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STATE OF NEBRASKA

STATUTES RELATING TO
RESIDENTIAL LEAD-BASED PAINT PROFESSIONS CERTIFICATION ACT

Nebraska Department of Health and Human Services

Department of Health and Human Services
Division of Public Health
Licensure Unit

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RESIDENTIAL LEAD-BASED PAINT PROFESSIONS CERTIFICATION ACT

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71-6318. Act, how cited. Sections 71-6318 to 71-6331.01 shall be known and may be cited as the Residential Lead-Based Paint Professions Practice Act.

Source: Laws 1994, LB 1210, § 166; Laws 1995, LB 147, § 1; Laws 1999, LB 863, § 1; Laws 2007, LB463, § 1260. Operative date December 1, 2008.

71-6318.01. Act; purpose and applicability. (1) The Residential Lead-Based Paint Professions Practice Act contains procedures and requirements for the accreditation of training programs, procedures and requirements for the licensure 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 licensed 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.

Source: Laws 1999, LB 863, § 2; Laws 2007, LB463, § 1261. Operative date December 1, 2008.

71-6319. Repealed. Laws 1999, LB 863, s. 57.

71-6319.01. Definitions, where found. For purposes of the Residential Lead-Based Paint Professions Practice Act, the definitions found in sections 71-6319.02 to 71-6319.40 apply.

Source: Laws 1999, LB 863, § 3; Laws 2007, LB463, § 1262. Operative date December 1, 2008.

71-6319.02. Abatement or abatement project, defined. 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 licensed in accordance with the Residential Lead-Based Paint Professions Practice Act 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.

Source: Laws 1999, LB 863, § 4; Laws 2007, LB463, § 1263. Operative date December 1, 2008.

71-6319.03. Accredited training program, defined. 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.

Source: Laws 1999, LB 863, § 5. Effective date May 27, 1999.

71-6319.04. Licensed abatement worker, defined. Licensed abatement worker means an individual who has been trained by an accredited training program and licensed by the department to perform abatement projects.

Source: Laws 1999, LB 863, § 6; Laws 2007, LB463, § 1264. Operative date December 1, 2008.

71-6319.05. Licensed firm, defined. Licensed firm means a firm to which the department has issued a license.
Source: Laws 1999, LB 863, § 7; Laws 2007, LB463, § 1265. Operative date December 1, 2008.

71-6319.06. Licensed inspector, defined. Licensed inspector means an individual who has been trained by an accredited training program and licensed by the department to conduct inspections and sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.
Source: Laws 1999, LB 863, § 8; Laws 2007, LB463, § 1266. Operative date December 1, 2008.

71-6319.07. Licensed project designer, defined. Licensed project designer means an individual who has been trained by an accredited training program and licensed by the department to prepare abatement project designs, occupant protection plans, and abatement reports.
Source: Laws 1999, LB 863, § 9; Laws 2007, LB463, § 1267. Operative date December 1, 2008.

71-6319.08. Licensed risk assessor, defined. Licensed risk assessor means an individual who has been trained by an accredited training program and licensed 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.
Source: Laws 1999, LB 863, § 10; Laws 2007, LB463, § 1268. Operative date December 1, 2008.

71-6319.09. Licensed supervisor, defined. Licensed supervisor means an individual who has been trained by an accredited training program and licensed by the department to supervise and conduct abatement projects and to prepare occupant protection plans and abatement reports.
Source: Laws 1999, LB 863, § 11; Laws 2007, LB463, § 1269. Operative date December 1, 2008.

71-6319.10. Licensed visual lead-hazard advisor, defined. Licensed visual lead-hazard advisor means an individual who has been trained by an accredited training program and licensed by the department to conduct a visual lead-hazard screen.
Source: Laws 1999, LB 863, § 12; Laws 2007, LB463, § 1270. Operative date December 1, 2008.

71-6319.11. Child-occupied facility, defined. 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.
Source: Laws 1999, LB 863, § 13. Effective date May 27, 1999.

71-6319.12. Common area, defined. 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.
Source: Laws 1999, LB 863, § 14. Effective date May 27, 1999.

71-6319.13. Component or building component, defined. 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.
Source: Laws 1999, LB 863, § 15. Effective date May 27, 1999.

71-6319.14. Containment, defined. 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.
Source: Laws 1999, LB 863, § 16. Effective date May 27, 1999.

71-6319.15. Department, defined. Department means the Department of Health and Human Services.
Source: Laws 1999, LB 863, § 17; Laws 2007, LB296, § 657. Operative date July 1, 2007.

