

House File 448 - Introduced

HOUSE FILE _____
BY FORD, HUNTER, SMITH, and
PETERSEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring testing and abatement of lead hazards in certain
2 residential dwellings and child care facilities, requiring
3 inspections of certain residential housing for lead hazards
4 prior to sale, establishing a childhood lead poisoning
5 prevention and control committee, and providing a penalty.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 2241YH 83
8 av/rj/5

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1 1 Section 1. NEW SECTION. 135.105E LEAD HAZARD TESTING ==
1 2 ABATEMENT == PENALTY.
1 3 1. A person who owns or manages a residential dwelling
1 4 which is target housing as defined in section 135.105C or owns
1 5 or manages a child care facility licensed under chapter 237A
1 6 shall have a lead hazard test performed on the dwelling or
1 7 each dwelling unit or the child care facility to determine
1 8 whether the dwelling or dwelling unit or child care facility
1 9 contains lead-based paint, a soil-lead hazard, or a dust-lead
1 10 hazard. If a lead hazard is found to exist, the owner or
1 11 manager shall cause the lead hazard to be abated as required
1 12 by this section.
1 13 2. A lead inspector certified under section 135.105A shall
1 14 perform the lead hazard test and provide a written report of
1 15 the results of such test to each of the following:
1 16 a. The department.
1 17 b. The owner or manager of the residential dwelling or
1 18 child care facility.
1 19 c. The tenant or occupant of the residential dwelling or
1 20 dwelling unit or parents or legal guardians of children who
1 21 attend the child care facility.
1 22 3. The lead inspector shall issue the written report to
1 23 the owner or manager within two weeks of the inspection and
1 24 receipt of any laboratory tests. If the inspector finds that
1 25 a lead hazard is present in the dwelling or dwelling unit, or
1 26 child care facility, or on the premises thereof, the written
1 27 report shall notify the owner or manager that lead hazard
1 28 abatement must be completed in a time period and manner as
1 29 determined by the inspector. Such lead hazard abatement shall
1 30 be performed by a lead abater certified under section
1 31 135.105A. If the occupant who occupies the residential
1 32 dwelling or child who attends the child care facility at the
1 33 time that this written report is issued vacates the
1 34 residential dwelling or dwelling unit, or ceases attending the
1 35 child care facility, the dwelling or dwelling unit or child
2 1 care facility shall not be leased or occupied or attended by
2 2 any other person until the certified inspector issues a
2 3 written report that the lead hazard abatement has been
2 4 completed.
2 5 4. The department shall make results of lead hazard tests
2 6 conducted pursuant to this section available to the public.
2 7 The department shall adopt rules to implement lead hazard
2 8 testing and lead hazard abatement in affected residential
2 9 dwellings which are target housing or child care facilities
2 10 which are licensed under chapter 237A.
2 11 5. A person who violates this section is subject to a
2 12 civil penalty not to exceed five thousand dollars for each
2 13 offense.
2 14 Sec. 2. Section 558.69, Code 2009, is amended to read as
2 15 follows:
2 16 558.69 REPORTING OF PRIVATE BURIAL SITES, WELLS, DISPOSAL

2 17 SITES, UNDERGROUND STORAGE TANKS, LEAD HAZARDS, AND HAZARDOUS
2 18 WASTE == LIABILITY.

2 19 1. With each declaration of value submitted to the county
2 20 recorder under chapter 428A, there shall also be submitted a
2 21 statement regarding whether any known private burial site is
2 22 situated on the property, and if a known private burial site
2 23 is situated on the property, the statement shall state the
2 24 approximate location of the site.

2 25 a. The statement shall also state that no known wells are
2 26 situated on the property, or if known wells are situated on
2 27 the property, the statement must state the approximate
2 28 location of each known well and its status with respect to
2 29 section 455B.190 or 460.302.

