

LEGISLATIVE BILL 863

Approved by the Governor May 26, 1999

Introduced by Natural Resources Committee: Schrock, 38, Chairperson;
Bohlke, 33; Bromm, 23; Hudkins, 21; Jones, 43; Preister, 5;
Stuhr, 24; and Chambers, 11; Hilgert, 7; Kiel, 9

AN ACT relating to the Environmental Lead Hazard Control Act; to amend sections 71-6318, 71-6320, 71-6321, 71-6322, 71-6323, 71-6327, 71-6328, 71-6329, 71-6330, and 71-6331, Reissue Revised Statutes of Nebraska, and section 71-6326, Revised Statutes Supplement, 1998; to rename the act; to provide for certification of residential lead-based paint professions; to state intent; to define and redefine terms and to eliminate definitions; to eliminate regulation of environmental lead hazard occupations; to eliminate an operative date; to harmonize provisions; to provide severability; to repeal the original sections; to outright repeal sections 71-6319, 71-6324, 71-6325, 71-6332, and 71-6333, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-6318, Reissue Revised Statutes of Nebraska, is amended to read:

71-6318. Sections 71-6318 to ~~71-6333~~ 71-6331 and sections 2 to 42, 53, and 54 of this act shall be known and may be cited as the Environmental Lead Hazard Control Residential Lead-Based Paint Professions Certification Act.

Sec. 2. (1) The Residential Lead-Based Paint Professions Certification Act contains procedures and requirements for the accreditation of training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing lead-based paint activities. The act also requires that, except as otherwise provided in the act, all lead-based paint activities be performed by certified individuals and firms.

(2) The act applies to all individuals and firms who are engaged in lead-based paint activities, except persons who perform lead-based paint activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed or unless a child residing in the building has been identified as having an elevated blood-lead level.

(3) While the act establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in the act requires that the owner or occupant undertake any particular lead-based paint activity.

Sec. 3. For purposes of the Residential Lead-Based Paint Professions Certification Act, the definitions found in sections 4 to 42 of this act apply.

Sec. 4. Abatement or abatement project means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

(1) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil;

(2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures; and

(3)(a) Projects for which there is a written contract or other documentation which provides that a firm or an individual will be conducting activities in or to a residential dwelling or child-occupied facility that (i) will result in the permanent elimination of lead-based paint hazards or (ii) are designed to permanently eliminate lead-based paint hazards and are described in subdivision (1) or (2) of this section;

(b) Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals certified in accordance with the department unless such projects are excluded from the definition of abatement or abatement project under this section;

(c) Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals who or which, through company name or promotional literature, hold themselves out to be in the business of

performing lead-based paint activities unless such projects are excluded from the definition of abatement or abatement project under this section; or

(d) Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to state or local abatement orders.

Abatement does not include renovation, remodeling, landscaping, or other activities when such activities are not designed to permanently eliminate lead-based paint hazards but instead are designed to repair, restore, or remodel a structure or dwelling even if such activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include interim controls, operations, and maintenance activities or other measures and activities designed to temporarily but not permanently reduce lead-based paint hazards.

Sec. 5. Accredited training program means a training program that has been accredited by the department to provide training for individuals engaged in lead-based paint activities.

Sec. 6. Certified abatement worker means an individual who has been trained by an accredited training program and certified by the department to perform abatement projects.

Sec. 7. Certified firm means a firm to which the department has issued a certificate of approval.

Sec. 8. Certified inspector means an individual who has been trained by an accredited training program and certified by the department to conduct inspections and sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Sec. 9. Certified project designer means an individual who has been trained by an accredited training program and certified by the department to prepare abatement project designs, occupant protection plans, and abatement reports.

Sec. 10. Certified risk assessor means an individual who has been trained by an accredited training program and certified by the department to conduct risk assessments and to sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Sec. 11. Certified supervisor means an individual who has been trained by an accredited training program and certified by the department to supervise and conduct abatement projects and to prepare occupant protection plans and abatement reports.

Sec. 12. Certified visual lead-hazard advisor means an individual who has been trained by an accredited training program and certified by the department to conduct a visual lead-hazard screen.

