

By Senator Saunders

25-751-00

1                                   A bill to be entitled  
2           An act relating to the prevention of lead  
3           poisoning; creating the Florida Lead Poisoning  
4           Prevention Act; providing a short title;  
5           providing legislative findings and intent;  
6           providing for the training and certification or  
7           licensure of persons who perform lead-hazard  
8           reduction activities; providing definitions;  
9           creating the Florida Lead-based Paint Hazard  
10          Reduction Program; designating the Department  
11          of Business and Professional Regulation as the  
12          agency that implements, administers, and  
13          enforces the program; requiring the department,  
14          by a specified date, to issue rules for the  
15          development and approval of training programs;  
16          providing minimum requirements for such rules;  
17          requiring the department to establish training  
18          and licensure requirements for inspectors, risk  
19          assessors, lead-reduction planners and project  
20          designers, and lead contractors and  
21          certification requirements for their employees;  
22          requiring the department to accept training  
23          completed after a specified date in full or  
24          partial satisfaction of these training  
25          requirements; requiring the department to  
26          establish certain fees pertaining to licensure;  
27          providing that only licensed or certified  
28          persons may perform or represent that they are  
29          qualified to perform certain activities, and  
30          providing exceptions; exempting certain state  
31          or county employees from certain license fees;

1 providing for establishing standards; providing  
2 for rulemaking; allowing the issuance of  
3 reprimands and the revocation or suspension of  
4 licenses; allowing the department to impose a  
5 civil penalty; providing that each day of a  
6 violation constitutes a separate violation;  
7 requiring the department to make available to  
8 licensees and certified persons a copy of  
9 certain federal regulations; providing for fees  
10 and allowing refunds thereof; providing for the  
11 department to issue orders prescribing  
12 corrective action; providing for violations;  
13 providing penalties; providing an effective  
14 date.

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16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Florida Lead Poisoning Prevention Act.--

19 (1) This section may be cited as the "Florida Lead  
20 Poisoning Prevention Act."

21 (2)(a) The Legislature finds that childhood lead  
22 poisoning is a devastating environmental health hazard to the  
23 children of this state. Exposure to even low levels of lead  
24 increases a child's risks of developing permanent reading and  
25 learning disabilities, deficiencies in intelligence quotient,  
26 impaired hearing, reduced attention span, hyperactivity,  
27 behavior problems, and other neurological problems. It is  
28 estimated that thousands of children in this state who are  
29 below the age of 6 years are affected by lead poisoning.  
30 Childhood lead poisoning is dangerous to the public health,  
31 safety, and welfare.

1           (b) Childhood lead poisoning is the result of  
2 environmental exposure to lead. The most significant source of  
3 environmental lead is lead-based paint, particularly in  
4 housing built before 1978, which becomes accessible to  
5 children as paint chips, house dust, and soil contaminated by  
6 lead-based paint. The danger posed by lead-based paint hazards  
7 can be controlled by abatement or interim controls of  
8 lead-based paint or by measures to limit exposure to  
9 lead-based paint hazards.

10           (c) It is crucial that the identification of lead  
11 hazards and subsequent implementation of interim control or  
12 abatement procedures be accomplished in a manner that does not  
13 result in additional harm to the public or to the environment.  
14 Improper lead abatement constitutes a serious threat to  
15 persons who reside in or otherwise use an affected structure  
16 or site, to those performing such work, to the environment,  
17 and to the general public.

18           (d) The Legislature finds that it is in the public  
19 interest to establish minimum standards for the training and  
20 certification or licensure of all persons who perform  
21 lead-hazard reduction activities, including inspections, risk  
22 assessments, and planning and performance of interim controls  
23 or abatement measures.

24           (3) As used in this section, the term:

25           (a) "Abatement" means any set of measures designed to  
26 eliminate lead-based paint hazards, in accordance with  
27 standards developed by the department, including:

28           1. The removal of lead-based paint and  
29 lead-contaminated dust, the permanent containment or  
30 encapsulation of lead-based paint, the replacement of  
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1 lead-painted surfaces or fixtures, and the removal or covering  
2 of lead-contaminated soil; and

3 2. All preparation, cleanup, disposal, and  
4 post-abatement clearance testing activities associated with  
5 such measures.