71-6319.16. Deteriorated paint, defined. Deteriorated paint means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.
Source: Laws 1999, LB 863, § 18. Effective date May 27, 1999.

71-6319.17. Repealed. Laws 2007, LB 296, § 815.

71-6319.18. Elevated blood-lead level, defined. 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.
Source: Laws 1999, LB 863, § 20. Effective date May 27, 1999.

71-6319.19. Encapsulant, defined. 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.
Source: Laws 1999, LB 863, § 21. Effective date May 27, 1999.

71-6319.20. Encapsulation, defined. Encapsulation means the application of an encapsulant.
Source: Laws 1999, LB 863, § 22. Effective date May 27, 1999.

71-6319.21. Enclosure, defined. 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.
Source: Laws 1999, LB 863, § 23. Effective date May 27, 1999.

71-6319.22. Firm, defined. Firm means a company, partnership, corporation, sole proprietorship, association, or other business entity that conducts lead-based paint abatement or abatement projects.
Source: Laws 1999, LB 863, § 24. Effective date May 27, 1999.

71-6319.23. Guest instructor, defined. 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.
Source: Laws 1999, LB 863, § 25. Effective date May 27, 1999.

71-6319.24. Inspection, defined. 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.
Source: Laws 1999, LB 863, § 26. Effective date May 27, 1999.

71-6319.25. Interim controls, defined. 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.
Source: Laws 1999, LB 863, § 27. Effective date May 27, 1999.

71-6319.26. Lead-based paint, defined. 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.
Source: Laws 1999, LB 863, § 28. Effective date May 27, 1999.

71-6319.27. Lead-based paint activities, defined. Lead-based paint activities means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.
Source: Laws 1999, LB 863, § 29. Effective date May 27, 1999.

71-6319.28. Lead-based paint hazard, defined. 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 department.
Source: Laws 1999, LB 863, § 30; Laws 2007, LB296, § 658. Operative date July 1, 2007.

71-6319.29. Lead-based paint profession, defined. 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 Practice Act for which individuals may receive training from an accredited training program and become licensed by the department.

Source: Laws 1999, LB 863, § 31; Laws 2007, LB463, § 1271. Operative date December 1, 2008.

71-6319.30. Lead-contaminated dust, defined. 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 department.

Source: Laws 1999, LB 863, § 32; Laws 2007, LB296, § 659. Operative date July 1, 2007.

71-6319.31. Lead-contaminated soil, defined. 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 department.

Source: Laws 1999, LB 863, § 33; Laws 2007, LB296, § 660. Operative date July 1, 2007.

71-6319.32. Person, defined. 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.

Source: Laws 1999, LB 863, § 34. Effective date May 27, 1999.

71-6319.33. Principal instructor, defined. Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course.

Source: Laws 1999, LB 863, § 35. Effective date May 27, 1999.

71-6319.34. Reduction, defined. Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Source: Laws 1999, LB 863, § 36. Effective date May 27, 1999.

71-6319.35. Residential dwelling, defined. 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.

Source: Laws 1999, LB 863, § 37. Effective date May 27, 1999.

71-6319.36. Risk assessment, defined. 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.

Source: Laws 1999, LB 863, § 38. Effective date May 27, 1999.

71-6319.37. Target housing, defined. 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.

Source: Laws 1999, LB 863, § 39. Effective date May 27, 1999.

71-6319.38. Training curriculum, defined. 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.

Source: Laws 1999, LB 863, § 40. Effective date May 27, 1999.

71-6319.39. Training program manager, defined. Training program manager means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

Source: Laws 1999, LB 863, § 41. Effective date May 27, 1999.

71-6319.40. Visual lead-hazard screen, defined. 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 licensed visual lead-hazard advisor shall retain a copy of the report in his or her files for three years.

Source: Laws 1999, LB 863, § 42; Laws 2007, LB463, § 1272. Operative date December 1, 2008.

71-6320. Lead abatement project; firm; license required. Except as otherwise provided in the Residential Lead-Based Paint Professions Practice Act, a firm shall not engage in an abatement project unless the firm holds a license for that purpose.

Source: Laws 1994, LB 1210, § 168; Laws 1999, LB 863, § 43; Laws 2007, LB463, § 1273. Operative date December 1, 2008.

