primary qualifying agent
6 is responsible for all mold assessment or mold-remediation
7 activities of the business organization, both in general and
8 for each specific job.

9 (d) The board shall adopt rules prescribing the
10 qualifications for financially responsible officers, including
11 net worth, cash, and bonding requirements. These
12 qualifications must be at least as extensive as the
13 requirements for the financial responsibility of qualifying
14 agents.

15 (2)(a) One of the qualifying agents for a business
16 organization that has more than one qualifying agent may be
17 designated as the sole primary qualifying agent for the
18 business organization by a joint agreement that is executed,
19 on a form provided by the board, by all qualifying agents for
20 the business organization.

21 (b) The joint agreement must be submitted to the board
22 for approval. If the board determines that the joint agreement
23 is in good order, it must approve the designation and
24 immediately notify the qualifying agents of its approval. The
25 designation made by the joint agreement is effective upon
26 receipt of the notice by the qualifying agents.

27 (c) The qualifying agent designated for a business
28 organization by a joint agreement is the sole primary
29 qualifying agent for the business organization, and all other
30 qualifying agents for the business organization are secondary
31 qualifying agents.

1 (d) A designated sole primary qualifying agent has all
2 the responsibilities and duties of a primary qualifying agent,
3 notwithstanding that there are secondary qualifying agents for
4 specified jobs. The designated sole primary qualifying agent
5 is jointly and equally responsible with secondary qualifying
6 agents for supervising field work.

7 (e) A secondary qualifying agent is responsible only
8 for any work for which he or she accepts responsibility.

9 (f) A secondary qualifying agent is not responsible
10 for supervising financial matters.

11 (3)(a) A qualifying agent who has been designated by a
12 joint agreement as the sole primary qualifying agent for a
13 business organization may terminate this status by giving
14 actual notice to the business organization, to the board, and
15 to all secondary qualifying agents of his or her intention to
16 terminate this status. The notice to the board must include
17 proof satisfactory to the board that the qualifying agent has
18 given the notice required in this paragraph.

19 (b) The status of the qualifying agent ceases upon the
20 designation of a new primary qualifying agent or 60 days after
21 satisfactory notice of termination has been provided to the
22 board, whichever occurs first.

23 (c) If a new primary qualifying agent has not been
24 designated within 60 days, all secondary qualifying agents for
25 the business organization become primary qualifying agents
26 unless the joint agreement specifies that one or more of them
27 become sole qualifying agents under such circumstances, in
28 which case only the specified secondary qualifying agents
29 become sole qualifying agents.

30 (d) Any change in the status of a qualifying agent is
31 prospective only. A qualifying agent is not responsible for

1 his or her predecessor's actions but is responsible, even
2 after a change in status, for matters for which he or she was
3 responsible while in a particular status.

4 489.61 Continuing education.--

5 (1) A licensee must annually complete 15 hours of
6 continuing education courses as prescribed by board rule.

7 (2) The courses required under this section must be
8 offered and provided by mold-training providers licensed under
9 this part and must be approved by the board.

10 (3) The licensee must submit proof of compliance with
11 the continuing education requirements along with the
12 licensee's application for license renewal.

13 489.611 Approval of mold assessor and mold remediator
14 training courses and providers.--

15 (1) The board shall approve training courses and the
16 providers of such courses as are required under this part. The
17 board must also approve training courses and the providers of
18 such courses who offer training for persons who are exempt
19 from licensure under this part.

20 (2) The board shall, by rule, prescribe criteria for
21 approving training courses and course providers and may, by
22 rule, modify the training required by this part.

23 (3) The board may enter into agreements with other
24 states for the reciprocal approval of training courses or the
25 providers of training courses.

26 (4) The board shall, by rule, establish reasonable
27 fees in an amount not to exceed the cost of evaluation,
28 approval, and recordmaking and recordkeeping of training
29 courses and providers of training courses.

