

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 516
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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-453.01. Definitions.**

11 The following definitions apply in this Article:

12 (1) Abatement. – Any measure or sets of measures approved by the
13 Commission for the purposes of eliminating lead-based paint hazards.

14 Abatement includes, but is not limited to:

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

- 1 b. Removing a component, such as a windowsill, painted with
2 lead-based paint and replacing the component.
- 3 c. Enclosing a surface painted with lead-based paint with paneling,
4 vinyl siding, or another approved material.
- 5 d. Encapsulating a surface painted with lead-based paint with a
6 sealant.
- 7 e. All design, preparation, cleanup, disposal, and postabatement
8 clearance testing associated with these activities.
- 9 (2) Child-occupied facility. – Defined in 40 Code of Federal Regulations §
10 745.223 (As set out in the Federal Register of 29 August 1996).
- 11 (3) Inspection. – An investigation to determine the presence of lead-based
12 paint.
- 13 (4) Lead-based paint. – Paint or another surface coating that contains lead
14 in excess of a level that is safe, as established by the Commission.
- 15 (5) Lead-based paint hazard. – A condition that is likely to cause adverse
16 human health effects as a result of exposure to lead-based paint or to
17 soil or dust that contains lead derived from lead-based paint.
- 18 (6) Person. – Defined in G.S. 130A-444.
- 19 (7) Risk assessment. – An on-site investigation to determine and report the
20 source, severity, and location of a lead-based paint hazard.
- 21 (8) Target housing. – Defined in 40 Code of Federal Regulations § 745.223
22 (As set out in the Federal Register of 29 August 1996).

23 **§ 130A-453.02. Purpose of Article.**

24 (a) This Article is enacted to establish an authorized State program under section
25 404 of the Toxic Substances Control Act (15 U.S.C. § 2684), as enacted by Subtitle B,
26 section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Pub. L.
27 102-550, 106 Stat. 3916), that will apply in this State in lieu of the corresponding federal
28 program administered by the federal Environmental Protection Agency. This Article
29 requires a person who performs an inspection, risk assessment, or abatement of a child-
30 occupied facility or target housing to be certified and establishes the procedure and
31 requirements for certification. It also requires a person who conducts an abatement of a
32 child-occupied facility or target housing to obtain a permit for the abatement.

33 (b) This Article does not require the inspection, risk assessment, or abatement of a
34 child-occupied facility or target housing under any circumstance. G.S. 130A-131.5 and
35 the rules adopted to implement that section authorize the Department to order an
36 abatement to eliminate a lead poisoning hazard. This Article does not expand or
37 otherwise change that authority.

38 **§ 130A-453.03. Certification of individuals who perform inspections, risk**
39 **assessments, or abatements.**

40 (a) Requirement. – An individual shall not perform or offer to perform an
41 inspection, risk assessment, or abatement of target housing or a child-occupied facility
42 unless the individual is certified by the Department to perform the activity. Performance
43 of an inspection, risk assessment, or abatement encompasses a range of activities. To

1 ensure proper performance of all aspects of an inspection, risk assessment, or abatement,
 2 the certification requirement imposed on an individual applies to each activity. The
 3 categories of individual certification are inspector, risk-assessor, designer, supervisor,
 4 worker, and any other category required by federal law. The category of risk-assessor
 5 includes the category of inspector. Thus, a person who is certified as a risk-assessor is
 6 not required to be certified as an inspector. Otherwise, an individual who performs or
 7 offers to perform activities within the scope of more than one category must be certified
 8 in each category.

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

12 **"§ 130A-453.04. Certification and other requirements of firms that perform**
 13 **inspections, risk assessments, or abatements.**

14 A firm or other entity shall not perform or offer to perform an inspection, risk
 15 assessment, or abatement of target housing or a child-occupied facility unless the entity is
 16 certified by the Department as a firm that is qualified to perform the activity. An entity
 17 that performs an inspection, risk assessment, or abatement of target housing or a child-
 18 occupied facility shall not use an individual to perform the inspection, risk assessment, or
 19 abatement unless the individual is certified by the Department to perform the activity.

20 **"§ 130A-453.05. Qualifications for certification of individuals and firms.**

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

25 **"§ 130A-453.06. Renewal of certification.**

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

30 **"§ 130A-453.07. Accreditation of training courses and training providers.**

31 Completion of a training course on inspection, risk assessment, or abatement does not
 32 satisfy a training requirement that is a condition for certification under this Article unless
 33 both the course provider and the course have been accredited by the Department. The
 34 Commission shall establish the procedure and standards for a course provider and a
 35 course to be accredited.

36 **"§ 130A-453.08. Certification and accreditation fee schedule.**

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

41 Item	Maximum Fee
42 <u>Examination for certification</u>	<u>\$75</u>
43 <u>Certification as worker</u>	<u>50</u>

1	<u>Certification in any category other</u>	
2	<u> than worker</u>	<u>150</u>
3	<u>Course provider accreditation</u>	<u>150</u>
4	<u>Initial course accreditation</u>	<u>2,000</u>
5	<u>Renewal course accreditation</u>	<u>750.</u>

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

8 (c) Exemptions. – The examination and certification fees imposed under this
9 section do not apply to governmental regulatory personnel who perform inspections, risk
10 assessments, or abatements solely for the purpose of determining compliance with
11 applicable statutes or rules. The course provider fees imposed under this section do not
12 apply to the State, a unit of local government, or a nonprofit entity. The course
13 accreditation fees imposed under this section do not apply to a course offered by the
14 State, a unit of local government, or a nonprofit entity.

15 **"§ 130A-453.09. Abatement permits.**

16 (a) Requirement. – No person shall conduct an abatement of target housing or a
17 child-occupied facility unless the person has obtained a permit for the abatement from the
18 Department. The Commission shall establish the procedure for obtaining a permit.

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

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

28 **"§ 130A-453.10. Standards to ensure elimination of hazards; consumer information.**

29 (a) Standards. – The Commission shall establish standards to ensure that
30 inspections, risk assessments, and abatements performed under this Article result in the
31 elimination of lead-based paint hazards. An inspection, risk assessment, or abatement
32 performed under this Article must be performed in accordance with these standards.

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

38 **"§ 130A-453.11. Commission to adopt rules.**

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

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

41 "(b3) The Secretary may impose an administrative penalty on a person who violates
42 Article 19A of this Chapter or any rules adopted pursuant to Article 19A of this Chapter.
43 Each day of a continuing violation is a separate violation. The penalty shall not exceed

1 one thousand dollars (\$1,000) for each day the violation continues. The penalty
2 authorized by this section does not apply to a person who is not required to be certified
3 under this Article."

4 Section 3. G.S. 130A-453.11, as enacted by this act, and this section are
5 effective when they become law. The remainder of this act becomes effective 1 July
6 1998 unless, as of that date, Subpart L of Part 745 of Title 40 of the Code of Federal
7 Regulations (40 C.F.R. § 745.220, et seq., as set out in the Federal Register of 29 August
8 1996) is scheduled to become effective later than 1 September 1998, in which case the
9 remainder of this act becomes effective when Subpart L of Part 745 of Title 40 of the
10 Code of Federal Regulations becomes effective. This act does not affect the interim
11 certification program requirements that apply before 7 July 1998 for individuals who
12 perform lead-based paint activities funded by a grant from the federal government.