2 30 b. The statement shall also state that no known disposal
2 31 site for solid waste, as defined in section 455B.301, which
2 32 has been deemed to be potentially hazardous by the department
2 33 of natural resources, exists on the property, or if such a
2 34 known disposal site does exist, the location of the site on
2 35 the property.

3 1 c. The statement shall additionally state that no known
3 2 underground storage tank, as defined in section 455B.471,
3 3 subsection 11, exists on the property, or if a known
3 4 underground storage tank does exist, the type and size of the
3 5 tank, and any known substance in the tank.

3 6 d. For housing that was built before 1978, the statement
3 7 shall also state that the housing has been tested by a person
3 8 who has been certified by the department of public health to
3 9 perform lead hazard testing and either found to have no lead
3 10 hazards within the meaning of the federal Residential
3 11 Lead-based Paint Hazard Reduction Act of 1992, 42 U.S.C. }
3 12 4851-4855, and amendments thereto, or found to meet the
3 13 requirements of the maintenance standard. For purposes of
3 14 this paragraph, "maintenance standard" means any of the
3 15 following: repairing and repainting areas of deteriorated
3 16 paint inside a dwelling, cleaning the interior of the dwelling
3 17 to remove dust that constitutes a lead poisoning hazard,
3 18 adjusting doors and windows in the dwelling to minimize
3 19 friction or impact on surfaces, or providing the purchaser of
3 20 the dwelling with all information required pursuant to the
3 21 federal Residential Lead-based Paint Hazard Reduction Act of
3 22 1992, 42 U.S.C. } 4851-4855, and amendments thereto.

3 23 e. The statement shall also state that no known hazardous
3 24 waste as defined in section 455B.411, subsection 3, or listed
3 25 by the department pursuant to section 455B.412, subsection 1,
3 26 exists on the property, or if known hazardous waste does
3 27 exist, that the waste is being managed in accordance with
3 28 rules adopted by the department of natural resources.

3 29 2. The statement shall be signed by at least one of the
3 30 sellers or their agents. The county recorder shall refuse to
3 31 record any deed, instrument, or writing for which a
3 32 declaration of value is required under chapter 428A unless the
3 33 statement required by this section has been submitted to the
3 34 county recorder.

3 35 3. A buyer of property shall be provided with a copy of
4 1 the statement submitted, and, following the fulfillment of
4 2 this provision, if the statement submitted reveals no private
4 3 burial site, well, disposal site, underground storage tank,
4 4 lead hazards, or hazardous waste on the property, the county
4 5 recorder may destroy the statement. The land application of
4 6 sludges or soils resulting from the remediation of underground
4 7 storage tank releases accomplished in compliance with
4 8 department of natural resources rules without a permit is not
4 9 required to be reported as the disposal of solid waste or
4 10 hazardous waste.

4 11 4. If a declaration of value is not required, the above
4 12 information shall be submitted on a separate form. The
4 13 director of the department of natural resources shall
4 14 prescribe the form of the statement and the separate form to
4 15 be supplied by each county recorder in the state. The county
4 16 recorder shall transmit the statements to the department of
4 17 natural resources at times directed by the director of the
4 18 department.

4 19 5. The owner of the property is responsible for the
4 20 accuracy of the information submitted on the form. The
4 21 owner's agent shall not be liable for the accuracy of
4 22 information provided by the owner of the property. The
4 23 provisions of this paragraph subsection do not limit liability
4 24 which may be imposed under a contract or under any other law.

4 25 Sec. 3. CHILDHOOD LEAD POISONING PREVENTION AND CONTROL
4 26 COMMITTEE.

4 27 1. The childhood lead poisoning prevention and control

4 28 committee is established in the department of public health
4 29 for the purpose of collecting information and making
4 30 recommendations concerning childhood lead poisoning prevention
4 31 and control.

4 32 2. The committee consists of the following persons who are
4 33 voting members:

4 34 a. The director of public health, or a designee, who shall
4 35 serve as chairperson.