Sec. 13. Child-occupied facility means a building or portion of a building, constructed prior to 1978, visited regularly by the same child six years of age or under, on at least two different days within any seven-day period running from Sunday through Saturday, if each daily visit lasts at least three hours, the combined weekly visits last at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facility may include, but is not limited to, a day-care center, a preschool, or a kindergarten classroom.

Sec. 14. Common area means a portion of a building that is generally accessible to all occupants and may include, but is not limited to, a hallway, stairway, laundry or recreational room, playground, community center, garage, or boundary fence.

Sec. 15. Component or building component means a specific design or structural element or a fixture of a building, residential dwelling, or child-occupied facility that is distinguished from others by form, function, and location and may include, but is not limited to, (1) interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim including sashes, window heads, jambs, or sills or stools and troughs, built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners and (2) exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascia, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes, and wells, and air conditioners.

Sec. 16. Containment means a process to protect workers and the environment by controlling exposure to the lead-contaminated dust and debris created during an abatement project.

Sec. 17. Department means the Department of Health and Human

Services Regulation and Licensure.

Sec. 18. Deteriorated paint means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Sec. 19. Director means the Director of Regulation and Licensure or his or her designee.

Sec. 20. Elevated blood-lead level means a confirmed concentration of lead in whole blood of twenty micrograms of lead per deciliter of whole blood for a single venous test or of fifteen to nineteen micrograms of lead per deciliter of whole blood in two consecutive tests taken three to four months apart.

Sec. 21. Encapsulant means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

Sec. 22. Encapsulation means the application of an encapsulant.

Sec. 23. Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

Sec. 24. Firm means a company, partnership, corporation, sole proprietorship, association, or other business entity that conducts lead-based paint abatement or abatement projects.

Sec. 25. Guest instructor means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

Sec. 26. Inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Sec. 27. Interim controls means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

Sec. 28. Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter or more than five-tenths of one percent by weight in a residential dwelling or child-occupied facility.

Sec. 29. Lead-based paint activities means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

Sec. 30. Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated paint or is present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the director.

Sec. 31. Lead-based paint profession means one of the specific types or categories of lead-based paint activities identified in the Residential Lead-Based Paint Professions Certification Act for which individuals may receive training from an accredited training program and become certified by the department.

Sec. 32. Lead-contaminated dust means surface dust in a residential dwelling or child-occupied facility that contains an area or mass concentration of lead at or in excess of levels identified by the director.

Sec. 33. Lead-contaminated soil means bare soil on residential real property or on the property of a child-occupied facility that contains lead at or in excess of levels identified by the director.

Sec. 34. Person means any natural or judicial person, including any individual, corporation, partnership, or association, any state, or political subdivision thereof, any interstate body, and any department, agency, or instrumentality of the United States Government.

Sec. 35. Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course.

Sec. 36. Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Sec. 37. Residential dwelling means a detached single-family dwelling unit, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Sec. 38. Risk assessment means an onsite investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Sec. 39. Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities unless one or more children six years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities or any zero-bedroom dwelling.

Sec. 40. Training curriculum means an established set of course topics for instruction in an accredited training program for a particular lead-based paint profession designed to provide specialized knowledge and skills.

Sec. 41. Training program manager means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

Sec. 42. Visual lead-hazard screen means a visual assessment to determine the presence of deteriorated paint or other potential sources of lead-based paint hazards in a residential dwelling or child-occupied facility. Visual lead-hazard screen includes a written report explaining the results and limitations of the assessment. The written report will be provided to the person requesting the inspection, the residents of the dwelling, and the owner of the dwelling or child-occupied facility. A certified visual lead-hazard advisor shall retain a copy of the report in his or her files for three years.

Sec. 43. Section 71-6320, Reissue Revised Statutes of Nebraska, is amended to read:

71-6320. Except as otherwise provided in this section the Residential Lead-Based Paint Professions Certification Act, a business entity firm shall not engage in a lead abatement project unless the business entity firm holds a license certificate for that purpose. A business entity which (1) only performs lead abatement projects which are less than two hundred sixty linear feet or which are less than one hundred sixty square feet and linear feet in any combination or (2) uses its own employees for a lead abatement project for the purpose of renovating, maintaining, or repairing its own facilities shall not be required to hold a license. Business entities not required to hold a license shall provide a training course to inform the employees of the health and safety aspects of the lead abatement project, including the applicable state standards. The training course shall meet the standards for review courses as prescribed in section 71-6327 and the rules and regulations adopted and promulgated pursuant to such section. The training course shall be available for review and approval upon inspection by the department.