30 (5) The board may impose against a provider of
31 training courses any penalty that it may impose against a

1 licensee under this part or s. 455.227, may decline to approve
2 courses, and may withdraw approval of courses proposed by a
3 provider who has, or whose agent has, been convicted of, pled
4 guilty or nolo contendere to, or entered into a stipulation or
5 consent agreement relating to, without regard to adjudication,
6 any crime or administrative violation in any jurisdiction
7 which involves fraud, deceit, or false or fraudulent
8 representations made in the course of seeking approval of or
9 providing training courses.

10 489.612 Renewal of license.--

11 (1) The department shall renew a license upon receipt
12 of the renewal application and fee, upon proof of compliance
13 with the continuing education requirements of s. 489.61, and,
14 if a demonstration of competency is required by law or rule,
15 upon certification by the board that the licensee has
16 satisfactorily demonstrated his or her competence in mold
17 assessment and mold remediation.

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

20 489.613 Reactivation.--

21 (1) The board shall, by rule, prescribe continuing
22 education requirements for reactivating a license. The
23 continuing education requirements for reactivating a license
24 for a licensed mold assessor or mold remediator may not exceed
25 15 classroom hours for each year the license was inactive.

26 (2) The board shall adopt rules relating to licenses
27 that have become inactive and for the renewal of inactive
28 licenses. The board shall, by rule, prescribe a fee not to
29 exceed \$50 for the reactivation of an inactive license and a
30 fee not to exceed \$50 for the renewal of an inactive license.

31 489.614 Disciplinary proceedings.--

1 (1) The board may revoke, suspend, or deny the
2 issuance or renewal of a license; reprimand, censure, or place
3 on probation any mold assessor or mold remediator; require
4 financial restitution to a consumer; impose an administrative
5 fine not to exceed \$5,000 per violation; require continuing
6 education; or assess costs associated with any investigation
7 and prosecution if the mold assessor or mold remediator is
8 found guilty of any of the following acts:

9 (a) Obtaining a license or certificate of authority by
10 fraud or misrepresentation.

11 (b) Being convicted or found guilty of, or entering a
12 plea of nolo contendere to, regardless of adjudication, a
13 crime in any jurisdiction which directly relates to the
14 practice of mold assessment or mold remediation or the ability
15 to practice mold assessment or mold remediation.

16 (c) Violating any provision of chapter 455.

17 (d) Performing any act that assists a person or entity
18 in engaging in the prohibited unlicensed practice of mold
19 assessment or mold remediation, if the licensee knows or has
20 reasonable grounds to know that the person or entity is
21 unlicensed.

22 (e) Knowingly combining or conspiring with an
23 unlicensed person by allowing his or her license or
24 certificate of authority to be used by the unlicensed person
25 with intent to evade any provision of this part. If a licensee
26 allows his or her license to be used by one or more business
27 organizations without having any active participation in the
28 operations, management, or control of the business
29 organizations, such an act constitutes prima facie evidence of
30 an intent to evade the provisions of this part.

31

1 (f) Acting in the capacity of a mold assessor or mold
2 remediator under any license issued under this part except in
3 the name of the licensee as set forth on the issued license.

4 (g) Committing mismanagement or misconduct in the
5 practice of mold assessment or mold remediation which causes
6 financial harm to a customer. Financial mismanagement or
7 misconduct occurs when:

8 1. Valid liens have been recorded against the property
9 of a mold assessor's or mold remediator's customer for
10 supplies or services ordered by the mold assessor or mold
11 remediator for the customer's job; the mold assessor or mold
12 remediator has received funds from the customer to pay for the
13 supplies or services; and the mold assessor or mold remediator
14 has not had the liens removed from the property, by payment or
15 by bond, within 75 days after the date of such liens;

16 2. The mold assessor or mold remediator has abandoned
17 a customer's job and the percentage of completion is less than
18 the percentage of the total contract price paid to the mold
19 assessor or mold remediator as of the time of abandonment,
20 unless the contractor is entitled to retain such funds under
21 the terms of the contract or refunds the excess funds within
22 30 days after the date the job is abandoned; or

23 3. The mold assessor's or mold remediator's job has
24 been completed, and it is shown that the customer has had to
25 pay more for the contracted job than the original contract
26 price, as adjusted for subsequent change orders, unless the
27 increase in cost was the result of circumstances beyond the
28 control of the assessor or remediator, was the result of
29 circumstances caused by the customer, or was otherwise
30 permitted by the terms of the contract between the mold
31 assessor or mold remediator and the customer.

