

**House File 85 - Introduced**

HOUSE FILE 85

BY HUNTER

**A BILL FOR**

1 An Act requiring testing and abatement of lead hazards in  
2 certain residential dwellings and child care facilities,  
3 requiring inspections of certain residential housing for  
4 lead hazards prior to sale, establishing a childhood lead  
5 poisoning prevention and control committee, and providing a  
6 penalty.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 135.105E Lead hazard testing —  
2 abatement — penalty.

3 1. A person who owns or manages a residential dwelling  
4 which is target housing as defined in section 135.105C or owns  
5 or manages a child care facility licensed under chapter 237A  
6 shall have a lead hazard test performed on the dwelling or each  
7 dwelling unit or the child care facility to determine whether  
8 the dwelling or dwelling unit or child care facility contains  
9 lead-based paint, a soil-lead hazard, or a dust-lead hazard.

10 If a lead hazard is found to exist, the owner or manager shall  
11 cause the lead hazard to be abated as required by this section.

12 2. A lead inspector certified under section 135.105A shall  
13 perform the lead hazard test and provide a written report of  
14 the results of such test to each of the following:

15 a. The department.

16 b. The owner or manager of the residential dwelling or child  
17 care facility.

18 c. The tenant or occupant of the residential dwelling or  
19 dwelling unit or parents or legal guardians of children who  
20 attend the child care facility.

21 3. The lead inspector shall issue the written report to  
22 the owner or manager within two weeks of the inspection and  
23 receipt of any laboratory tests. If the inspector finds that  
24 a lead hazard is present in the dwelling or dwelling unit, or  
25 child care facility, or on the premises thereof, the written  
26 report shall notify the owner or manager that lead hazard  
27 abatement must be completed in a time period and manner as  
28 determined by the inspector. Such lead hazard abatement shall  
29 be performed by a lead abater certified under section 135.105A.  
30 If the occupant who occupies the residential dwelling or child  
31 who attends the child care facility at the time that this  
32 written report is issued vacates the residential dwelling or  
33 dwelling unit, or ceases attending the child care facility,  
34 the dwelling or dwelling unit or child care facility shall not  
35 be leased or occupied or attended by any other person until

1 the certified inspector issues a written report that the lead  
2 hazard abatement has been completed.

3 4. The department shall make results of lead hazard tests  
4 conducted pursuant to this section available to the public.  
5 The department shall adopt rules to implement lead hazard  
6 testing and lead hazard abatement in affected residential  
7 dwellings which are target housing or child care facilities  
8 which are licensed under chapter 237A.

9 5. A person who violates this section is subject to a civil  
10 penalty not to exceed five thousand dollars for each offense.

11 Sec. 2. Section 558.69, subsection 1, Code 2011, is amended  
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *0e.* For housing that was built before 1978,  
14 that the housing has been tested by a person who has been  
15 certified by the department of public health to perform lead  
16 hazard testing and either found to have no lead hazards within  
17 the meaning of the federal Residential Lead-based Paint Hazard  
18 Reduction Act of 1992, 42 U.S.C. § 4851-4855, and amendments  
19 thereto, or found to meet the requirements of the maintenance  
20 standard. For purposes of this paragraph, "*maintenance*  
21 *standard*" means any of the following: repairing and repainting  
22 areas of deteriorated paint inside a dwelling, cleaning the  
23 interior of the dwelling to remove dust that constitutes a lead  
24 poisoning hazard, adjusting doors and windows in the dwelling  
25 to minimize friction or impact on surfaces, or providing  
26 the purchaser of the dwelling with all information required  
27 pursuant to the federal Residential Lead-based Paint Hazard  
28 Reduction Act of 1992, 42 U.S.C. § 4851-4855, and amendments  
29 thereto.

30 Sec. 3. CHILDHOOD LEAD POISONING PREVENTION AND CONTROL  
31 COMMITTEE.

32 1. The childhood lead poisoning prevention and control  
33 committee is established in the department of public  
34 health for the purpose of collecting information and making  
35 recommendations concerning childhood lead poisoning prevention

1 and control.

2 2. The committee consists of the following persons who are  
3 voting members:

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

6 b. The director of the department of natural resources, or  
7 a designee.

8 c. The director of human services, or a designee.

9 d. The executive director of the Iowa finance authority, or  
10 a designee.

11 e. A member who is a representative of a county health  
12 department located in a county with a population of three  
13 hundred thousand or more inhabitants, appointed by the governor  
14 subject to confirmation by the senate.

15 f. A member who is a representative of a county health  
16 department located in a county with a population of less than  
17 three hundred thousand inhabitants, appointed by the governor  
18 subject to confirmation by the senate.

19 g. A member who is a lead abater certified under section  
20 135.105A, appointed by the governor subject to confirmation by  
21 the senate.

22 h. A member who represents the general public, is an  
23 inhabitant of a county with a population of three hundred  
24 thousand or more inhabitants, and is the parent of a child who  
25 has experienced lead poisoning, or is a child advocate who has  
26 experience with lead poisoning in children, appointed by the  
27 governor subject to confirmation by the senate.

28 i. A member who represents property owners and developers in  
29 this state, appointed by the governor subject to confirmation  
30 by the senate.

31 3. The members of the committee shall not receive  
32 compensation for the performance of their duties as members but  
33 each member shall be paid necessary expenses while engaged in  
34 the performance of duties of the committee.

35 4. The members of the committee are subject to and are

1 officials within the meaning of chapter 68B.

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

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

25 a. The first public hearing shall be held within sixty days  
26 after the commission has been appointed.

27 b. The committee may hold additional public hearings as it  
28 determines necessary or appropriate to carry out its duties  
29 under this section.

30 7. The committee shall complete its deliberations in  
31 December 2011, and submit a final report to the general  
32 assembly on or before January 15, 2012, summarizing the  
33 committee's activities, analyzing the issues studied, making  
34 recommendations that will aid in the prevention, treatment,  
35 and control of childhood lead poisoning in this state, and

1 including any other information that the committee deems  
2 relevant and necessary.

3

EXPLANATION

4 This bill requires testing and abatement of lead hazards  
5 in certain residential dwellings and child care facilities,  
6 requires inspections of certain residential housing for  
7 lead hazards prior to its sale, establishes a childhood lead  
8 poisoning prevention and control committee, and provides a  
9 penalty.

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

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

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

1 135.105A.

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

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

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

1 receive compensation for performance of their duties but do  
2 receive necessary expenses for that performance.

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

8 The committee is required to complete its deliberations in  
9 December 2011, and to submit a final report to the general  
10 assembly by January 15, 2012, summarizing its activities,  
11 analyzing the issues studied, making recommendations that will  
12 aid in the prevention, treatment, and control of lead poisoning  
13 in this state, and including any other information that the  
14 committee deems relevant and necessary.