6 (b) "Accessible surface" means an interior or exterior  
7 surface painted with lead-based paint which is accessible for  
8 a young child to mouth or chew.

9 (c) "Department" means the Department of Business and  
10 Professional Regulation.

11 (d) "Friction surface" means an interior or exterior  
12 surface that is subject to abrasion or friction, including  
13 certain window, floor, and stair surfaces.

14 (e) "Impact surface" means an interior or exterior  
15 surface or fixture that is subject to damage by repeated  
16 impacts, for example, certain parts of door frames.

17 (f) "Inspection" means a surface-by-surface  
18 investigation to determine the presence of lead-based paint  
19 and the production of a report explaining the results of the  
20 investigation.

21 (g) "Interim controls" means a measure or set of  
22 measures, as specified by the department, which are taken by  
23 the owner of a structure and are designed to temporarily  
24 control human exposure or likely exposure to lead-based paint  
25 hazards.

26 (h) "Lead-based paint" means paint or other surface  
27 coatings that contain lead in an amount that exceeds limits  
28 established by the department.

29 (i) "Lead-contaminated dust" means surface dust in  
30 residential dwellings or in other facilities occupied or  
31 regularly used by children which contains an area or a mass

1 concentration of lead in an amount that exceeds levels  
2 determined by the department to pose a threat of adverse  
3 health effects in pregnant women or young children.

4 (j) "Lead-contaminated soil" means exposed soil on  
5 residential real property or on other sites frequented by  
6 children which contains lead in an amount that equals or  
7 exceeds levels determined by the department to be hazardous to  
8 human health.

9 (k) "Lead-contaminated waste" means any discarded  
10 material resulting from an abatement activity which fails to  
11 meet the toxicity standards set by the department.

12 (l) "Lead firm" means a company, partnership,  
13 corporation, sole proprietorship, association, or other  
14 business entity that employs or contracts with persons for the  
15 performance of lead-based paint hazard reduction activities.

16 (m) "Lead hazard" means any condition that causes  
17 exposure to lead from lead-contaminated dust,  
18 lead-contaminated soil, or lead-contaminated paint that is  
19 deteriorated or present in accessible surfaces, friction  
20 surfaces, or impact surfaces which exposure is likely to  
21 result in adverse effects on human health, as established by  
22 the department.

23 (n) "Lead-based paint activities" means the inspection  
24 and assessment of lead hazards and the planning,  
25 implementation, and inspection of interim controls and  
26 abatement activities, in accordance with standards and  
27 procedures established by the department.

28 (o) "Lead-project designer" means a person who plans  
29 or designs abatement activities and interim controls.

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1           (p) "Lead inspector" means a person who conducts  
2 inspections to determine the presence of lead-based paint or  
3 lead-based paint hazards.

4           (q) "Risk assessment" means an onsite investigation to  
5 ascertain and report the existence, nature, severity, and  
6 location of lead-based paint hazards in or on any structure or  
7 site, including:

8           1. Gathering information regarding the age and history  
9 of the structure and the occupancy or other use of the  
10 structure or site by young children;

11           2. Conducting a visual inspection;

12           3. Performing limited wipe sampling or other  
13 environmental sampling techniques;

14           4. Undertaking such other activity as may be  
15 appropriate; and

16           5. Producing a report explaining the results of the  
17 investigation.

18           (r) "Lead-risk assessor" means a person who conducts  
19 onsite risk assessments of lead hazards.

20           (s) "Lead worker" means any person who performs  
21 lead-hazard reduction activities.

22           (4)(a) There is created the Florida Lead-based Paint  
23 Hazard Reduction Program. The Department of Business and  
24 Professional Regulation is designated as the state agency  
25 responsible for implementing, administering, and enforcing the  
26 program.

