

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Senator J. Dismang  
6

# A Bill

SENATE BILL 833

## For An Act To Be Entitled

8 AN ACT TO REPEAL ARKANSAS CODE TITLE 8, CHAPTER 4,  
9 SUBCHAPTER 4 AND CREATE A NEW SUBCHAPTER IN ARKANSAS  
10 CODE TITLE 20, CHAPTER 27; AND FOR OTHER PURPOSES.

## Subtitle

14 AN ACT REPEALING THE LEAD-BASED PAINT-  
15 HAZARD ACT OF 1997 AND CREATING THE  
16 ARKANSAS LEAD-BASED PAINT-HAZARD ACT OF  
17 2011.

18  
19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21  
22 SECTION 1. DO NOT CODIFY. TRANSFER OF FUND.

23 (a) The Lead-Based Paint-Hazard Fund established by Act 309 of 1997,  
24 concerning its powers, duties, functions, assets, records, properties, funds,  
25 and appropriations are transferred by a Type 2 transfer as provided in § 25-  
26 2-105 from the Arkansas Department of Environmental Quality to the Department  
27 of Health.

28 (b) For the purposes of this act, the Department of Health shall be  
29 considered a principal department established by Act 38 of 1971.

30  
31 SECTION 2. Arkansas Code Title 8, Chapter 4, Subchapter 4 is repealed.  
32 ~~8-4-401. Title.~~

33 ~~The provisions of this subchapter shall be known and may be cited as~~  
34 ~~the "Lead-Based Paint-Hazard Act".~~

35  
36 ~~8-4-402. Legislative intent.~~

EXHIBIT E



1           In the interest of public health and safety and the environment and to  
 2   qualify the Arkansas Department of Environmental Quality to adopt,  
 3   administer, and enforce a program for licensing lead-based paint activities,  
 4   training programs, procedures, and requirements for the licensing and  
 5   certification of individuals and firms engaged in lead-based paint activities  
 6   and work practice standards for performing such activities, the General  
 7   Assembly finds that it is necessary to enact this subchapter.

8  
 9           ~~8-4-403. Definitions.~~

10          ~~As used in this subchapter:~~

11                 ~~(1)(A) "Abatement" means any measures or set of measures that~~  
 12   ~~results in the permanent elimination of lead-based paint hazards.~~

13                         ~~(B) "Abatement" includes, but is not limited to:~~

14                                 ~~(i) The removal of lead-based paint and lead-~~  
 15   ~~contaminated dust, the permanent enclosure or encapsulation of lead-based~~  
 16   ~~paint, the replacement of lead-painted surfaces or fixtures, and removal or~~  
 17   ~~covering of lead-contaminated soil; and~~

18                                 ~~(ii) All preparation, cleanup, disposal, and post-~~  
 19   ~~abatement clearance testing activities associated with such measures.~~

20                         ~~(C) Specifically, "abatement" includes, but is not limited~~  
 21   ~~to:~~

22                                 ~~(i) Projects for which there is a written contract~~  
 23   ~~or other documentation that provides that an individual or firm will be~~  
 24   ~~conducting activities in or to a residential dwelling or child-occupied~~  
 25   ~~facility that:~~

26   ~~(a) Shall result in the permanent elimination~~  
 27   ~~of lead-based paint hazards; or~~

28   ~~(b) Are designed to permanently eliminate~~  
 29   ~~lead-based paint hazards and are described in subdivisions (1)(B)(i) and (ii)~~  
 30   ~~of this section;~~

31   ~~(ii) Projects resulting in the permanent elimination~~  
 32   ~~of lead-based paint hazards conducted by licensed consultants or contractors~~  
 33   ~~or individuals certified in accordance with this subchapter, unless such~~  
 34   ~~projects are covered by subdivision (1)(D) of this section;~~

35   ~~(iii) Projects resulting in the permanent~~  
 36   ~~elimination of lead-based paint hazards conducted by licensed consultants or~~

~~1 contractors or individuals who, through their company name or promotional  
2 literature, represent, advertise, or hold themselves out to be in the  
3 business of performing lead-based paint activities as identified and defined  
4 by this section, unless such projects are covered by subdivision (1)(D) of  
5 this section; or~~

~~6 (iv) Projects resulting in the permanent elimination  
7 of lead-based paint hazards that are conducted in response to state or local  
8 abatement orders.~~