5 1 b. The director of the department of natural resources, or
5 2 a designee.

5 3 c. The director of human services, or a designee.

5 4 d. The executive director of the Iowa finance authority,
5 5 or a designee.

5 6 e. A member who is a representative of a county health
5 7 department located in a county with a population of three
5 8 hundred thousand or more inhabitants, appointed by the
5 9 governor subject to confirmation by the senate.

5 10 f. A member who is a representative of a county health
5 11 department located in a county with a population of less than
5 12 three hundred thousand inhabitants, appointed by the governor
5 13 subject to confirmation by the senate.

5 14 g. A member who is a lead abater certified under section
5 15 135.105A, appointed by the governor subject to confirmation by
5 16 the senate.

5 17 h. A member who represents the general public, is an
5 18 inhabitant of a county with a population of three hundred
5 19 thousand or more inhabitants, and is the parent of a child who
5 20 has experienced lead poisoning, or is a child advocate who has
5 21 experience with lead poisoning in children, appointed by the
5 22 governor subject to confirmation by the senate.

5 23 i. A member who represents property owners and developers
5 24 in this state, appointed by the governor subject to
5 25 confirmation by the senate.

5 26 3. The members of the committee shall not receive
5 27 compensation for the performance of their duties as members
5 28 but each member shall be paid necessary expenses while engaged
5 29 in the performance of duties of the committee.

5 30 4. The members of the committee are subject to and are
5 31 officials within the meaning of chapter 68B.

5 32 5. A majority of the voting members of the committee
5 33 constitutes a quorum. The affirmative vote of a majority of
5 34 the voting members is necessary for any action taken by the
5 35 committee. The majority shall not include a member who has a
6 1 conflict of interest and a statement by a member of a conflict
6 2 of interest is conclusive for this purpose. A vacancy in the
6 3 voting membership of the committee does not impair the right
6 4 of a quorum to exercise the rights and perform the duties of
6 5 the committee.

6 6 6. The committee shall conduct at least two public
6 7 hearings to seek input from the general public and from groups
6 8 and individuals that have an interest in childhood lead
6 9 poisoning prevention and control including but not limited to
6 10 physicians, nurses, advanced registered nurse practitioners,
6 11 health insurers, local boards of health, hospitals, maternal
6 12 and child health organizations, schools, rental property
6 13 owners, general contractors, realtors, Iowa department of
6 14 education, occupational and environmental medicine
6 15 specialists, parents or patient advocates of children who have
6 16 experienced lead poisoning, local housing authorities,
6 17 community reinvestment officers, and any other individual,
6 18 interest organization, or association concerned with the
6 19 prevention, treatment, and control of childhood lead
6 20 poisoning.

6 21 a. The first public hearing shall be held within sixty
6 22 days after the commission has been appointed.

6 23 b. The committee may hold additional public hearings as it
6 24 determines necessary or appropriate to carry out its duties
6 25 under this section.

6 26 7. The committee shall complete its deliberations in
6 27 December 2009, and submit a final report to the general
6 28 assembly on or before January 15, 2010, summarizing the
6 29 committee's activities, analyzing the issues studied, making
6 30 recommendations that will aid in the prevention, treatment,
6 31 and control of childhood lead poisoning in this state, and
6 32 including any other information that the committee deems
6 33 relevant and necessary.

6 34 EXPLANATION

6 35 This bill requires testing and abatement of lead hazards in
7 1 certain residential dwellings and child care facilities,
7 2 requires inspections of certain residential housing for lead
7 3 hazards prior to its sale, establishes a childhood lead

7 4 poisoning prevention and control committee, and provides a
7 5 penalty.

