

IF there is money to create a Licensing Board, this would work...

Areas I would alter are ~~struck out~~, then highlighted in yellow

PART XVI

MOLD-RELATED SERVICES

Those addressed are highlighted in GREEN.

468.84 Legislative purpose.

468.841 Exemptions.

468.8411 Definitions.

468.8412 Fees.

468.8413 Examinations.

468.8414 Licensure.

468.8415 Renewal of license.

468.8416 Continuing education.

468.8417 Inactive license.

468.8418 ~~Certification of partnerships and corporations.~~ Has been removed from the legislation

468.8419 Prohibitions; penalties.

468.842 Disciplinary proceedings.

468.8421 Insurance.

468.8422 Contracts.

468.8423 Grandfather clause.

¹**468.84 Legislative purpose.**--The Legislature finds it necessary in the interest of the public safety and welfare, to prevent damage to 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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

¹**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. NOTE: this section sets up the facilities maintenance director or owners of multi-family buildings for litigation resulting from doing work outside of the scope of "generally accepted practices."~~

(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, chapter 489, or part XV of this chapter, 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 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. NOTE: this section sets up the facilities maintenance director or owners of multi-family buildings for litigation resulting from doing work outside of the scope of "generally accepted practices."~~

(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, chapter 489, or part XV of this chapter, 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 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.

History.--s. 3, ch. 2007-235; s. 25, ch. 2008-240.

¹**Note.**--Effective July 1, 2010.

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 but not grown onsite for a specific purpose.**

(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 10 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 10 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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

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: **NOTE: this certification examination could be a "proctored examination by a nationally recognized organization (ACAC, NORMI).**

(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 **NOTE: this is nearly impossible to meet. Most science degrees are four years. This should be stricken from the legislation. Mold remediators should be required to be certified by a nationally recognized organization and had a minimum of 30 hours of training specifically for mold assessment.**

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. **NOTE: this will be difficult to get if they have been working for someone else who would probably be unwilling provide the needed evidence. This could be accomplished by resume to the nationally recognized organization by meeting their certifying criteria (ACAC, NORMI).**

(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 **NOTE: this is nearly impossible to meet. Most science degrees are four years. This should be stricken from the legislation. They should be required to be certified by a nationally recognized organization and had a minimum of 30 hours of training specifically for mold assessment.**

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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

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 (ACAC, NORMI) 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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

¹**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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

¹**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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

¹**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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

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.~~

History.--s. 3, ch. 2007-235.

¹**Note.--**Effective July 1, 2010.

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 of 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.

History.--s. 3, ch. 2007-235; s. 124, ch. 2008-4.

¹**Note.**--Effective July 1, 2010.

¹468.842 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 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.

History.--s. 3, ch. 2007-235; s. 125, ch. 2008-4.

¹**Note.**--Effective July 1, 2010.

¹**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 a general liability insurance policy in an amount of not less than \$1,000,000 that includes specific coverage for mold-related claims.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

¹**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.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010.

¹**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.~~ This section was repaired by HB0713 where the following provisions were included:

1) If application is made prior to March 1, 2011, a person could be licensed who is active and certified by a nationally recognized organization (ACAC, NORMI) who also offers a proctored examination for, specifically mold assessment and/or mold remediation,

2) and who has completed a minimum of 30 hours of training in mold remediation and/or 60 hours of training in mold assessment.

NOTE: I would extend this to two years from the implementation of the law.

History.--s. 3, ch. 2007-235.

¹**Note.**--Effective July 1, 2010