~~9 (D)(i) "Abatement" does not include renovations,  
10 remodeling, landscaping, or other activities when such activities are not  
11 designed to permanently eliminate lead-based paint hazards but, instead, are  
12 designed to repair, restore, or remodel a given structure or dwelling, even  
13 though these activities may incidentally result in a reduction or elimination  
14 of lead-based paint hazards.~~

~~15 (ii) Furthermore, "abatement" does not include  
16 interim controls, operations, and maintenance activities or other measures  
17 and activities designed to temporarily but not permanently reduce lead-based  
18 paint hazards;~~

~~19 (2) "Certificate" means a document issued by the Arkansas  
20 Department of Environmental Quality to any individual who satisfactorily  
21 completes such training and examination and meets any other applicable  
22 requirements established by the department;~~

~~23 (3) "Child-occupied facility" means a building or operation of a  
24 building constructed prior to 1978, visited regularly by the same child six  
25 (6) years of age or under on at least two (2) different days within any week,  
26 Sunday through Saturday period, provided that each day's visit lasts at least  
27 three (3) hours and the combined weekly visit lasts at least six (6) hours.  
28 Child-occupied facilities may include, but are not limited to, daycare  
29 centers, preschools, and kindergarten classrooms;~~

~~30 (4) "Commission" means the Arkansas Pollution Control and  
31 Ecology Commission;~~

~~32 (5) "Consultant" means any person or other legal entity, however  
33 organized, that acts as an agent for the owner and performs lead-based paint  
34 activities and meets all other requirements established by the Arkansas  
35 Department of Environmental Quality;~~

~~36 (6) "Contractor" means a company, partnership, corporation, sole~~

1 ~~proprietorship, association, or other business entity that performs lead-~~  
2 ~~based paint activities as an agent for the owner and meets all other~~  
3 ~~requirements of the department;~~

4 ~~(7) "Department" means the Arkansas Department of Environmental~~  
5 ~~Quality;~~

6 ~~(8) "Director" means the Director of the Arkansas Department of~~  
7 ~~Environmental Quality;~~

8 ~~(9) "Inspector" means an individual who has been trained by an~~  
9 ~~accredited training program as certified by this subchapter or the United~~  
10 ~~States Environmental Protection Agency to conduct inspections and meets all~~  
11 ~~other requirements established by the department. A certified inspector also~~  
12 ~~samples for the presence of lead in dust and soil for the purposes of~~  
13 ~~abatement clearance testing;~~

14 ~~(10) "Lead-based paint" means paint or other surface coatings~~  
15 ~~that contain lead equal to or in excess of one milligram per square~~  
16 ~~centimeter (1.0 mg/cm<sup>2</sup>) or more than five tenths percent (0.5%) by~~  
17 ~~weight;~~

18 ~~(11) "Lead-based paint activities" means, in the case of target~~  
19 ~~housing and child-occupied facilities, inspection, risk assessment, and~~  
20 ~~abatement, as defined in this subchapter;~~

21 ~~(12) "Lead-based paint hazard" means any condition that causes~~  
22 ~~exposure to lead from lead-contaminated dust, lead-contaminated soil, or~~  
23 ~~lead-contaminated paint that is deteriorated or present in accessible~~  
24 ~~surfaces, friction surfaces, or impact surfaces that would result in adverse~~  
25 ~~human health effects as established by TSCA Section 403;~~

26 ~~(13) "License" means a document issued by the department to a~~  
27 ~~firm or training provider that meets all applicable requirements as~~  
28 ~~established by the department;~~

29 ~~(14) "Project designer" means an individual who has been trained~~  
30 ~~by an accredited training program as certified by this subchapter or the~~  
31 ~~United States Environmental Protection Agency to plan and design or who plans~~  
32 ~~and designs abatement projects;~~

33 ~~(15) "Risk assessor" means an individual who has been trained by~~  
34 ~~an accredited training program as certified by this subchapter or the~~  
35 ~~Environmental Protection Agency to conduct risk assessments and meets all~~  
36 ~~other requirements established by the department. A risk assessor also~~

1 samples for the presence of lead in dust and soil for the purposes of  
2 abatement clearance testing;

3 (16) ~~“Supervisor” means an individual who has been trained by an~~  
4 ~~accredited training program as certified by this subchapter or the United~~  
5 ~~States Environmental Protection Agency to supervise and conduct abatements~~  
6 ~~and to prepare occupant protection plans and abatement reports and meets all~~  
7 ~~other requirements established by the department;~~