71-6321. Administration of act; rules and regulations; department; powers and duties. (1) The department shall administer the Residential Lead-Based Paint Professions Practice Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing 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 an annual firm license or license renewal, not less than two hundred dollars or more than five hundred dollars;

(b) For accreditation of a training 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;

(c) For accreditation of a review course or a 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;

(d) 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 abatement project is in progress; and

(e) For a project review of each abatement project of a licensed firm, not less than two hundred dollars or more than five hundred dollars.

Any business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of one hundred dollars for a firm license and for accreditation of a training 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 such fees collected by the department shall be remitted to the State Treasurer for credit to the Health and Human Services 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 an abatement project the department shall conduct an onsite inspection of each licensed firm's procedures for performing 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 licensure or accreditation as described in the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for abatement projects, for the licensure 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-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.

Source: Laws 1994, LB 1210, § 169; Laws 1996, LB 1044, § 764; Laws 1999, LB 863, § 44; Laws 2001, LB 668, § 3; Laws 2002, LB 1021, § 101; Laws 2003, LB 242, § 145; Laws 2007, LB296, § 661; Laws 2007, LB463, § 1274. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

71-6322. Firm; license; qualifications. To qualify for a license, a 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 abatement projects;

(2) Ensure that each employee or agent of the firm who will participate in an abatement project is licensed as required by the Residential Lead-Based Paint Professions Practice Act;

(3) Demonstrate to the satisfaction of the department that the firm is capable of complying with all applicable requirements, procedures, and standards pertaining to 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-based paint professions and the general public.

Source: Laws 1994, LB 1210, § 170; Laws 1999, LB 863, § 45; Laws 2007, LB463, § 1275. Operative date December 1, 2008.

71-6323. License; application; contents; current certificate holder; how treated. (1) To apply for a license, a 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 firm will be licensed as required by the Residential Lead-Based Paint Professions Practice 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.

(3) A firm holding a certificate on December 1, 2008, shall be deemed to be holding a license under the Residential Lead-Based Paint Professions Practice Act and the Uniform Credentialing Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with such acts until the certificate would have expired under its terms.

Source: Laws 1994, LB 1210, § 171; Laws 1999, LB 863, § 46; Laws 2007, LB463, § 1276. Operative date December 1, 2008.

71-6324 and 71-6325. Repealed. Laws 1999, LB 863, § 57.

71-6326. Individuals; license required; qualifications; term; renewal; applications; current certificate holder; how treated. (1) An individual shall not be eligible to work on an abatement project unless the individual holds a license issued by the department.

(2) The department shall issue the following classes of licenses: Worker, supervisor, inspector, risk assessor, visual lead-hazard advisor, elevated blood-lead level inspector, and project designer. To qualify for a license of a particular class, an individual shall have (a) successfully completed a training course approved or administered by the department, (b) 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) An individual holding such a certificate on December 1, 2008, shall be deemed to be holding a license under the Residential Lead-Based Paint Professions Practice Act and the Uniform Credentialing Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with such acts until the certificate would have expired under its terms.

Source: Laws 1994, LB 1210, § 174; Laws 1997, LB 752, § 196; Laws 1999, LB 863, § 47; Laws 2007, LB463, § 1277. Operative date December 1, 2008.

71-6327. Lead-based paint professions; license; application; disciplinary actions; fees; continuing competency requirements. (1) An applicant for a license in any of the lead-based paint professions prescribed in the Residential Lead-Based Paint Professions Practice Act shall be made as provided in the Uniform Credentialing Act. An individual shall be credentialed in the same manner as an individual under subsection (1) of section 38-121 and shall be subject to the disciplinary provisions of the Uniform Credentialing Act as provided in section 71-6331. The department shall establish and collect license and renewal fees as provided in sections 38-151 to 38-157.

(2) The department shall adopt and promulgate rules and regulations to establish the continuing competency requirements pursuant to the Uniform Credentialing Act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 38-145 which a licensee may select as an alternative to continuing education.

Source: Laws 1994, LB 1210, § 175; Laws 1999, LB 863, § 48; Laws 2002, LB 1021, § 102; Laws 2007, LB463, § 1278. Operative date December 1, 2008.

71-6328. Governmental body; acceptance of bid; limitation. No state agency, county, city, village, school district, or other political subdivision shall accept a bid in connection with any abatement project from a firm which does not hold a

license from the department at the time the bid is submitted.

Source: Laws 1994, LB 1210, § 176; Laws 1999, LB 863, § 49; Laws 2007, LB463, § 1279. Operative date December 1, 2008.