27           (b) The department, not later than 1 year after the  
28 effective date of regulations adopted by the federal  
29 Environmental Protection Agency which relate to lead-paint  
30 abatement certification programs, shall issue regulations  
31 requiring the development and approval of training programs

1 for licensing or certifying persons who perform lead-hazard  
2 detection or lead-hazard reduction services, which may  
3 include, but need not be limited to, lead inspectors, risk  
4 assessors, lead-project designers, lead firms, lead  
5 supervisors, and employees of such persons. The regulations  
6 for the approval of training programs must include minimum  
7 requirements for the approval of training providers,  
8 curriculum requirements, training hours, hands-on training,  
9 examinations of competency and proficiency, and  
10 training-program quality control. The approval program must  
11 provide for reciprocal approval of training programs that have  
12 comparable requirements and have been approved by another  
13 state or the United States. The approval program may be  
14 designed to meet the minimum requirements for federal approval  
15 under section 404 of the federal Toxic Substances Control Act,  
16 and the department may apply for such approval. The department  
17 shall establish fees for the approval of such training  
18 programs.

19 (c)1. The department, not later than 1 year after the  
20 effective date of regulations adopted by the federal  
21 Environmental Protection Agency which relate to lead-paint  
22 abatement certification programs, shall establish training and  
23 licensure requirements for inspectors, risk assessors,  
24 lead-reduction planners and project designers, and lead  
25 contractors and certification requirements for their  
26 employees. In order to be licensed under this section, a  
27 person must have successfully completed the appropriate  
28 training program, passed an examination approved by the  
29 department for the appropriate category of license, and  
30 completed any additional requirements imposed by the  
31 department by rule. The department may accept any lead-hazard

1 training completed after January 1, 1990, in full or partial  
2 satisfaction of the training requirements. The department may  
3 establish requirements for periodic refresher training for all  
4 licensees as a condition of license renewal. The department  
5 shall establish, for all licenses issued under this section,  
6 examination fees, license fees, and renewal fees that reflect  
7 the cost of issuing and renewing such licenses, regulating  
8 licensed activities, and administering the program.

9 (2) On and after the effective date of rules adopted  
10 under this section, a person may not perform or represent that  
11 he or she is qualified to perform any lead-based paint  
12 activities unless he or she possesses the appropriate  
13 licensure or certification, as determined by the department,  
14 or unless he or she is:

15 (a) An owner performing abatement upon that owner's  
16 residential dwelling unit in which he or she resides;

17 (b) An employee of a property management company doing  
18 routine cleaning and repainting upon property managed by that  
19 company where there is insignificant damage to, wear of, or  
20 corrosion of existing lead-containing paint or coating  
21 substances; or

22 (c) An owner routinely cleaning or repainting his or  
23 her property where there is insignificant damage to, wear of,  
24 or corrosion of existing lead-contaminated paint or coating  
25 substances.

26 (3) A person who is employed by a state or county  
27 health department or a state or federal agency to conduct lead  
28 investigations to determine the sources of lead poisonings, as  
29 determined by the department, must be licensed under  
30 subsection (2) as a lead-risk assessor but need not pay any  
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1 fees otherwise required under this section or under rules  
2 adopted by the department under this section.

3 (d) The department shall adopt rules establishing  
4 standards of acceptable professional conduct for the  
5 performance of lead-hazard reduction activities, as well as  
6 specific acts and omissions that constitute grounds for the  
7 reprimand of any licensee, the suspension or revocation of a  
8 license, or the denial of the issuance or renewal of a  
9 license.

10 (5) The department shall adopt all rules necessary for  
11 the implementation and enforcement of this section. In  
12 addition to issuing a reprimand or revoking or suspending a  
13 license, the department may impose upon a person who violates  
14 any provision of this section or any rule adopted thereunder  
15 or any term or condition of licensure a civil penalty of not  
16 more than \$10,000, which may be in addition to any reprimand  
17 issued to, or license revocation or suspension imposed upon,  
18 the person. If any violation is a continuing one, each day of  
19 the violation constitutes a separate violation for the purpose  
20 of computing the applicable civil penalty.

21 (6)(a) The department shall make available to all  
22 persons who are licensed or certified under this section a  
23 copy of the current federal regulations affecting the  
24 licensees or certified persons.

25 (b) The department may charge an application fee, a  
26 license fee, a license renewal fee, or a similar fee in an  
27 amount set by the department. Each such fee must be in an  
28 amount such that the total of the fees charged approximates  
29 the total of the direct and indirect costs to the state of the  
30 operation of the licensing program. Fees may be refunded for  
31 good cause as determined by the department.