Sec. 44. Section 71-6321, Reissue Revised Statutes of Nebraska, is amended to read:

71-6321. (1) The department shall administer the ~~Environmental Lead Hazard Control Residential Lead-Based Paint Professions Certification Act.~~

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing lead abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal firm certificate or certificate renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a certified abatement worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a certified supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an a certified inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a certified risk assessor, not less than seventy dollars or more than two hundred dollars;

(f) For certification or recertification of a certified visual lead-hazard advisor, not less than thirty-five dollars or more than one hundred dollars;

(g) For certification or recertification of a certified project designer, not less than seventy dollars or more than two hundred dollars;

~~(f) For approval~~ (h) For accreditation of a training course program, not less than one thousand dollars or more than two thousand five hundred

dollars, which fee shall include one onsite inspection if such inspection is required by the department;

~~(g) For approval~~ (i) For accreditation of a review course or a ~~four-hour~~ course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

~~(h)~~ (j) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual ~~lead~~ abatement project is in progress; and

~~(i)~~ (k) For a project review of each ~~lead~~ abatement project of a certified firm, licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license firm certificate and one hundred dollars for approval accreditation of a training course program shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of a lead an abatement project the department shall conduct an onsite inspection of each licensed business entity's certified firm's procedures for performing lead abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act if such agencies have the appropriate certification or accreditation as described in the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for lead abatement projects, for the certification of lead-based paint professions, for the accreditation of training programs, for the accreditation of training program providers, for the dissemination of prerenovation information to homeowners and occupants, for the facilitation of compliance with federal lead-based paint hazard control grant programs, and for the implementation of lead-based paint compliance monitoring and enforcement activities. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead occupations lead-based paint professions and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act. Any funds applied for, received, or used by the department or any political subdivision from the federal government or any public entity may be used only to abate lead-based paint hazards and for the administration of lead-based paint programs which address health and environmental hazards caused by lead-based paint.

Sec. 45. Section 71-6322, Reissue Revised Statutes of Nebraska, is amended to read:

71-6322. To qualify for a license certificate, a business entity firm shall:

(1) Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment, as prescribed by the department, which is designed for use in lead abatement projects;

(2) Ensure that each employee or agent of the business entity firm who will come into contact with lead or who will be present on a lead participate in an abatement project is certified as required by the Environmental Lead Hazard Control Residential Lead-Based Paint Professions Certification Act;

(3) Demonstrate to the satisfaction of the department that the business entity firm is capable of complying with all applicable requirements, procedures, and standards pertaining to lead abatement projects; and

(4) Meet any other standards which the department may deem necessary

to protect the health, safety, and welfare of all classes of ~~lead occupations~~ lead-based paint professions and the general public.

Sec. 46. Section 71-6323, Reissue Revised Statutes of Nebraska, is amended to read:

71-6323. (1) To apply for a ~~license certificate~~, a ~~business entity~~ firm shall submit an application to the department in the form required by the department and shall pay the fee prescribed by the department.

(2) The application shall include, but not be limited to:

(a) The name, address, and nature of the firm;

(b) A statement that all individuals who will engage in any abatement project for the certificate holder will be certified as required by the Residential Lead-Based Paint Professions Certification Act;

(c) A description of the removal, enclosure, encapsulation, demolition, dismantling, and maintenance methods that the firm will use;

(d) A description of the procedures that the firm will use for handling lead-containing waste;

(e) A description of the procedures that the firm will use in cleaning up the abatement project;

(f) The signature of the chief executive officer of the firm or his or her designee; and

(g) Such other information as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of all classes of lead-based paint professions and the general public.

