

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 516
Finance Committee Substitute Adopted 6/2/97

Short Title: Lead-Based Paint Mgmt/AB.

(Public)

Sponsors:

Referred to:

March 26, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A STATE-ADMINISTERED LEAD-BASED PAINT
3 HAZARD MANAGEMENT PROGRAM IN LIEU OF HAVING A FEDERALLY
4 ADMINISTERED PROGRAM APPLY IN THIS STATE.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 130A of the General Statutes is amended by adding the
7 following new Article to read:

8 **"ARTICLE 19A.**

9 **"LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM.**

10 **"§ 130A-453. Definitions.**

11 The following definitions apply in this Article:

12 (1) Abatement. – Identifying lead-based paint, identifying or assessing a
13 lead-based paint hazard, or undertaking any of the following measures
14 to eliminate a lead-based paint hazard:

15 a. Removing lead-based paint from a surface and repainting the
16 surface.

17 b. Removing a component, such as a windowsill, painted with
18 lead-based paint and replacing the component.

- 1 c. Enclosing a surface painted with lead-based paint with paneling,
2 vinyl siding, or another approved material.
- 3 d. Encapsulating a surface painted with lead-based paint with a
4 sealant.
- 5 e. Any other measure approved by the Commission.
6 The term includes an inspection and a risk assessment.
- 7 (2) Child-occupied facility. – Defined in 40 C.F.R. § 745.223.
- 8 (3) Inspection. – An investigation to determine the presence of lead-based
9 paint.
- 10 (4) Lead-based paint. – Paint or another surface coating that contains lead
11 in excess of a level that is safe, as established by the Commission.
- 12 (5) Lead-based paint hazard. – A condition that is likely to cause adverse
13 human health effects as a result of exposure to lead-based paint or to
14 soil or dust that contains lead derived from lead-based paint.
- 15 (6) Person. – Defined in G.S. 130A-444.
- 16 (7) Risk assessment. – An on-site investigation to determine and report the
17 source, severity, and location of a lead-based paint hazard.
- 18 (8) Target housing. – Defined in 40 C.F.R. § 745.223.

19 **"§ 130A-454. Certification of individuals who perform abatements.**

20 (a) Requirement. – An individual shall not perform or offer to perform an
21 abatement of target housing or a child-occupied facility unless the individual is certified
22 by the Department to perform the activity. Performance of an abatement encompasses a
23 range of activities. To ensure proper performance of all aspects of an abatement, the
24 certification requirement imposed on an individual applies to each category of abatement
25 activity.

26 The categories of individual certification are inspector, risk-assessor, designer,
27 supervisor, worker, and any other category required by federal law. The category of risk-
28 assessor includes the category of inspector. Thus, a person who is certified as a risk-
29 assessor is not required to be certified as an inspector. Otherwise, an individual who
30 performs or offers to perform activities within the scope of more than one category must
31 be certified in each category.

32 (b) Exemption. – The certification requirement imposed by this section does not
33 apply to an individual who performs an abatement of a residential dwelling the person
34 owns and occupies as a residence.

35 **"§ 130A-454.1. Certification and other requirements of firms that perform**
36 **abatements.**

37 A firm or other entity shall not perform or offer to perform an abatement of target
38 housing or a child-occupied facility unless the entity is certified by the Department as a
39 firm that is qualified to perform the activity. An entity that performs an abatement of
40 target housing or a child-occupied facility shall not use an individual to perform the
41 abatement unless the individual is certified by the Department to perform the activity.

42 **"§ 130A-454.2. Qualifications for certification of individuals and firms.**

1 To be certified under this Article, a person must meet the qualification requirements
 2 set by the Commission. Qualification requirements include education, training,
 3 experience, the successful completion of an examination, and payment of any applicable
 4 fee.

5 **"§ 130A-454.3. Renewal of certification.**

6 A certification of an individual or a firm issued under this Article expires on the last
 7 day of the 12th month after the certification is issued. A certification may be renewed by
 8 paying the renewal fee and meeting any standards for renewal, such as refresher training,
 9 established by the Commission.