8 (17) ~~“Target housing” means any housing constructed prior to~~  
9 ~~1978, except housing for the elderly or persons with disabilities, unless any~~  
10 ~~one (1) or more children age six (6) years or under resides or is expected to~~  
11 ~~reside in such housing for the elderly or persons with disabilities, or any~~  
12 ~~zero-bedroom dwelling;~~

13 (18) ~~“Training provider” means any person or other legal entity,~~  
14 ~~however organized, that conducts courses for the purposes of certifying~~  
15 ~~individuals for purposes of this subchapter and meets all other requirements~~  
16 ~~established by the department; and~~

17 (19) ~~“Worker” means an individual who has been trained by an~~  
18 ~~accredited training program as certified by this subchapter or the United~~  
19 ~~States Environmental Protection Agency and meets to perform abatements and~~  
20 ~~meets all other requirements established by the department.~~

21  
22 ~~8-4-404. Criminal, civil, and administrative penalties.~~

23 ~~Any person that violates any provision of this subchapter or commits~~  
24 ~~any unlawful act thereunder or violates any regulation or order of the~~  
25 ~~Arkansas Pollution Control and Ecology Commission shall be subject to the~~  
26 ~~penalty provisions provided in the Arkansas Water and Air Pollution Control~~  
27 ~~Act, § 8-4-101 et seq.~~

28  
29 ~~8-4-405. Applicability of water pollution provisions.~~

30 ~~All provisions of §§ 8-4-101—8-4-106 and 8-4-201—8-4-230 relating~~  
31 ~~to water pollution shall apply to this subchapter, unless manifestly~~  
32 ~~inconsistent therewith, including, but not limited to, the provisions of §§~~  
33 ~~8-4-205, 8-4-212—8-4-214, and 8-4-218—8-4-229 relating to hearings before~~  
34 ~~the Arkansas Pollution Control and Ecology Commission, notice, right to~~  
35 ~~appeal, and procedure, and § 8-4-230 relating to variances and interim~~  
36 ~~authority.~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

~~8-4-406. Powers and duties of the department.~~

~~The Arkansas Department of Environmental Quality shall be charged with the responsibility of administering and enforcing this subchapter and is given and charged with the following powers and duties:~~

~~(1) To require and regulate training and examinations for individuals engaged in performing lead-based paint activities pursuant to this subchapter;~~

~~(2) To establish standards and procedures for the licensing and certification of firms and individuals engaged in lead-based paint activities, and training providers engaged in training individuals for certification pursuant to this subchapter;~~

~~(3) To enforce regulations necessary or appropriate to the implementation of this subchapter, including taking legal action in any court of competent jurisdiction;~~

~~(4) To issue licenses and certifications to all applicants that satisfy the requirements of this subchapter and any regulations issued pursuant to this subchapter, to renew the licenses and certifications, and to suspend or revoke the licenses and certifications for cause and after notice and opportunity for hearing; and~~

~~(5) To establish annual license and certification fees for firms, training providers, and individuals, and to recover the costs of processing license applications and the issuance of licenses and certifications, and to establish such other fees necessary to recover the costs of enforcing this subchapter.~~

~~8-4-407. License required — Exceptions.~~

~~(a) Any consultant, contractor, or training provider shall obtain a license from the Arkansas Department of Environmental Quality to conduct lead-based paint activities prior to actively engaging in any lead-based paint-hazard activities in this state.~~

~~(b) The application for a license shall be made in the manner and form required by the department. An application for license or renewal of a license shall be accompanied by proof of liability insurance coverage, except for training providers, in the form and amount required by the department, and proof of such training and examination as required by the department.~~

1           ~~(c)(1) The department shall license and certify all applicants for~~  
2 ~~licenses and certifications under this subchapter that satisfy the~~  
3 ~~requirements of this subchapter.~~

4           ~~(2) Licenses and certifications shall be valid for a period of~~  
5 ~~one (1) year.~~

6           ~~(3) Licenses and certifications shall be renewable upon~~  
7 ~~application and upon satisfying the renewal requirements of the department.~~

8           ~~(d) State and political subdivisions thereof shall be exempt, except~~  
9 ~~for training providers, from the license requirements of this subchapter.~~

