

By Representative Prieguez

1                                   A bill to be entitled  
2           An act relating to lead poisoning prevention;  
3           creating the "Florida Lead Poisoning Prevention  
4           Act of 2002"; providing legislative findings;  
5           providing definitions; establishing the  
6           Lead-Based Paint Hazard Reduction Program  
7           within the Department of Business and  
8           Professional Regulation; providing for the  
9           adoption of rules for the licensing or  
10          certification of persons performing lead hazard  
11          detection and lead hazard reduction services;  
12          providing rule criteria; requiring the  
13          establishment of fees for the approval of  
14          training programs; requiring the department to  
15          establish training and licensure requirements;  
16          requiring the department to establish specified  
17          fees; prohibiting the performance of, or  
18          training of persons to perform, any lead-based  
19          paint activities regulated under the act  
20          without appropriate licensure or certification;  
21          providing exceptions; requiring the department  
22          to adopt rules establishing standards of  
23          professional conduct for the performance of  
24          lead hazard detection and lead hazard reduction  
25          activities and grounds for reprimand of a  
26          licensee, suspension or revocation of a  
27          license, and denial of issuance or renewal of a  
28          license; authorizing the department to  
29          promulgate rules for the implementation and  
30          enforcement of the act; providing a civil  
31          penalty; requiring the department to provide

1 current federal regulations to persons licensed  
2 or certified under the act; authorizing the  
3 department to issue corrective orders for  
4 violations of the act; providing a penalty;  
5 providing an effective date.  
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7 Be It Enacted by the Legislature of the State of Florida:  
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9 Section 1. Short title.--This act shall be known and  
10 may be cited as the "Florida Lead Poisoning Prevention Act of  
11 2002."

12 Section 2. Legislative findings.--

13 (1) The Legislature finds that childhood lead  
14 poisoning is a devastating environmental health hazard to the  
15 children of this state. Exposure to even low levels of lead  
16 increases a child's risks of developing permanent reading and  
17 learning disabilities, intelligence quotient deficiencies,  
18 impaired hearing, reduced attention span, hyperactivity,  
19 behavior problems, and other neurological problems. It is  
20 estimated that thousands of children below the age of 6 are  
21 affected by lead poisoning in Florida. Childhood lead  
22 poisoning is dangerous to the public health, safety, and  
23 general welfare.

24 (2) Childhood lead poisoning is the result of  
25 environmental exposure to lead. The most significant source of  
26 environmental lead exposure is lead-based paint, found  
27 particularly in housing built prior to 1978, which becomes  
28 accessible to children in lead-based paint chips,  
29 lead-contaminated dust, and lead-contaminated soil. The danger  
30 posed by lead-based paint hazards can be controlled by  
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1 abatement or interim controls of lead-based paint or by  
2 measures to limit exposure to lead-based paint hazards.

3 (3) It is crucial that the identification of lead  
4 hazards, including lead-contaminated waste, and subsequent  
5 implementation of interim controls or abatement procedures be  
6 accomplished in a manner that does not result in additional  
7 harm to the public or the environment. Improper lead hazard  
8 abatement constitutes a serious threat to persons residing in  
9 or otherwise using an affected structure or site, to those  
10 performing lead hazard abatement procedures, to the  
11 environment, and to the general public.

12 (4) The Legislature finds that it is in the public  
13 interest to establish minimum standards for the training,  
14 certification, and licensure of all persons performing lead  
15 hazard detection and lead hazard reduction activities,  
16 including inspections, risk assessments, and planning and  
17 performance of interim controls or abatement measures.

18 Section 3. Definitions.--As used in this act, the  
19 term:

20 (1) "Abatement" means any set of measures designed to  
21 eliminate lead-based paint hazards, in accordance with  
22 standards developed by the department, including removal of  
23 lead-based paint and lead-contaminated dust, the permanent  
24 containment or encapsulation of lead-based paint, the  
25 replacement of lead-painted surfaces or fixtures, the removal  
26 or covering of lead-contaminated soil, and all preparation,  
27 cleanup, disposal, and postabatement clearance testing  
28 activities associated with such measures.

29 (2) "Accessible surface" means an interior or exterior  
30 surface painted with lead-based paint that is accessible for a  
31 young child to place in his or her mouth or to chew.

