

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 2234

An act relating to regulation of building inspection professionals; amending s. 634.301, F.S.; redefining the terms “home warranty” or “warranty” for purposes of part II of ch. 634, F.S., relating to home warranty associations; creating pt. XV of ch. 468, F.S., relating to regulation of home inspectors; providing a purpose; providing exemptions; providing definitions; authorizing the Department of Business and Professional Regulation to establish fees; limiting fee amounts; providing for a home inspector licensure examination; providing qualifications to take the licensure examination; providing requirements for the department to certify and license home inspectors; providing for licensure by endorsement; requiring continuing education for license renewal; providing criteria for continuing education; providing for inactivation of licenses; requiring the department to establish fees for the reactivation and renewal of inactive licenses; providing for certification of partnerships and corporations offering home inspection services; requiring a certificate of authorization for certain persons and entities practicing home inspection services; providing for prohibitions and penalties; providing grounds for disciplinary proceedings; authorizing the department to impose specified penalties; requiring home inspectors to provide a specified disclosure to consumers; requiring home inspectors to maintain a specified insurance policy; requiring home inspectors to provide a written report to homeowners upon completion of each home inspection; providing content requirements for home inspection reports; authorizing certain persons to qualify for home inspection licensure notwithstanding the requirements of this part; creating pt. XVI of ch. 468, F.S., relating to regulation of mold remediators and mold assessors; providing a purpose; providing exemptions; providing definitions; authorizing the department to establish fees; limiting fee amounts; providing for a mold assessor and mold remediator licensure examination; providing qualifications to take the licensure examinations; providing requirements for the department to certify and license home inspectors; providing for licensure by endorsement; requiring continuing education for license renewal; providing criteria for continuing education; providing for inactivation of licenses; requiring the department to establish fees for the reactivation and renewal of inactive licenses; providing for certification of partnerships and corporations offering mold assessment or mold remediation services; requiring a certificate of authorization for certain persons and entities practicing home inspection services; providing for prohibitions and penalties; providing grounds for disciplinary proceedings; authorizing the department to impose specified penalties; requiring mold assessors and mold remediators to maintain specified insurance policies; providing requirements for contracts to perform mold assessment or mold remediation; authorizing certain persons to qualify for mold assessment and mold remediation.

tion licensure notwithstanding the requirements of this part; providing an effective date.

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

(d) Offered in connection with a home inspection service as defined under s. 468.8311(4) or a mold assessment as defined under s. 468.8411(3);

whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss. However, this part does not prohibit the giving of usual performance guarantees by either the builder of a home or the manufacturer or seller of an appliance, as long as no identifiable charge is made for such guarantee. This part does not permit the provision of indemnification against consequential damages arising from the failure of any structural component or appliance of a home, which practice constitutes the transaction of insurance subject to all requirements of the insurance code. This part does not apply to service contracts entered into between consumers and nonprofit organizations or cooperatives the members of which consist of condominium associations and condominium owners and which perform repairs and maintenance for appliances or maintenance of the residential property. This part does not apply to a contract or agreement offered in connection with a sale of residential property by a warranty association in compliance with part III, provided such contract or agreement only relates to the systems and appliances of the covered residential property and does not cover any structural component of the residential property.

Section 2. 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.—The following persons are not required to comply with any provision of this part:

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

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

(3) An officer appointed by the court.

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

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

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

(1) “Department” means the Department of Business and Professional Regulation.

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

(3) “Home inspector” means any person who provides or offers to provide home inspection services for a fee or other compensation.

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

468.8312 Fees.—

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

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

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

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

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

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

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

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

468.8313 Examinations.—

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

(2) An applicant shall be entitled to take the licensure examination for the purpose of determining whether he or she is qualified to practice in this state as a home inspector if the applicant is of good moral character and has completed a course of study of no less than 120 hours that covers all of the following components of a home: structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure.

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

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

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

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

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

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

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

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

468.8314 Licensure.—

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

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

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

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

468.8315 Renewal of license.—

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

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

468.8316 Continuing education.—

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

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

468.8317 Inactive license.—

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

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

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

468.8318 Certification of corporations and partnerships.—

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

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

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

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

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

468.8319 Prohibitions; penalties.—

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

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

(b) Use the name or title “certified home inspector,” “registered home inspector,” “licensed home inspector,” “home inspector,” “professional home inspector,” or any combination thereof unless the person has complied with the provisions of this part;

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

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

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

(f) Perform or offer to perform, prior to closing, for any additional fee, any repairs to a home on which the inspector or the inspector’s company has prepared a home inspection report. This paragraph does not apply to a home warranty company that is affiliated with or retains a home inspector to perform repairs pursuant to a claim made under a home warranty contract;

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

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

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

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

468.832 Disciplinary proceedings.—

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

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

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

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

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

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

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

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

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

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

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

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

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

(d) Issuance of a reprimand.

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

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

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

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

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

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

(1) The home inspector shall report:

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

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

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

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

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

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

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

468.841 Exemptions.—

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

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

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

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

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

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

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

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

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

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

(d) Persons or business organizations that are acting within the scope of the respective licenses required under chapter 471, part I of chapter 481,

chapter 482, or chapter 489, are acting on behalf of an insurer under part VI of chapter 626, or are persons in the manufactured housing industry who are licensed under chapter 320, except when any such persons or business organizations hold themselves out for hire to the public as a “certified mold assessor,” “registered mold assessor,” “licensed mold assessor,” “mold assessor,” “professional mold assessor,” or any combination thereof stating or implying licensure under this part.

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

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

(1) “Department” means the Department of Business and Professional Regulation.

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

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

(4) “Mold assessor” means any person who performs or directly supervises a mold assessment.

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

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

468.8412 Fees.—

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

with the application, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and application for providers of continuing education.

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

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

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

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

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

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

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

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

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

468.8413 Examinations.—

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

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

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

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

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

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

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

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

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

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

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

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

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

468.8414 Licensure.—

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

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

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

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

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

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of this part or chapter 455 until such time as the

investigation is complete and disciplinary proceedings have been terminated.

468.8415 Renewal of license.—

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

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

468.8416 Continuing education.—

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

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

468.8417 Inactive license.—

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

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

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

468.8418 Certification of partnerships and corporations.—

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

(2) The practice of or the offer to practice mold assessment or mold remediation by licensees through a corporation or partnership offering mold assessment or mold remediation to the public, or by a corporation or partnership offering such services to the public through licensees under this part

as agents, employees, officers, or partners, is permitted subject to the provisions of this part, provided that the corporation or partnership has been issued a certificate of authorization by the department as provided in this section. Nothing in this section shall be construed to allow a corporation to hold a license to practice mold assessment or mold remediation. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing mold assessment or mold remediation be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

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

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

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

468.8419 Prohibitions; penalties.—

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

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

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

(c) Use the name or title “certified mold assessor,” “registered mold assessor,” “licensed mold assessor,” “mold assessor,” “professional mold assessor,” or any combination thereof unless the person has complied with the provisions this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

468.842 Disciplinary proceedings.—

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

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

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

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

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

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

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

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

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

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

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

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

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

(d) Issuance of a reprimand.

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

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

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

468.8421 Insurance.—

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

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

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

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

Section 4. This act shall take effect July 1, 2010.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.