10  
11  
12           ~~8-4-408. Unlawful acts.~~

13           ~~It shall be unlawful for any person:~~

14           ~~(1) To conduct lead-based paint activities without having first~~  
15 ~~obtained a license or certification, or both, from the Arkansas Department of~~  
16 ~~Environmental Quality when acting as a contractor, consultant, training~~  
17 ~~provider, inspector, project designer, risk assessor, supervisor, or worker;~~

18           ~~(2) To violate any provision of this subchapter or any~~  
19 ~~regulation or order adopted or issued pursuant to this subchapter;~~

20           ~~(3) To knowingly make any false statement, representation, or~~  
21 ~~certification in any application, record, report, or other document filed or~~  
22 ~~required to be maintained under this subchapter or regulations adopted~~  
23 ~~pursuant thereto, or to falsify, tamper with, or knowingly render inaccurate~~  
24 ~~any monitoring device or method required to be maintained under this~~  
25 ~~subchapter or any regulations adopted pursuant thereto; or~~

26           ~~(4) To participate in any lead-based paint hazard activity~~  
27 ~~contrary to the regulations or orders issued pursuant to this subchapter or~~  
28 ~~contrary to the provisions of the Arkansas Water and Air Pollution Control~~  
29 ~~Act, § 8-4-101 et seq., the Arkansas Solid Waste Management Act, § 8-6-201 et~~  
30 ~~seq., the Hazardous Waste Management Act of 1979, § 8-7-201 et seq., and the~~  
31 ~~regulations promulgated thereunder, whether such person is required to have a~~  
32 ~~license pursuant to this subchapter.~~

33  
34           ~~8-4-409. Lead-Based Paint Hazard Fund.~~

35           ~~(a) There is established on the books of the Treasurer of State, the~~  
36 ~~Auditor of State, and the Chief Fiscal Officer of the State a fund to be~~

1 ~~known as the "Lead-Based Paint Hazard Fund".~~

2 ~~(b) This fund shall consist of all moneys recovered pursuant to this~~  
 3 ~~subchapter and any other moneys received by the state as a gift or donation~~  
 4 ~~to the fund.~~

5 ~~(c) The Arkansas Pollution Control and Ecology Commission is hereby~~  
 6 ~~authorized to promulgate such rules and regulations as are necessary to~~  
 7 ~~administer the fees, rates, tolls, or charges for services established by~~  
 8 ~~this section. The Arkansas Department of Environmental Quality is directed to~~  
 9 ~~collect such fees, rates, tolls, or charges for the services delivered by the~~  
 10 ~~department in such manner as may be necessary to support this program as~~  
 11 ~~directed by the Governor and the General Assembly.~~

12  
 13 SECTION 3. Arkansas Code § 8-7-509(c)(2) is amended to read as  
 14 follows:

15 (c)(2) Beginning July 1, 2005, the Hazardous Substance Remedial Action  
 16 Trust Fund shall consist of all moneys received as penalties under §§ 8-4-101  
 17 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-313, ~~8-4-401 et seq.~~, 8-6-201 - 8-  
 18 6-214, 8-7-201 - 8-7-226, 8-7-504, and 20-27-1001 et seq.

19  
 20 SECTION 4. Arkansas Code § 19-5-930, concerning the Hazardous  
 21 Substance Remedial Action Trust Fund, is amended to read as follows:

22 19-5-930. Hazardous Substance Remedial Action Trust Fund.

23 (a) There is established on the books of the Treasurer of State, the  
 24 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
 25 known as the Hazardous Substance Remedial Action Trust Fund.

26 (b) This fund shall consist of all moneys appropriated by the General  
 27 Assembly to the Hazardous Substance Remedial Action Trust Fund, gifts,  
 28 donations, interest earnings, fees on the generation of hazardous waste,  
 29 punitive damages, penalties, and any other moneys legally designated, with  
 30 the exception of those moneys deposited ~~in~~ into the Environmental Education  
 31 Fund as set out in § 8-7-509(d), all moneys received as penalties under §§ 8-  
 32 4-101 - 8-4-106, 8-4-201 - 8-4-229, 8-4-301 - 8-4-313, ~~8-4-401 - 8-4-409~~, 8-  
 33 6-201 - 8-6-214, 8-7-201 - 8-7-226, 8-7-504, and 20-27-1001 - 20-27-1007, and  
 34 all punitive damages collected ~~pursuant to~~ under § 8-7-517, there to be  
 35 administered by the Director of the Arkansas Department of Environmental  
 36 Quality as provided in § 8-7-509.



