

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: General Government Appropriations Committee

BILL: CS/CS/CS/SB 590

SPONSOR: General Government Appropriations Committee, Commerce and Consumer Services Committee, Regulated Industries Committee, and Senator Bennett

SUBJECT: Mold Assessment & Mold Remediation

DATE: April 21, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Siebert</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
4.	<u>DeLoach</u>	<u>Hayes</u>	<u>GA</u>	<u>Fav/CS</u>
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill 590 creates section 489.1134, F.S., mold remediation certification, to provide guidelines to entities engaged in mold or mold remediation. Those who engage in business as a contractor that emphasizes mold or mold remediation that is not incidental to the scope of licensure must take courses to be determined by the Construction Industry Licensing Board (board). The board is directed to report course completion to the Department of Business and Professional Regulation who in turn issues a course certificate of completion.

The bill creates sections 501.933 and 501.934, F.S., to require certification in mold assessment or mold remediation, depending on the field in which a person or business practices. This certification requirement may come from a nonprofit organization that focuses on indoor air quality or industrial hygiene or from a community college or university that provides training or education in mold assessment or mold remediation.

Exemptions to the certification requirement are provided to specified groups. These groups include Division I and Division II contractors licensed under ch. 489, F.S., an individual in the manufactured housing industry who is licensed under ch. 320, F.S., or engineers licensed under ch. 471, F.S., when engaged in mold-related activities incidental to activities within the scope of their respective licenses. The bill also exempts authorized employees of the United States, state, city and county governments performing mold assessment or mold remediation within the scope of their employment, and a residential property owner who performs mold assessment on his or her own property.

Mold assessors are required to maintain a mold-specific insurance policy not less than \$1 million, and noncontracting mold remediators are required to maintain a liability insurance policy with a mold pollution rider not less than \$1 million.

The bill also provides civil and criminal penalties for violations of the provisions relating to mold assessment and mold remediation.

The CS/CS/CS for Senate Bill 590 creates ss. 489.1134, 501.933, and 501.934 Florida Statutes.

II. Present Situation:

The Senate President approved an interim project to review mold regulation during the 2004 interim. The staff report¹ indicated that there has been a heightened awareness of the effects of exposure to mold. The report attributed the heightened awareness, in part, to an increase in litigation over mold related issues, the insurance companies responding by limiting coverage for mold damage, and hundreds of businesses (just in South Florida) sprouting up and touting their services as mold remediators.

According to a report issued by the Centers for Disease Control and Prevention (CDC), molds are ubiquitous in nature and grow almost anywhere indoors and outdoors.² The report states that more than 1,000 different kinds of indoor molds have been found in U.S. homes. Mold spores are easily spread because they are small, light-weight and able to survive a long time and under most conditions. Mold growth is stimulated by warm, damp, and humid conditions.

Mold is defined as a typical fungus which consists of a mass of branched, tubular filaments enclosed by a rigid cell wall. The filaments, called hyphae, branch repeatedly into complicated radially-expanding networks called mycelium, which makes up the body of the typical fungus. The mycelium grows by utilizing nutrients from the environment and, upon reaching a certain stage of maturity, forms – either directly or in special fruiting bodies – reproductive cells called spores.³

Toxic substances produced from the fungus are called “mycotoxins.” They occur in great number and variety and the effects can include hallucination, skin inflammation, severe liver damage, hemorrhages, abortion, convulsions, neurological disturbances, and death in livestock and humans.⁴

The CDC is currently working with federal, state, local, and tribal governments to investigate and respond to mold-related problems. It has assisted the U.S. Environmental Protection Agency (EPA) Indoor Environments Division in the development of a guide for mold remediation in schools and large buildings and is developing a brief guide to mold for homeowners.

¹ *Review of Mold Regulation*, Report No. 2004-158, Committee on Regulated Industries, Florida Senate, December 2003.

² *State of the Science on Molds and Human Health*, Statement of Stephen C. Redd, M.D., Chief, Air Pollution and Respiratory Health Branch National Center for Environmental Health, July 18, 2002.

