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SENATE BILL 516
Finance Committee Substitute Adopted 6/2/97
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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. Purpose of Article.**

20 This Article is enacted to establish an authorized State program under section 404 of
21 the Toxic Substances Control Act (15 U.S.C. 2684), as enacted by the Residential Lead-
22 Based Paint Hazard Reduction Act of 1992, that will apply in this State in lieu of the
23 corresponding federal program administered by the federal Environmental Protection
24 Agency. This Article requires a person who performs an abatement of a child-occupied
25 facility or target housing to be certified and establishes the procedure and requirements
26 for certification. It also requires a person who conducts an abatement of a child-occupied
27 facility or target housing to obtain a permit for the abatement.

28 This Article does not require the abatement of a child-occupied facility or target
29 housing under any circumstance. G.S. 130A-131.5 and the rules adopted to implement
30 that section authorize the Department to order an abatement to eliminate a lead poisoning
31 hazard. This Article does not expand or otherwise change that authority.

32 **§ 130A-455. Certification of individuals who perform abatements.**

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

39 The categories of individual certification are inspector, risk-assessor, designer,
40 supervisor, worker, and any other category required by federal law. The category of risk-
41 assessor includes the category of inspector. Thus, a person who is certified as a risk-
42 assessor is not required to be certified as an inspector. Otherwise, an individual who

1 performs or offers to perform activities within the scope of more than one category must
2 be certified in each category.

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

6 **"§ 130A-455.1. Certification and other requirements of firms that perform**
7 **abatements.**

8 A firm or other entity shall not perform or offer to perform an abatement of target
9 housing or a child-occupied facility unless the entity is certified by the Department as a
10 firm that is qualified to perform the activity. An entity that performs an abatement of
11 target housing or a child-occupied facility shall not use an individual to perform the
12 abatement unless the individual is certified by the Department to perform the activity.

13 **"§ 130A-455.2. Qualifications for certification of individuals and firms.**

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

18 **"§ 130A-455.3. Renewal of certification.**

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

23 **"§ 130A-455.4. Accreditation of training courses and training providers.**

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

28 **"§ 130A-455.5. Certification and accreditation fee schedule.**

29 (a) The Commission shall establish fees for the items listed in the table below. A
30 fee for an item may not exceed the maximum amount set in the table. The fees for
31 examination and certification apply to each category in which a person is examined for
32 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>

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

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

7 **"§ 130A-455.6. Abatement permits.**

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

12 (b) Permit Fee. – An applicant for an abatement permit must pay an application fee
13 to the Department. The fee is two percent (2%) of the contracted price for the corrective
14 action to be performed in the abatement, not to exceed five hundred dollars (\$500.00).
15 The fee imposed under this section is a departmental receipt and shall be used by the
16 Department to administer this Article.

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

21 **"§ 130A-455.7. Standards to ensure elimination of hazards; consumer information.**

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

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

31 **"§ 130A-455.8. Commission to adopt rules.**

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

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

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

40 Section 3. G.S. 130A-455.8, as enacted by this act, and this section are
41 effective when they become law. The remainder of this act becomes effective three
42 months before the date the federal regulations in 40 C.F.R. Part 745 that implement
43 Subtitle B of the Residential Lead-Based Paint Hazard Reduction Act of 1992 become

1 effective. This act does not affect the interim certification program requirements that
2 apply before July 1, 1998, for individuals who perform lead-based paint activities funded
3 by a grant from the federal government.