1  
 2 SECTION 5. Arkansas Code § 19-5-1030, concerning the Lead-Based Paint-  
 3 Hazard Fund, is amended to read as follows:

4 19-5-1030. Lead-Based Paint Hazard Fund.

5 (a) There is established on the books of the Treasurer of State, the  
 6 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
 7 known as the Lead-Based Paint-Hazard Fund.

8 (b) This fund shall consist of all moneys remaining in the Lead-Based  
 9 Paint-Hazard Fund as of July 1, 2011, all moneys recovered ~~pursuant to § 8-4-~~  
 10 ~~401 et seq., the Lead-Based Paint Hazard Act, under the Arkansas Lead-Based~~  
 11 Paint-Hazard Act of 2011, § 20-27-2401 et seq., and any other moneys received  
 12 by the state as a gift or donation to the fund to be used for the lead-based  
 13 program as administered by the Department of Health as set out in ~~§ 20-27-~~  
 14 ~~2401 et seq~~ the Arkansas Lead-Based Paint-Hazard Act of 2011, § 20-27-2401 et  
 15 seq.

16  
 17 SECTION 6. Arkansas Code Title 20, Chapter 27 is amended to add an  
 18 additional subchapter to read as follows:

19 Subchapter 24 – Arkansas Lead-Based Paint Hazard Act of 2011

20  
 21 20-27-2401. Title.

22 This subchapter shall be known and may be cited as the “Arkansas Lead-  
 23 Based Paint Hazard Act of 2011”.

24  
 25 20-27-2402. Legislative intent.

26 In the interest of public health and safety and the environment and to  
 27 qualify the Department of Health to adopt, administer, and enforce a program  
 28 for licensing lead-based paint activities, training programs, procedures, and  
 29 requirements for the licensing and certification of individuals and firms  
 30 engaged in lead-based paint activities and work practice standards for  
 31 performing such activities, the General Assembly finds that it is necessary  
 32 to enact this subchapter.

33  
 34 20-27-2403. Definitions.

35 As used in this subchapter:

36 (1)(A) “Abatement” means any measures or set of measures that

1 results in the permanent elimination of lead-based paint hazards.

2 (B) "Abatement" includes without limitation:

3 (i) The removal of lead-based paint and lead-  
4 contaminated dust;

5 (ii) The permanent enclosure or encapsulation of  
6 lead-based paint;

7 (iii) The replacement of lead-painted surfaces or  
8 fixtures;

9 (iv) The removal or covering of soil contaminated  
10 with lead from lead-based paint activities or lead-contaminated paint that  
11 has deteriorated; and

12 (v) All preparation, cleanup, disposal, and post-  
13 abatement clearance testing activities associated with activities listed in  
14 subdivisions (1)(B)(i)-(iv) of this section.

15 (C) Specifically, "abatement" includes without limitation:

16 (i) Projects for which there is a written contract  
17 or other documentation that provides that an individual or firm will be  
18 conducting activities in or to a residential dwelling or child-occupied  
19 facility that:

20 (a) Results in the permanent elimination of  
21 lead-based paint hazards; or

22 (b) Are designed to permanently eliminate  
23 lead-based paint hazards and are described in subdivisions (1)(B)of this  
24 section;

25 (ii) Projects resulting in the permanent elimination  
26 of lead-based paint hazards conducted by licensed consultants or contractors  
27 or individuals certified under this subchapter, unless the projects are  
28 covered by subdivision (1)(D) of this section;

29 (iii) Projects resulting in the permanent  
30 elimination of lead-based paint hazards conducted by licensed consultants or  
31 contractors or individuals who, through their company name or promotional  
32 literature, represent, advertise, or hold themselves out to be in the  
33 business of performing lead-based paint activities as identified and defined  
34 by this section, unless the projects are covered by subdivision (1)(D) of  
35 this section; or

36 (iv) Projects resulting in the permanent elimination

1 of lead-based paint hazards that are conducted in response to state or local  
2 abatement orders.

3 (D)(i) "Abatement" does not include renovations,  
4 remodeling, landscaping, or other activities when the activities are not  
5 designed to permanently eliminate lead-based paint hazards but instead are  
6 designed to repair, restore, or remodel a given structure or dwelling, even  
7 though these activities may incidentally result in a reduction or elimination  
8 of lead-based paint hazards.

