

Bill No. SB 2234

Barcode 364296

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Wise) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

468.831 Exemptions.--A person is not required to

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1 comply with this part when acting within his or her authorized
 2 scope of practice, except when such person holds himself or
 3 herself out for hire to the public as a "certified home
 4 inspector," "registered home inspector," "licensed home
 5 inspector," "home inspector," "professional home inspector,"
 6 or any combination thereof stating or implying licensure under
 7 this part if he or she is one or more of the following:

- 8 (1) A contractor licensed under chapter 489.
- 9 (2) An architect licensed under chapter 481.
- 10 (3) An engineer licensed under chapter 471.
- 11 (4) A building code administrator, plans examiner, or
 12 building code inspector licensed under part XII of chapter
 13 468.
- 14 (5) A certified real estate appraiser, licensed real
 15 estate appraiser, or registered real estate appraiser licensed
 16 under part II of chapter 475.
- 17 (6) A home inspector whose report is being provided
 18 to, and is solely for the benefit of, the Federal Housing
 19 Administration or the Veterans Administration.
- 20 (7) A home inspector conducting inspections for
 21 wood-destroying organisms on behalf of a licensee under
 22 chapter 482.
- 23 (8) A home inspector conducting inspections for
 24 quality control and on behalf of a general contractor licensed
 25 under chapter 489.
- 26 (9) A firesafety inspector certified under s. 633.081.
- 27 (10) An insurance adjuster licensed under part VI of
 28 chapter 626.
- 29 (11) An officer appointed by the court.
- 30 (12) A person performing safety inspections of utility
 31 equipment in or on a home or building or other duties

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

3 (13) 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

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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 satisfied the following requirements:

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

3 (b) Has completed a course of study of no less than
4 120 hours that covers all of the following components of a
5 home: structure, electrical system, HVAC system, roof
6 covering, plumbing system, interior components, exterior
7 components, and site conditions that affect the structure.

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

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

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

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

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

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

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

29 (6) The department may adopt rules pursuant to ss.
30 120.536(1) and 120.54 to implement the provisions of this
31 section.

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1 468.8314 Licensure.--

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

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

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

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

24 468.8315 Renewal of license.--

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

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

31 468.8316 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

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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.

31 (4) Each certificate of authorization shall be renewed

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

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

9 468.8319 Prohibitions; penalties.--

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

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

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

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

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

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

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

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1 inspector to perform repairs pursuant to a claim made under a
2 home warranty contract;

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

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

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

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

18 468.832 Disciplinary proceedings.--

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

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

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

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

30 (d) Being convicted or found guilty of, or entering a
31 plea of nolo contendere to, regardless of adjudication, a

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1 crime in any jurisdiction that directly relates to the
2 practice of home inspection services or the ability to
3 practice home inspection services;

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

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

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

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

23 (i) Practicing on a revoked, suspended, inactive, or
24 delinquent license.

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

29 (a) Denial of an application for licensure.

30 (b) Revocation or suspension of a license.

31 (c) Imposition of an administrative fine not to exceed

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1 \$5,000 for each count or separate offense.

2 (d) Issuance of a reprimand.

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

6 (f) Restriction of the authorized scope of practice by
7 the home inspector.

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

12 468.8321 Disclosures.--Prior to contracting for or
13 commencing a home inspection, a home inspector shall provide
14 to the consumer a copy of his or her license to practice home
15 inspection services in this state and a written disclosure
16 that contains the scope and any exclusions of the home
17 inspection.

18 468.8322 Insurance.--A home inspector shall maintain a
19 commercial general liability insurance policy in an amount of
20 not less than \$300,000.

21 468.8323 Home inspection report.--Upon completion of
22 each home inspection for compensation, the home inspector
23 shall provide a written report prepared for the homeowner.

24 (1) The home inspector shall report:

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

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

31 (c) Any systems and components that were present at

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1 the time of the inspection but were not inspected, and a
2 reason they were not inspected.