71-6328.01. Reciprocity. Any individual or firm who or which has been issued a license, a certificate, or accreditation for training in another state which (1) has a licensure, certification, or accreditation program approved by the federal Environmental Protection Agency, (2) has licensure, accreditation, certification, education, and experience requirements substantially equal to or greater than those adopted by this state, and (3) grants equal licensure, certification, and accreditation privileges to individuals and firms licensed or accredited and residing in this state may be issued an equivalent license or accreditation in Nebraska upon terms and conditions determined by the department. The terms and conditions may reduce the time period the license is valid and the fee requirements.

Source: Laws 1999, LB 863, § 53; Laws 2003, LB 242, § 146; Laws 2007, LB463, § 1280. Operative date December 1, 2008.

71-6328.02. Existing rules, regulations, licenses, certificates, forms of approval, suits, other proceedings; how treated. (1) All rules and regulations adopted prior to December 1, 2008, under the Residential Lead-Based Paint Professions Certification Act shall continue to be effective under the Residential Lead-Based Paint Professions Practice Act to the extent not in conflict with the changes made by Laws 2007, LB 463.

(2) All licenses, certificates, or other forms of approval issued prior to December 1, 2008, in accordance with the Residential Lead-Based Paint Professions Certification Act shall remain valid as issued for purposes of the changes made by Laws 2007, LB 463, in the Residential Lead-Based Paint Professions Practice Act unless revoked or otherwise terminated by law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to December 1, 2008, under the Residential Lead-Based Paint Professions Certification Act shall be subject to the provisions of the act as they existed prior to December 1, 2008.

Source: Laws 2007, LB463, § 1285; Operative date December 1, 2008.

71-6329. Violations; penalties. (1) A firm which engages in an abatement project without a valid license as provided in the Residential Lead-Based Paint Professions Practice 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) An individual who engages in a lead-based paint profession without a valid license 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 firm which knowingly engages in an abatement project but which uses employees who do not hold licenses 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.

(4) Any firm conducting an accredited training program which knowingly engages in issuing fraudulent licenses 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.

(5) The civil penalties prescribed in subsections (1), (2), (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.

(6) An individual or firm which has been assessed a civil penalty under this section and subsequently engages in an abatement project or a lead-based paint profession without a valid license or using employees who do not hold licenses, conducts training programs without being accredited by the department, or issues fraudulent licenses, 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.

Source: Laws 1994, LB 1210, § 177; Laws 1999, LB 863, § 50; Laws 2007, LB463, § 1281. Operative date December 1, 2008.

71-6330. Violations; action to enjoin. 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 individual or firm to restrain or prevent any violation of the Residential Lead-Based Paint Professions Practice Act or of any rules and regulations adopted and promulgated pursuant to the act.

Source: Laws 1994, LB 1210, § 178; Laws 1999, LB 863, § 51; Laws 2007, LB463, § 1282. Operative date December 1, 2008.

71-6331. Violations; disciplinary actions; civil penalty; procedure; appeal; lien; enforcement. (1) An application or a license under the Residential Lead-Based Paint Professions Practice Act may be denied, refused renewal, suspended, or revoked if the applicant or licensee violates any of the provisions of the act, fraudulently or deceptively obtains or attempts to obtain a license, fails at any time to meet the qualifications for a license, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for abatement projects, or employs or permits an unlicensed individual to work in a lead-based paint profession. An individual shall be subject to the reporting, investigatory, and disciplinary provisions of sections 38-176 to 38-185, 38-1,106, 38-1,109 to 38-1,126, and 38-1,137 to 38-1,139 for any of the grounds for disciplinary action found in the Uniform Credentialing Act and for any violation of the Residential Lead-Based Paint Professions Practice Act or the rules and regulations adopted and promulgated under the acts.

(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 firm licensed 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 firm license or assess a civil penalty on a firm, it shall send to the applicant or licensee 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 licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant 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 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 Residential Lead-Based Paint Professions Practice 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 distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1994, LB 1210, § 179; Laws 1999, LB 863, § 52; Laws 2007, LB463, § 1283. Operative date December 1, 2008.

71-6331.01. Environmental audits; applicability. Sections 25-21,254 to 25-21,264 do not apply to the Residential Lead-Based Paint Professions Practice Act.

Source: Laws 1999, LB 863, § 54; Laws 2007, LB463, § 1284. Operative date December 1, 2008.

71-6332 and 71-6333. Repealed. Laws 1999, LB 863, § 57.