1 (h) Being disciplined by a municipality or county for
2 an act or violation of this part.

3 (i) Failing in any material respect to comply with
4 this part or violating a rule or lawful order of the
5 department.

6 (j) Abandoning a mold assessment or mold-remediation
7 project in which the mold assessor or mold remediator is
8 engaged or under contract as a mold assessor or mold
9 remediator. A project is presumed abandoned after 20 days if
10 the mold assessor or mold remediator has terminated the
11 project without just cause and without proper notification to
12 the owner, including the reason for termination; if the mold
13 assessor or mold remediator has failed to reasonably secure
14 the project to safeguard the public while work is stopped; or
15 if the mold assessor or mold remediator fails to perform work
16 without just cause for 20 days.

17 (k) Signing a statement with respect to a project or
18 contract falsely indicating that the work is bonded; falsely
19 indicating that payment has been made for all subcontracted
20 work, labor, and materials which results in a financial loss
21 to the owner, purchaser, or mold assessor or mold remediator;
22 or falsely indicating that the insurance coverage required
23 under this part is or has been provided.

24 (l) Committing fraud or deceit in the practice of mold
25 assessment or mold remediation.

26 (m) Committing incompetency or misconduct in the
27 practice of mold assessment or mold remediation.

28 (n) Committing gross negligence, repeated negligence,
29 or negligence resulting in a significant danger to life or
30 property in the practice of mold assessment or mold
31 remediation.

1 (o) Failing to satisfy, within a reasonable time, the
2 terms of a civil judgment obtained against the licensee, or
3 the business organization qualified by the licensee, relating
4 to the practice of the licensee's profession.

5
6 For the purposes of this subsection, mold assessment or mold
7 remediation is considered to be commenced when the contract is
8 executed and the mold assessor or mold remediator has accepted
9 funds from the customer or lender.

10 (2) If a mold assessor or mold remediator who is
11 disciplined under subsection (1) is a qualifying agent for a
12 business organization and the violation was performed in
13 connection with any mold assessment, mold-assessment-related
14 activities, mold remediation, or mold-remediation-related
15 activities undertaken by that business organization, the board
16 may impose an additional administrative fine not to exceed
17 \$5,000 per violation against the business organization or
18 against any partner, officer, director, trustee, or member of
19 the organization if that person participated in the violation
20 or knew or should have known of the violation and failed to
21 take reasonable corrective action.

22 (3) The board may, by rule, specify the acts or
23 omissions that constitute violations of this section.

24 (4) In recommending penalties in any proposed
25 recommended final order, the department shall follow the
26 penalty guidelines established by the board by rule. The
27 department shall advise the administrative law judge of the
28 appropriate penalty, including mitigating and aggravating
29 circumstances, and the specific rule citation.

30 (5) The board may not reinstate the license or
31 certificate of authority of, or cause a license or certificate

1 of authority to be issued to, a person who or business
2 organization that the board has determined is unqualified or
3 whose license or certificate of authority the board has
4 suspended, until it is satisfied that the person or business
5 organization has complied with all the terms and conditions
6 set forth in the final order and is capable of competently
7 engaging in the business of mold assessment or mold
8 remediation.

9 (6) The board may assess interest or penalties on all
10 finances imposed under this part against any person or business
11 organization that has not paid the imposed fine by the due
12 date established by rule or final order. Chapter 120 does not
13 apply to such assessment. Interest rates to be imposed must be
14 established by rule and may not be usurious.