3 (2) A home inspector is not required to provide
4 estimates related to the cost of repair of an inspected
5 property.

6 468.8324 Grandfather clause.--Until January 1, 2009,
7 notwithstanding any other provision of this part, a person may
8 qualify to be licensed by the department as a home inspector
9 if he or she:

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

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

15 (3) Is of good moral character as defined in s.
16 468.8313; and

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

20 Section 2. Part XVI of chapter 468, Florida Statutes,
21 consisting of sections 468.84, 468.841, 468.8411, 468.8412,
22 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,
23 468.8419, 468.842, 468.8421, 468.8422, and 468.8423, is
24 created to read:

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

31 468.841 Exemptions.--

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

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

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

13 (c) An employee of a mold assessor while directly
14 supervised by the mold assessor.

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

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

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

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

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

13 (c) An employee of a mold remediator while directly
14 supervised by the mold remediator.

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

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

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1 468.8411 Definitions.--As used in this part, the term:

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

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

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

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

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

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

30 468.8412 Fees.--

31 (1) The department, by rule, may establish fees to be

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

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

19 (3) The fee for an initial license shall not exceed
 20 \$200.

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

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

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

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

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

31 (9) The fee for reactivation of an inactive license

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1 shall not exceed \$200.

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

4 468.8413 Examinations.--

5 (1) A person desiring to be licensed as a mold
6 assessor or mold remediator shall apply to the department to
7 take a licensure examination.

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

12 (a)1. For a mold remediator, at least a 2-year degree
13 in microbiology, engineering, architecture, industrial
14 hygiene, occupational safety, or a related field of science
15 from an accredited institution and a minimum of 1 year of
16 documented field experience in a field related to mold
17 remediation; or

18 2. A high school diploma or the equivalent with a
19 minimum of 4 years of documented field experience in a field
20 related to mold remediation.

21 (b)1. For a mold assessor, at least a 2-year degree in
22 microbiology, engineering, architecture, industrial hygiene,
23 occupational safety, or a related field of science from an
24 accredited institution and a minimum of 1 year of documented
25 field experience in conducting microbial sampling or
26 investigations; or

27 2. A high school diploma or the equivalent with a
28 minimum of 4 years of documented field experience in
29 conducting microbial sampling or investigations.

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

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

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

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

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

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

18 (5) The department may adopt rules pursuant to ss.
19 120.536(1) and 120.54 to implement the provisions of this
20 section.

21 468.8414 Licensure.--

22 (1) The department shall license any applicant who the
23 department certifies is qualified to practice mold assessment
24 or mold remediation.

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

31 (3) The department shall certify as qualified for a

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1 license by endorsement an applicant who is of good moral
2 character and:

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

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

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

20 468.8415 Renewal of license.--

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

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

27 468.8416 Continuing education.--

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

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1 Criteria and course content shall be approved by the
2 department by rule.

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

8 468.8417 Inactive license.--

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

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

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

24 468.8418 Certification of partnerships and
25 corporations.--

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

31 (2) The practice of or the offer to practice mold

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

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

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

30 (5) Disciplinary action against a corporation or
31 partnership shall be administered in the same manner and on

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1 the same grounds as disciplinary action against a licensed
2 mold assessor or mold remediator.

3 468.8419 Prohibitions; penalties.--

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

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

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

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

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

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

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

30 (g) Offer any compensation, inducement, or reward to a
31 mold remediator or mold remediator's company for the referral

1 of any business from the mold remediator or the mold
2 remediator's company.

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

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

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

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

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

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

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

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

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1 assessor's company.

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

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

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

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

12 (c) A felony of the third degree for a third or
13 subsequent violation, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084.

15 468.842 Disciplinary proceedings.--

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

18 (a) Violation of any provision of this part or s.
19 455.227(1);

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

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

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

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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 (e) Placement of the mold assessor or mold remediator

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1 on probation for a period of time and subject to such
2 conditions as the department may specify.

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

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

9 468.8421 Insurance.--

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

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

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

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

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

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

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

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

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

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