³ *Encyclopedia Britannica* website <<http://www.britannica.com/eb/article?tocId=57951> (last visited March 4, 2005)

⁴ *Encyclopedia Britannica* website <http://www.britannica.com/eb/article?tocId=9054528> (last visited March 4, 2005)

An individual, company, or employee of the U. S., state, city, and county government that engages or offers to engage in the business or profession of performing any mold-related activity for compensation is not regulated in the state. However, engineers and persons engaging in the business of pest control under chapters 471 and 482, F.S., who perform mold-related activities in the scope of their licensure, are regulated.

The regulation of construction contracting is governed by part I of ch. 489, F.S., and is administered by the Construction Industry Licensing Board within the Department of Business and Professional Regulation. Contractors are divided into Division I and II categories. Division I contractors include general, building, and residential contractors. Division II contractors are those contractors typically referred to as “subcontractors” that include professions such as plumbing, mechanical, and air-conditioning contracting.

Licensed engineers practicing engineering is defined, in part, by s. 471.005, F.S., to mean a person engaged in any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services, insofar as they involve safeguarding life, health, or property.

The United States Environmental Protection Agency has prepared information to assist individuals in determining when the situation can be handled in-house by a person responsible for building maintenance or when an outside contractor should be contacted.⁵

III. Effect of Proposed Changes:

Section 1.

This CS/CS/CS for SB 590 creates s. 489.1134, F.S., entitled “Mold Remediation Certification” provides registration or certification guidelines for those who engage in business as a contractor with a focus on mold or mold remediation that is not incidental to the scope of licensure. Such contractors are responsible for members of his or her workforce to be in compliance with the provisions of this requirement and are subject to discipline under s. 489.129, F.S.

Sections 2 and 3.

Section 501.933 F.S., provides exemptions, certification guidelines, insurance requirements, definitions, and penalty provisions for mold assessors and mold remediators. Exemptions to the certification requirements include Division I and Division II contractors licensed under ch. 489, F.S., an individual in the manufactured housing industry who is licensed under ch. 320, F.S., and engineers licensed under ch. 471, F.S., when engaged in mold-related activities incidental to activities within the scope of his or her license. It also exempts authorized employees of the U.S., state, city and county government, or other political subdivisions, public or private schools, or private business organizations performing mold assessment or mold remediation within the scope of their employment and residential property owners who performs mold assessment on his or her own property.

⁵ *Mold Remediation in Schools and Commercial Buildings*, U. S. Environmental Protection Agency, Office of Air and Radiation, Indoor Environments Division, EPA 402-K-01-001, March 2001, <http://www.cdc.gov/nceh/airpollution/mold/default.htm> (last visited, March 3, 2005).

The bill defines the following terms relating to mold assessment and mold remediation:

- Mold means an organism of the class fungi that causes disintegration of organic matter and produces spores, and includes any spores, hyphae, and mycotins produced by mold.
- Mold assessment means:
 - An inspection, investigation, or survey of a dwelling or other structure to provide the owner or occupant with information regarding the presence, identification, or evaluation of mold;
 - The development of a mold management plan or remediation protocol; or
 - The collection or analysis of a mold sample.
- Mold assessor means any person or business organization that performs a mold assessment.
- Noncontracting mold remediation means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter that was not purposely grown at that location.
- Noncontracting mold remediator means any person that performs mold remediation. A noncontracting mold remediator may not perform any work that requires a license under ch. 489, F.S., unless the noncontracting mold remediator is also licensed under that chapter.

The bill requires a certification in mold assessment or remediation. The certification may come from a non-profit organization that focuses on indoor air quality or industrial hygiene. Community colleges or university may also provide certification through training or education in mold assessment or mold remediation.

Prohibitions on who may perform mold assessment or remediation is also included in the bill. The CS/CS/CS for SB 590 prohibits mold assessors from performing mold remediation or holding an interest in a mold remediation company, and vice versa. It provides criminal and civil penalties for violating the prohibitions.

Section 4.

The bill provides that the act shall take effect October 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Persons who engage in business as a contractor with a focus on mold or mold remediation that is not incidental to the scope of licensure will incur the costs of the educational requirements as determined by the board. These costs are unknown at this time.

In addition, persons who engage in business as a mold assessor or mold remediator are required to be certified and carry at least \$1 million in liability insurance. These costs are unknown.

C. Government Sector Impact:

None. The Department of Business and Profession Regulated has stated that no additional resources are necessary to implement the provisions of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