15 (7) The board may not issue a license or certificate
16 of authority, or a renewal thereof, to any person or business
17 organization that has been assessed a fine, interest, or costs
18 associated with investigation and prosecution, or has been
19 ordered to pay restitution, until the fine, interest, or costs
20 associated with investigation and prosecution or restitution
21 are paid in full or until all terms and conditions of the
22 final order have been satisfied.

23 (8) Any person licensed pursuant to this part who has
24 had his or her license revoked is ineligible to be a partner,
25 officer, director, or trustee of a business organization
26 defined by this section or to be employed in a managerial or
27 supervisory capacity for a 5-year period. The person is also
28 ineligible to reapply for licensure under this part for a
29 period of 5 years after the effective date of the revocation.

30 (9) If a business organization or any of its partners,
31 officers, directors, trustees, or members is or has previously

1 been fined for violating subsection (2) the board may, on that
2 basis alone, revoke, suspend, place on probation, or deny
3 issuance of a license to a qualifying agent or financially
4 responsible officer of that business organization.

5 (10) If an investigation of a mold assessor or mold
6 remediator is undertaken, the department shall promptly
7 furnish to the mold assessor or mold remediator or the mold
8 assessor's or mold remediator's attorney a copy of the
9 complaint or document that resulted in the initiation of the
10 investigation. The department shall make the complaint and
11 supporting documents available to the mold assessor or mold
12 remediator. The complaint or supporting documents must contain
13 information regarding the specific facts that serve as the
14 basis for the complaint. The mold assessor or mold remediator
15 may submit a written response to the information contained in
16 the complaint or document within 20 days after service to the
17 mold assessor or mold remediator of the complaint or document.
18 The mold assessor's or mold remediator's written response must
19 be considered by the probable cause panel. The right to
20 respond does not prohibit the issuance of a summary emergency
21 order if necessary to protect the public. However, if the
22 secretary, or the secretary's designee, and the chair of the
23 board or the chair of the probable cause panel agree in
24 writing that such notification would be detrimental to the
25 investigation, the department may withhold notification. The
26 department may conduct an investigation without notification
27 to a mold assessor or mold remediator if the act under
28 investigation is a criminal offense.

29 489.615 Prohibitions; penalties.--

30 (1) A person may not:

1 (a) Falsely hold himself or herself or a business
2 organization out as a licensee;

3 (b) Falsely impersonate a licensee;

4 (c) Present as his or her own the license or
5 certificate of authority of another;

6 (d) Knowingly give false or forged evidence to the
7 board or a member thereof;

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

10 (f) Engage in the business or act in the capacity of a
11 mold assessor or mold remediator or advertise himself or
12 herself or a business organization as available to engage in
13 the business or act in the capacity of a mold assessor or mold
14 remediator without being duly licensed; or

15 (g) Operate a business organization engaged in mold
16 assessment or mold remediation after 60 days following the
17 termination of its only qualifying agent without designating
18 another primary qualifying agent, except as provided in ss.
19 489.608 and 489.609.

20
21 For purposes of this subsection, a person or business
22 organization operating under an inactive or suspended license
23 or certificate of authority is considered unlicensed.

24 (2)(a) An unlicensed person who violates subsection
25 (1) commits a misdemeanor of the first degree, punishable as
26 provided in s. 775.082 or s. 775.083.

27 (b) An unlicensed person who commits a violation of
28 subsection (1) after having been previously found guilty of
29 such a violation commits a felony of the third degree,
30 punishable as provided in s. 775.082 or s. 775.083.

31

1 (c) An unlicensed person who commits a violation of
2 subsection (1) during the existence of a state of emergency
3 declared by executive order of the Governor commits a felony
4 of the third degree, punishable as provided in s. 775.082 or
5 s. 775.083.