9 (ii) "Abatement" also does not include interim  
10 controls, operations, and maintenance activities or other measures and  
11 activities designed to temporarily but not permanently reduce lead-based  
12 paint hazards;

13 (2) "Certificate" means a document issued by the Department of  
14 Health to an individual who satisfactorily completes training and examination  
15 under this subchapter and meets any other applicable requirements established  
16 by the department;

17 (3)(A) "Child-occupied facility" means a building or operation  
18 of a building constructed before 1978, visited regularly by the same child  
19 six (6) years of age or under on at least two (2) different days within any  
20 week, Sunday through Saturday period, if each day's visit lasts at least  
21 three (3) hours and the combined weekly visit lasts at least six (6) hours.

22 (B) Child-occupied facilities may include without  
23 limitation daycare centers, preschools, and kindergarten classrooms;

24 (4) "Consultant" means a person or other legal entity, however  
25 organized, that acts as an agent for the owner and performs lead-based paint  
26 activities and meets all other requirements established by the Department of  
27 Health;

28 (5) "Contractor" means a company, partnership, corporation, sole  
29 proprietorship, association, or other business entity that performs lead-  
30 based paint activities as an agent for the owner and meets all other  
31 requirements of the department;

32 (6) "Inspector" means an individual who has been trained by an  
33 accredited training program as certified by this subchapter or the United  
34 States Environmental Protection Agency to conduct inspections and meets all  
35 other requirements established by the department. A certified inspector also  
36 samples for the presence of lead in dust and soil for the purposes of

1 abatement clearance testing;

2 (7) "Lead-based paint" means paint or other surface coatings  
3 that contain lead equal to or in excess of one milligram per square  
4 centimeter (1.0 mg/cm<sup>2</sup>) or more than five-tenths percent (0.5%) by weight;

5 (8) "Lead-based paint activities" means inspection, risk  
6 assessment, and abatement of target housing and child-occupied facilities as  
7 defined in this subchapter;

8 (9) "Lead-based paint hazard" means a condition that causes  
9 exposure to dust or soil contaminated by lead-based paint activities or lead-  
10 contaminated paint that is deteriorated or present in accessible surfaces,  
11 friction surfaces, or impact surfaces that would result in adverse human  
12 health effects as established by the Toxic Substances Control Act of 1976  
13 Section 403, 15 U.S.C. § 2601 et seq.;

14 (10) "License" means a document issued by the department to a  
15 firm or training provider that meets all applicable requirements as  
16 established by the department;

17 (11) "Project designer" means an individual who plans and  
18 designs or who has been trained by an accredited training program as  
19 certified by this subchapter or the United States Environmental Protection  
20 Agency to plan and design abatement projects;

21 (12)(A) "Risk assessor" means an individual who has been trained  
22 by an accredited training program as certified by this subchapter or the  
23 United States Environmental Protection Agency to conduct risk assessments and  
24 meets all other requirements established by the department.

25 (B) A risk assessor also samples for the presence of lead  
26 in dust and soil for the purposes of abatement clearance testing;

27 (13) "Supervisor" means an individual who has been trained by an  
28 accredited training program as certified by this subchapter or the United  
29 States Environmental Protection Agency to supervise and conduct abatements  
30 and to prepare occupant protection plans and abatement reports and meets all  
31 other requirements established by the department;

32 (14) "Target housing" means any housing constructed before 1978,  
33 except housing for the elderly or persons with disabilities, unless any one  
34 (1) or more children six (6) years of age or under resides or is expected to  
35 reside in such housing for the elderly or persons with disabilities, or any  
36 zero-bedroom dwelling;

1           (15) “Training provider” means any person or other legal entity,  
 2 however organized, that conducts courses for the purposes of certifying  
 3 individuals for purposes of this subchapter and meets all other requirements  
 4 established by the department; and

5           (16) “Worker” means an individual who has been trained by an  
 6 accredited training program as certified by this subchapter or the United  
 7 States Environmental Protection Agency to perform abatements and meets all  
 8 other requirements established by the department.

9  
 10           20-27-2404. Criminal, civil, and administrative penalties.

11           A person or entity that violates this subchapter, commits any unlawful  
 12 act under this subchapter, or violates any rule or order of the State Board  
 13 of Health under this subchapter is subject to the penalty provisions under §  
 14 20-7-101 et seq.

15  
 16           20-27-2405. Powers and duties.