7 6 New Code section 135.105E requires that a person who owns
7 7 or manages a residential dwelling which meets the definition
7 8 of target housing or owns or manages a child care facility
7 9 licensed under Code chapter 237A must have a lead hazard test
7 10 performed on the dwelling or dwelling unit or child care
7 11 facility to determine the presence of a lead-based paint, a
7 12 soil-lead hazard, or a dust-lead hazard. "Target housing" is
7 13 defined under Code section 135.105C to mean housing
7 14 constructed prior to 1978, with the exception of housing for
7 15 the elderly or for persons with disabilities, and housing that
7 16 does not contain a bedroom, unless at least one child under
7 17 six years of age resides or is expected to reside in the
7 18 housing.

7 19 The bill requires that a lead inspector certified under
7 20 Code section 135.105A must perform a lead hazard test and
7 21 report the results of the test to the department of public
7 22 health, the owner or manager of the residential dwelling or
7 23 dwelling unit or child care facility, and to the tenant or
7 24 occupant of the dwelling or parents or legal guardians of a
7 25 child who attends the child care facility.

7 26 The lead inspector must issue a written report to the owner
7 27 or manager within two weeks of the inspection and receipt of
7 28 any laboratory tests. If the inspector finds that a lead
7 29 hazard is present, the report shall notify the owner or
7 30 manager of that fact and that the hazard must be abated in a
7 31 time and manner determined by the inspector. Such lead
7 32 abatement must be performed by a lead abater certified under
7 33 Code section 135.105A.

7 34 Lead hazard test results must be available to the public.
7 35 The department of public health is directed to adopt rules to
8 1 implement lead hazard testing and abatement in affected
8 2 buildings. A person who violates the provisions of the new
8 3 Code section is subject to a civil penalty not to exceed
8 4 \$5,000 for each offense.

8 5 The bill also amends Code section 558.69 to provide that
8 6 each declaration of value submitted to the county recorder in
8 7 connection with a real estate transfer of housing built before
8 8 1978 must include a statement that the housing has been tested
8 9 for lead hazards by a certified inspector and either is free
8 10 of such hazards within the meaning of the federal Residential
8 11 Lead-based Paint Hazard Reduction Act of 1992, 42 U.S.C. }
8 12 4851-4855, and amendments thereto, or meets the requirements
8 13 of the maintenance standard. "Maintenance standard" means any
8 14 of the following: repairing and repainting areas of
8 15 deteriorated paint inside a dwelling, cleaning the interior of
8 16 the dwelling to remove dust that constitutes a lead poisoning
8 17 hazard, adjusting doors and windows in the dwelling to
8 18 minimize friction or impact on surfaces, or providing the
8 19 purchaser of the dwelling with all information required
8 20 pursuant to the federal Act, and amendments thereto.

8 21 The bill also establishes the childhood lead poisoning
8 22 prevention and control committee in the department of public
8 23 health for the purpose of collecting information and making
8 24 recommendations concerning childhood lead poisoning prevention
8 25 and control. The committee consists of nine voting members
8 26 representing specified state and local government agencies, a
8 27 certified lead abater, a member of the public who lives in a
8 28 county with a population of 300,000 or more inhabitants and is
8 29 the parent of a child who has experienced lead poisoning or is
8 30 a child advocate with experience with childhood lead
8 31 poisoning, and a member who represents property owners and
8 32 developers in this state. Members of the committee do not
8 33 receive compensation for performance of their duties but do
8 34 receive necessary expenses for that performance.

8 35 The committee is directed to conduct at least two public
9 1 hearings to seek input from the general public and from groups
9 2 and individuals that have an interest in childhood lead
9 3 poisoning prevention and control. The first public hearing
9 4 must be held within 60 days after appointment of the
9 5 committee.

9 6 The committee is required to complete its deliberations in
9 7 December 2009, and to submit a final report to the general
9 8 assembly by January 15, 2010, summarizing its activities,
9 9 analyzing the issues studied, making recommendations that will
9 10 aid in the prevention, treatment, and control of lead
9 11 poisoning in this state, and including any other information
9 12 that the committee deems relevant and necessary.

9 13 LSB 2241YH 83

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