~~(2) The application shall include, but not be limited to:~~

~~(a) The name, address, and nature of the business entity;~~

~~(b) A statement that all persons who will engage in any lead abatement project for the licensee will be certified as required by the Environmental Lead Hazard Control Act;~~

~~(c) A description of the removal, enclosure, encapsulation, demolition, dismantling, and maintenance methods that the business entity will use;~~

~~(d) A description of the procedures that the business entity will use for handling lead-containing waste;~~

~~(e) A description of the procedures that the business entity will use in cleaning up the lead abatement project;~~

~~(f) The signature of the chief executive officer of the business entity or his or her designee; and~~

~~(g) Such other information as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of all classes of lead occupations and the general public.~~

Sec. 47. Section 71-6326, Revised Statutes Supplement, 1998, is amended to read:

71-6326. (1) An individual ~~person~~ shall not be eligible to work on a ~~lead~~ an abatement project unless the ~~person~~ individual holds a certificate issued by the department. ~~Each application for a certificate shall include the applicant's social security number.~~

(2) The department shall issue the following classes of certificates: Worker, supervisor, inspector, risk assessor, visual lead-hazard advisor, elevated blood-lead level inspector, and project designer. To qualify for a certificate of a particular class, a ~~person~~ an individual shall have (a) successfully completed a training course approved or administered by the department, (b) ~~been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator,~~ and (c) ~~passed an examination approved or administered by the department with at least the minimum score prescribed by the department~~ passed an examination approved or administered by the department with at least the minimum score prescribed by the department, and (c) for the classes of worker and supervisor, been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator.

(3) A certificate or renewal certificate shall be valid for ~~one year~~ three years from the date of issuance. To qualify for a renewal certificate, the applicant shall meet the requirements of section 71-6327.

(4) Applications for certificates and renewal certificates shall be submitted to the department on forms prescribed by the department and shall be accompanied by the prescribed fee.

~~(5) The department may issue a limited certificate to a project designer who does not intend to enter any project design or lead abatement project work site. An applicant for a limited certificate under this subsection shall not be required to comply with the requirements of~~

subdivision (2)(b) of this section. A holder of a limited certificate shall not enter any project design or lead abatement project work site. Such limitation shall be endorsed upon the certificate. Violation of such limitation shall be grounds for disciplinary action against the certificate pursuant to section 71-6331.

Sec. 48. Section 71-6327, Reissue Revised Statutes of Nebraska, is amended to read:

71-6327. (1) Any person individual certified in any of the lead occupations lead-based paint professions prescribed in section 71-6326 the Residential Lead-Based Paint Professions Certification Act, as a condition for recertification, shall successfully complete an annual a review course approved by the department.

(2) Each review course shall be specific for each of the classes of occupations referred to in such section and shall include a review and discussion of changes in federal and state regulations, new developments in lead abatement procedures and techniques specific for that class, and a review of principal aspects of the initial training course. The written examination for each of the classes for recertification shall be approved and may be administered by the department. The passing score shall be determined by the department.

(3) An applicant for approval of a review course shall submit an application for approval of such course on a form provided by the department together with the prescribed fee.

Sec. 49. Section 71-6328, Reissue Revised Statutes of Nebraska, is amended to read:

71-6328. No state agency, county, city, village, school district, or other political subdivision shall accept a bid in connection with any lead abatement project, except any project exempt under section 71-6320, from a business entity firm which does not hold a license certificate from the department at the time the bid is submitted.

Sec. 50. Section 71-6329, Reissue Revised Statutes of Nebraska, is amended to read:

71-6329. (1) A person or business entity firm which engages in a lead an abatement project without a valid license, except as otherwise provided in the Environmental Lead Hazard Control Act, certificate as provided in the Residential Lead-Based Paint Professions Certification Act shall be assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(2) A person An individual who engages in a lead occupation lead-based paint profession without a valid certificate, except as otherwise provided in the act, shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than one thousand dollars nor more than fifteen thousand dollars for the second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(3) Any person or business entity firm which knowingly engages in a lead an abatement project but which uses employees who do not hold certificates shall be assessed a civil penalty of not less than five hundred thousand dollars nor more than five twenty-five thousand dollars for the first offense and not less than five twenty-five thousand dollars nor more than ten one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(4) Any firm conducting an accredited training program which knowingly engages in issuing fraudulent certificates or fails to conduct its training program in accordance with its accreditation shall, in addition to having its accreditation revoked, pay a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars.