6 (3)(a) A licensed mold assessor or mold remediator may
7 not enter into an agreement, oral or written, whereby his or
8 her license number is used, or is to be used, by a person who
9 is not licensed as provided for in this part, or is used, or
10 is to be used, by a business organization that is not duly
11 qualified as provided for in this part, to engage in the
12 business or act in the capacity of a mold assessor or mold
13 remediator.

14 (b) A licensed mold assessor or mold remediator may
15 not knowingly allow his or her license number to be used by a
16 person who is not licensed as provided for in this part, or
17 used by a business organization that is not qualified as
18 provided for in this part, to engage in the business or act in
19 the capacity of a mold assessor or mold remediator.

20 489.616 Multiple services.--The board shall, by rule,
21 provide when and in what manner a licensee may perform both
22 mold assessment and mold remediation on the same contract or
23 project.

24 489.618 Presumption.--Notwithstanding any law to the
25 contrary, in a civil action against a person or entity duly
26 licensed under and in compliance with the requirements of this
27 part and alleging mold or fungal injuries to persons or
28 damages to property, there is a rebuttable presumption that
29 any work performed in accordance with all applicable building
30 codes and all assessment and remediation standards adopted by
31 the board is not negligent. This presumption applies to any

1 person or entity that, in return for compensation, obtains and
2 relies on the opinion of a person or entity duly licensed
3 under and in compliance with the requirements of this part.
4 There is a rebuttable presumption that any work not performed
5 in accordance with all applicable building codes and all
6 assessment and remediation standards adopted by the board is
7 negligent per se. The presumptions set forth in this section
8 do not apply to actions alleging gross negligence.

9 Section 3. If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 invalidity does not affect other provisions or applications of
12 the act which can be given effect without the invalid
13 provision or application, and to this end the provisions of
14 this act are severable.

15 Section 4. Subsection (2) of section 489.107, Florida
16 Statutes, is amended to read:

17 489.107 Construction Industry Licensing Board.--

18 (2) The board shall consist of 19 ~~18~~ members, of whom:

19 (a) Four are primarily engaged in business as general
20 contractors;

21 (b) Three are primarily engaged in business as
22 building contractors or residential contractors, however, at
23 least one building contractor and one residential contractor
24 shall be appointed;

25 (c) One is primarily engaged in business as a roofing
26 contractor;

27 (d) One is primarily engaged in business as a sheet
28 metal contractor;

29 (e) One is primarily engaged in business as an
30 air-conditioning contractor;

31

1 (f) One is primarily engaged in business as a
2 mechanical contractor;

3 (g) One is primarily engaged in business as a pool
4 contractor;

5 (h) One is primarily engaged in business as a plumbing
6 contractor;

7 (i) One is primarily engaged in business as an
8 underground utility and excavation contractor;

9 (j) One is primarily engaged in business as a mold
10 assessor or mold remediator;

11 ~~(k)(j)~~ Two are consumer members who are not, and have
12 never been, members or practitioners of a profession regulated
13 by the board or members of any closely related profession; and

14 ~~(l)(k)~~ Two are building officials of a municipality or
15 county.

16 Section 5. For the 2007-2008 fiscal year, the sum of
17 \$294,776 is appropriated from the Professional Regulation
18 Trust Fund and three additional positions are authorized to
19 the Department of Business and Professional Regulation for the
20 purpose of conducting licensing and regulatory activities
21 associated with mold assessment and remediation.

22 Section 6. This act shall take effect October 1, 2007.

23
24 *****

25 SENATE SUMMARY

26 Provides licensing requirements for mold assessors and
27 mold remediators. Requires that the Construction Industry
28 Licensing Board approve training courses and approve
29 training providers. Provides application procedures.
30 Provides for fees. Provides qualifications for
31 registration. Provides for rules and orders of the
Department of Business and Professional Regulation and
the Construction Industry Licensing Board. Provides for
disciplinary proceedings and penalties. Adds a member to
the Construction Industry Licensing Board who is a mold
assessor or mold remediator. (See bill for details.)