17           The Department of Health shall administer and enforce this subchapter  
 18 with the powers and duties to:

19           (1) Require and regulate training and examinations for  
 20 individuals engaged in performing lead-based paint activities under this  
 21 subchapter;

22           (2) Establish standards and procedures for the licensing and  
 23 certification of firms and individuals engaged in lead-based paint activities  
 24 and training providers engaged in training individuals for certification  
 25 under this subchapter;

26           (3) Enforce rules necessary or appropriate to the implementation  
 27 of this subchapter, including without limitation taking legal action in a  
 28 court of competent jurisdiction;

29           (4) Issue licenses and certifications to all applicants that  
 30 satisfy the requirements of this subchapter and any rule adopted under this  
 31 subchapter;

32           (5) Renew the licenses and certifications under this subchapter;  
 33 and

34           (6) Suspend or revoke the licenses and certifications under this  
 35 subchapter for cause and after notice and opportunity for a hearing.

36

1       20-27-2406. State Board of Health – Rules.

2       The State Board of Health shall adopt rules necessary to:

3               (1) Establish annual license and certification fees for firms,  
4 training providers, and individuals;

5               (2) Recover the costs of processing license applications and the  
6 issuance of licenses and certifications; and

7               (3) Establish other fees necessary to recover the costs of  
8 enforcing this subchapter.

9  
10       20-27-2407. Collection of fees.

11       The Department of Health shall collect fees, rates, tolls, or charges  
12 for the services delivered by the department in a manner the department deems  
13 necessary to support the activities under this subchapter.

14  
15       20-27-2408. License required – Exceptions.

16       (a) A consultant, contractor, or training provider shall obtain a  
17 license from the Department of Health to conduct lead-based paint activities  
18 before actively engaging in any lead-based paint hazard activities in this  
19 state.

20               (b)(1) An application for a license shall be made in the manner and  
21 form required by the department.

22               (2) An application for a license or renewal of a license shall  
23 be accompanied by proof of liability insurance coverage, except for training  
24 providers, in the form and amount required by the department, and proof of  
25 such training and examination as required by the department.

26               (c)(1) The department shall license and certify all applicants for  
27 licenses and certifications under this subchapter that satisfy the  
28 requirements of this subchapter.

29               (2) A license or certification under this subchapter shall be  
30 valid for a period of one (1) year.

31               (3) A license or certification under this subchapter shall be  
32 renewable upon application and upon satisfying the renewal requirements of  
33 the department.

34               (d) Except for training providers, the state and political  
35 subdivisions of the state are exempt from the license requirements of this  
36 subchapter.

1  
2 20-27-2409. Unlawful acts.

3 It is unlawful for a person to:

4 (1) Conduct lead-based paint activities without having first  
5 obtained a license or certification, or both, from the Department of Health  
6 when acting as a contractor, consultant, training provider, inspector,  
7 project designer, risk assessor, supervisor, or worker;

8 (2) Violate this subchapter or any rule or order adopted or  
9 issued under this subchapter;

10 (3) Knowingly make any false statement, representation, or  
11 certification in any application, record, report, or other document filed or  
12 required to be maintained under this subchapter or rules adopted under this  
13 subchapter, or to falsify, tamper with, or knowingly render inaccurate any  
14 monitoring device or method required to be maintained under this subchapter  
15 or any rules adopted under this subchapter; or

16 (4) Participate in any lead-based paint-hazard activity contrary  
17 to the rules or orders issued under this subchapter and the rules adopted  
18 under this subchapter, whether or not the person is required to have a  
19 license under this subchapter.

20  
21 SECTION 7. DO NOT CODIFY. Extension of license.

22 A valid license issued by the Arkansas Department of Environmental  
23 Quality for lead-based paint hazard activities in effect upon the effective  
24 date of this subchapter shall remain in full force and effect until the  
25 effective date of applicable licensure rules promulgated by the State Board  
26 of Health.

27  
28 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
29 General Assembly of the State of Arkansas that lead and lead-based paint have  
30 been determined to be a human health concern posing an immediate danger to  
31 children, families, and the environment; and that this act is immediately  
32 necessary to prevent irreparable harm to children in this state. Therefore,  
33 an emergency is declared to exist and this act being immediately necessary  
34 for the preservation of the public peace, health, and safety shall become  
35 effective on July 1, 2011.

36 **APPROVED: 04/01/2011**

**EXHIBIT E**