(4) (5) The civil penalties prescribed in subsections (1), (2), and (3), and (4) of this section shall be assessed in a civil action brought for such purpose by the Attorney General or the county attorney in the district court of the county in which the violation occurred.

(5) A person or business entity (6) An individual or firm which has been assessed a civil penalty under this section and subsequently engages in a lead an abatement project or a lead occupation lead-based paint profession without a valid certificate or license or using employees who do not hold certificates, conducts training programs without being accredited by the department, or issues fraudulent certificates, except as otherwise provided in the act:

(a) For a first offense, shall be guilty of a Class I misdemeanor;

and

(b) For a second or subsequent offense, shall be guilty of a Class IV felony.

Sec. 51. Section 71-6330, Reissue Revised Statutes of Nebraska, is amended to read:

71-6330. Upon the request of the department, the Attorney General or appropriate county attorney shall institute without delay an action in the name of the state for proceedings appropriate against any ~~business entity or person individual or firm~~ to restrain or prevent any violation of the Environmental Lead Hazard Control Residential Lead-Based Paint Professions Certification Act or of any rules and regulations adopted and promulgated pursuant to the act.

Sec. 52. Section 71-6331, Reissue Revised Statutes of Nebraska, is amended to read:

71-6331. (1) ~~A license or~~ An application or a certificate under the Environmental Lead Hazard Control Residential Lead-Based Paint Professions Certification Act may be denied, refused renewal, suspended, or revoked if the applicant, ~~licensee,~~ or certificate holder violates any of the provisions of the ~~Environmental Lead Hazard Control Act~~ act, fraudulently or deceptively obtains or attempts to obtain a ~~license or~~ certificate, fails at any time to meet the qualifications for a ~~license or~~ certificate, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for lead abatement projects, or employs or permits an uncertified ~~person individual~~ to work in a ~~lead occupation lead-based paint profession.~~

(2) In addition to the disciplinary actions provided for in subsection (1) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than three thousand dollars for each offense committed by any ~~person or business entity licensed firm certified~~ under the act or not less than one hundred dollars nor more than five thousand dollars for each offense committed by a ~~person an individual~~ certified under the act for violation of the act or any rule or regulation adopted and promulgated pursuant thereto. Each day a violation continues shall constitute a separate offense.

(3) Whenever the department determines to deny, refuse to renew, suspend, or revoke a ~~license or~~ certificate or assess a civil penalty, it shall send to the applicant, ~~licensee,~~ or certificate holder a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant, ~~or~~ certificate holder, ~~or licensee~~ gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant, ~~or~~ certificate holder, ~~or licensee~~ shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant, ~~or~~ certificate holder. ~~or licensee.~~ The decision shall become a final decision of the department and may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

(4) Hearings held pursuant to this section shall be held in accordance with the Administrative Procedure Act.

(5) Any civil penalty assessed and unpaid under the ~~Environmental Lead Hazard Control Residential Lead-Based Paint Professions Certification Act~~ shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days of receipt, remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 53. Any individual or firm who or which has been issued a certificate or accreditation for training in another state which (1) has a certification or accreditation program approved by the federal Environmental Protection Agency, (2) has accreditation, certification, education, and experience requirements substantially equal to or greater than those adopted by this state, and (3) grants equal certification and accreditation privileges to individuals and firms certified or accredited and residing in this state may be issued an equivalent certificate or accreditation in Nebraska upon terms and conditions determined by the department. The terms and conditions may reduce the time period established under subsection (3) of section 71-6326 and the fee requirements of section 71-6321.

Sec. 54. Sections 25-21,254 to 25-21,264 do not apply to the

Residential Lead-Based Paint Professions Certification Act.

Sec. 55. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 56. Original sections 71-6318, 71-6320, 71-6321, 71-6322, 71-6323, 71-6327, 71-6328, 71-6329, 71-6330, and 71-6331, Reissue Revised Statutes of Nebraska, and section 71-6326, Revised Statutes Supplement, 1998, are repealed.

Sec. 57. The following sections are outright repealed: Sections 71-6319, 71-6324, 71-6325, 71-6332, and 71-6333, Reissue Revised Statutes of Nebraska.

Sec. 58. Since an emergency exists, this act takes effect when passed and approved according to law.