- 1       (3) "Department" means the Department of Business and  
2 Professional Regulation.
- 3       (4) "Friction surface" means an interior or exterior  
4 surface that is subject to abrasion or friction, including  
5 certain window, floor, and stair surfaces.
- 6       (5) "Impact surface" means an interior or exterior  
7 surface or fixture that is subject to damage by repeated  
8 impacts, including certain parts of door frames.
- 9       (6) "Inspection" means a surface-by-surface  
10 investigation to determine the presence of lead-based paint  
11 and the provision of a report explaining the results of the  
12 investigation.
- 13       (7) "Interim controls" means a measure or set of  
14 measures, as specified by the department, taken by the owner  
15 of a structure that is designed to temporarily control human  
16 exposure or likely exposure to lead-based paint hazards.
- 17       (8) "Lead-based paint" means paint or other surface  
18 coatings that contain lead in excess of limits established by  
19 the department.
- 20       (9) "Lead-contaminated dust" means surface dust in a  
21 residential dwelling or in any other facility occupied or  
22 regularly used by children that contains an area or mass  
23 concentration of lead in excess of levels determined by the  
24 department to pose a threat of adverse health effects in  
25 pregnant women or young children.
- 26       (10) "Lead-contaminated soil" means bare soil on  
27 residential real property or on other sites frequented by  
28 children that contains lead at or in excess of levels  
29 determined by the department to be hazardous to human health.  
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1       (11) "Lead-contaminated waste" means any discarded  
2 material resulting from an abatement activity that fails the  
3 toxicity characteristics determined by the department.

4       (12) "Lead firm" means a company, partnership,  
5 corporation, sole proprietorship, association, or other  
6 business entity that employs or contracts with persons to  
7 perform lead-based paint hazard reduction activities.

8       (13) "Lead hazard" means any condition that causes  
9 exposure to lead from lead-contaminated dust,  
10 lead-contaminated soil, or lead-contaminated paint that is  
11 characterized by deterioration or is present in accessible  
12 surfaces, friction surfaces, or impact surfaces and would  
13 result in adverse human health effects as established by the  
14 department.

15       (14) "Lead-based paint activities" means the  
16 inspection and assessment of lead hazards and the planning,  
17 implementation, and inspection of interim controls and  
18 abatement activities as determined by the department.

19       (15) "Lead project designer" means a person who plans  
20 or designs abatement activities and interim controls.

21       (16) "Lead inspector" means a person who conducts  
22 inspections to determine the presence of lead-based paint or  
23 lead-based paint hazards.

24       (17) "Program" means the Florida Lead-Based Paint  
25 Hazard Reduction Program within the Department of Business and  
26 Professional Regulation as established by this act.

27       (18) "Risk assessment" means an onsite investigation  
28 to determine and report the existence, nature, severity, and  
29 location of lead-based paint hazards in or on any structure or  
30 site, including:

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1       (a) Information gathering regarding the age and  
2 history of the structure and the occupancy or other use by  
3 young children.

4       (b) Visual inspection.

5       (c) Limited wipe sampling or other environmental  
6 sampling techniques.

7       (d) Any other investigative activity as may be  
8 appropriate.

9       (e) Provision of a report explaining the results of  
10 the investigation.

11       (19) "Lead risk assessor" means a person who conducts  
12 onsite risk assessments of lead hazards.

13       (20) "Lead worker" means any person or employee  
14 performing lead hazard detection or lead hazard reduction  
15 activities.

16       Section 4. Florida Lead-Based Paint Hazard Reduction  
17 Program.--

18       (1) There is established within the Department of  
19 Business and Professional Regulation the Florida Lead-Based  
20 Paint Hazard Reduction Program. The department is designated  
21 as the state agency responsible for implementation,  
22 administration, and enforcement of the program.

23       (2) Not later than 1 year after the effective date of  
24 regulations promulgated by the United States Environmental  
25 Protection Agency relating to lead paint abatement  
26 certification programs, the department shall adopt rules  
27 pursuant to ss. 120.536(1) and 120.54, Florida Statutes,  
28 requiring the development and approval of training programs  
29 for the licensing or certification of persons performing lead  
30 hazard detection and lead hazard reduction services, which may  
31 include, but shall not be limited to, lead inspectors, lead

1 risk assessors, lead project designers, lead firms, lead  
2 supervisors, and lead workers employed by such persons or  
3 entities. Rules for the approval of training programs shall  
4 include minimum requirements for approval of training  
5 providers, curriculum requirements, training-hour  
6 requirements, hands-on training requirements, examinations of  
7 competency and proficiency, and training program quality  
8 control. The rules shall provide for reciprocal approval of  
9 training programs with comparable requirements approved by  
10 other states or by the Federal Government. The approval  
11 program may be designed to meet the minimum requirements for  
12 federal approval under the United States Toxic Substances  
13 Control Act and the department may apply for such approval.  
14 The department shall establish by rule fees for the approval  
15 of such training programs.

16 (3) Not later than 1 year after the effective date of  
17 regulations promulgated by the United States Environmental  
18 Protection Agency relating to lead paint abatement  
19 certification programs, the department shall establish  
20 training, licensure, and licensure renewal requirements for  
21 lead inspectors, lead risk assessors, lead reduction planners,  
22 lead project designers, and lead contractors, and shall  
23 establish certification requirements for workers employed by  
24 such persons or entities. No person shall be licensed under  
25 this act unless such person has successfully completed the  
26 appropriate training program, passed an examination approved  
27 by the department for the appropriate category of license, and  
28 completed any additional requirement imposed by the department  
29 by rule. The department is authorized to accept any lead  
30 hazard training completed after January 1, 1990, in full or  
31 partial satisfaction of the training requirements under this

1 act. The department may establish continuing education  
2 requirements for licensees as a condition of license renewal.