10 **"§ 130A-454.4. Accreditation of training courses and training providers.**

11 Completion of a training course on abatement does not satisfy a training requirement
 12 that is a condition for certification under this Article unless both the course provider and
 13 the course have been accredited by the Department. The Commission shall establish the
 14 procedure and standards for a course provider and a course to be accredited.

15 **"§ 130A-454.5. Certification and accreditation fee schedule.**

16 (a) The Commission shall establish fees for the items listed in the table below. A
 17 fee for an item may not exceed the maximum amount set in the table. The fees for
 18 examination and certification apply to each category in which a person is examined for
 19 certification or is certified.

| Item | Maximum Fee |
|--|--------------|
| <u>Examination for certification</u> | <u>\$75</u> |
| <u>Certification as worker</u> | <u>50</u> |
| <u>Certification in any category other</u> <u>than worker</u> | <u>150</u> |
| <u>Course provider accreditation</u> | <u>150</u> |
| <u>Initial course accreditation</u> | <u>2,000</u> |
| <u>Renewal course accreditation</u> | <u>750.</u> |

28 (b) Use. – The fees imposed under this section are departmental receipts and shall
 29 be used by the Department to administer this Article.

30 (c) Exemptions. – The examination and certification fees imposed under this
 31 section do not apply to governmental regulatory personnel who perform abatements
 32 solely for the purpose of determining compliance with applicable statutes or rules. The
 33 course provider and course accreditation fees imposed under this section do not apply to
 34 the State, a unit of local government, or a nonprofit entity or a course offered by one of
 35 these persons.

36 **"§ 130A-454.6. Abatement permits.**

37 (a) Requirement. – No person shall conduct an abatement of target housing or a
 38 child-occupied facility unless the person has obtained a permit for the abatement from the
 39 Department. The Commission shall establish the procedure for obtaining a permit. The
 40 permit requirement does not apply to an inspection or a risk assessment.

41 (b) Permit Fee. – An applicant for an abatement permit must pay an application fee
 42 to the Department. The fee is two percent (2%) of the contracted price for the corrective
 43 action to be performed in the abatement, not to exceed five hundred dollars (\$500.00).

1 The fee imposed under this section is a departmental receipt and shall be used by the
2 Department to administer this Article.

3 (c) Homeowner. – An individual who owns a single-family dwelling, conducts an
4 abatement on the dwelling, and will reside in the dwelling after the abatement is
5 completed is required to obtain a permit to conduct the abatement but is not required to
6 pay the permit fee for the permit.

7 **"§ 130A-454.7. Standards to ensure elimination of hazards; consumer information.**

8 (a) Standards. – The Commission shall establish standards to ensure that
9 abatements performed under this Article result in the elimination of lead-based paint
10 hazards. An abatement performed under this Article must be performed in accordance
11 with these standards.

12 (b) Information. – The Department shall prepare a fact sheet on abatement for
13 distribution to consumers. The sheet shall list the various measures for abatement of a
14 child-occupied facility or target housing and give the relative cost of each measure. A
15 person who is certified under this Article shall give a copy of the sheet to a person for
16 whom the certified person performs an abatement.

17 **"§ 130A-454.8. Commission to adopt rules.**

18 The Commission shall adopt rules to implement this Article."

19 Section 2. G.S. 130A-22 is amended by adding a new subsection to read:

20 "(b3) The Secretary may impose an administrative penalty on a person who violates
21 Article 19A of this Chapter or any rules adopted pursuant to Article 19A of this Chapter.
22 Each day of a continuing violation is a separate violation. The penalty shall not exceed
23 one thousand dollars (\$1,000) for each day the violation continues. The penalty
24 authorized by this section does not apply to a person who is not required to be certified
25 under this Article nor to a failure to obtain certification."

26 Section 3. G.S. 130A-454.8, as enacted by this act, and this section are
27 effective when they become law. The remainder of this act becomes effective July 1,
28 1998. This act does not affect the interim certification program requirements that apply
29 before July 1, 1998, for individuals who perform lead-based paint activities funded by a
30 grant from the federal government.