3 (4) The department shall by rule establish examination  
4 fees, license fees, and license renewal fees for all licenses  
5 issued under this act, provided that such fees shall be  
6 reasonable, shall reflect the cost of issuing and renewing  
7 such licenses and the cost of licensing activities regulated  
8 under the act, and shall be determined in such a manner as to  
9 approximate the total of the direct and indirect costs to the  
10 state of the operation and administration of the program. Fees  
11 may be refunded for good cause as determined by the  
12 department.

13 (5) On and after the effective date of rules  
14 promulgated by the department as provided in subsection (3),  
15 no person shall perform, represent that such person is  
16 qualified to perform, or engage in the training of persons to  
17 perform any lead-based paint activities regulated under this  
18 act unless such person possesses the appropriate license or  
19 certification as determined by the department. The  
20 requirements for licensure or certification to perform  
21 lead-based paint activities regulated under this act do not  
22 apply to:

23 (a) An owner of a residential dwelling unit performing  
24 abatement upon the residential dwelling unit in which he or  
25 she resides;

26 (b) An employee of a property management company  
27 performing routine cleaning or repainting upon property  
28 managed by that company where there is insignificant damage,  
29 wear, or corrosion of existing lead-based paint or  
30 lead-containing coating substances; or  
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1       (c) An owner routinely cleaning or repainting his or  
2 her property where there is insignificant damage to, wear of,  
3 or corrosion of existing lead-based paint or lead-containing  
4 coating substances.

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6 A person who is employed by a state or county health  
7 department or state or federal agency to conduct lead  
8 investigations to determine the sources of lead poisonings, as  
9 determined by the department, shall be subject to licensing  
10 pursuant to subsection (3) as a lead risk assessor but shall  
11 not be required to pay any fees as otherwise required under  
12 this act or under rules promulgated by the department under  
13 this act.

14       (6) The department shall promulgate rules pursuant to  
15 ss. 120.536(1) and 120.54, Florida Statutes, establishing  
16 standards of acceptable professional conduct for the  
17 performance of lead hazard detection activities and lead  
18 hazard reduction activities, as well as specific acts and  
19 omissions that constitute grounds for the reprimand of any  
20 licensee, the suspension or revocation of a license, or the  
21 denial of issuance or renewal of a license. The department is  
22 authorized to revoke or suspend any license, certification,  
23 approval, or accreditation issued hereunder in accordance with  
24 rules promulgated pursuant to this act.

25       (7) The department is authorized to promulgate rules  
26 pursuant to ss. 120.536(1) and 120.54, Florida Statutes,  
27 necessary for the implementation and enforcement of this act.  
28 In addition to any action which may be taken to reprimand a  
29 licensee or to revoke or suspend a license, any person who  
30 violates any provision of this act, any rule promulgated  
31 pursuant to this act, or any term or condition of licensure

1 may be subject to a civil penalty of not more than \$10,000 to  
2 be imposed by the department. Each day or any portion thereof  
3 in which a violation continues shall constitute a separate  
4 violation for the purpose of calculating the civil penalty  
5 imposed under this subsection.

6 (8) The department shall make available to all persons  
7 licensed or certified under this act current federal  
8 regulations affecting such licensees or certified persons.

9 (9) The department is authorized to issue a corrective  
10 order to any person in violation of this act or any rule  
11 promulgated pursuant thereto. The order shall specify the  
12 provisions of this act or any rule alleged to have been  
13 violated and shall order necessary corrective action to be  
14 taken within a reasonable time to be prescribed in such order.

15 (10) Any person who violates the provisions of this  
16 act commits a misdemeanor of the second degree, punishable as  
17 provided in s. 775.082 or s. 775.083, Florida Statutes.

18 Section 5. This act shall take effect upon becoming a  
19 law.

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HOUSE SUMMARY

Creates the "Florida Lead Poisoning Prevention Act of 2002." Provides legislative findings. Provides definitions. Establishes the Lead-Based Paint Hazard Reduction Program within the Department of Business and Professional Regulation. Provides for the adoption of rules for the licensing or certification of persons performing lead hazard detection services and lead hazard reduction services. Provides rule criteria. Requires the establishment of fees for the approval of training programs. Requires the department to establish training and licensure requirements. Requires the department to establish specified fees. Prohibits the performance of, or training of persons to perform, any lead-based paint activities regulated under the act without appropriate licensure or certification and provides exceptions. Requires the department to adopt rules establishing standards of professional conduct for the performance of lead hazard detection and lead hazard reduction activities and for grounds for reprimand of a licensee, suspension or revocation of a license, or denial of issuance or renewal of a license. Authorizes the department to promulgate rules for the implementation and enforcement of the act. Provides a civil penalty. Requires the department to provide current federal regulations to persons licensed or certified under the act. Authorizes the department to issue corrective orders for violations of the act. Provides a second degree misdemeanor penalty for violation of the act.