

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4763**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 5453 (MCL 333.5453), as amended by 2002 PA 644.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5453. (1) "Abatement", except as otherwise provided in  
2 subsection (2), means a measure or set of measures designed to  
3 permanently eliminate lead-based paint hazards. Abatement includes  
4 all of the following:

5       (a) The removal of lead-based paint and dust lead hazards, the  
6 permanent enclosure or encapsulation of lead-based paint, the  
7 replacement of lead-painted surfaces or fixtures, the removal or  
8 covering of soil lead hazards, and all preparation, cleanup,  
9 disposal, and postabatement clearance testing activities associated

1 with such measures.

2 (b) A project for which there is a written contract or other  
3 documentation that provides that a person will be conducting  
4 activities in or to a residential dwelling or child occupied  
5 facility that will result in the permanent elimination of lead-  
6 based paint hazards or that are designed to permanently eliminate  
7 lead-based paint hazards.

8 (c) A project resulting in the permanent elimination of lead-  
9 based paint hazards, conducted by a person certified under this  
10 part, except a project that is exempt from this part.

11 (d) A project resulting in the permanent elimination of lead-  
12 based paint hazards, conducted by a person who, through their  
13 company name or promotional literature, represents, advertises, or  
14 holds themselves out to be in the business of performing lead-based  
15 paint activities except a project that is exempt from this part.

16 (e) A project resulting in the permanent elimination of lead-  
17 based paint hazards that is conducted in response to a state or  
18 local government abatement order.

19 (2) Abatement does not include any of the following:

20 (a) Renovation, remodeling, landscaping, or other activity, if  
21 the activity is not designed to permanently eliminate lead-based  
22 paint hazards, but is instead designed to repair, restore, or  
23 remodel a structure, target housing, or dwelling even though the  
24 activity may incidentally result in a reduction or elimination of a  
25 lead-based paint hazard.

26 (b) An interim control, operation, and maintenance activity,  
27 or other measure or activity designed to temporarily, but not

1 permanently, reduce a lead-based paint hazard.

2 (c) Any lead-based paint activity performed by the owner of an  
3 owner-occupied residential dwelling or an owner-occupied  
4 multifamily dwelling containing 4 or fewer units if the activity is  
5 performed only in that owner-occupied unit of the multifamily  
6 dwelling.

7 (D) THE SCRAPING OR REMOVAL OF PAINT, PAINTING OVER PAINT, OR  
8 OTHER SIMILAR ACTIVITY THAT MAY INCIDENTALLY RESULT IN A REDUCTION  
9 OR ELIMINATION OF A LEAD-BASED PAINT HAZARD, IF THE ACTIVITY MEETS  
10 ALL OF THE FOLLOWING:

11 (i) THE ACTIVITY IS PERFORMED ONLY ON RESIDENTIAL OR  
12 MULTIFAMILY DWELLINGS CONTAINING 4 OR FEWER UNITS.

13 (ii) THE ACTIVITY IS COORDINATED BY A NONPROFIT CHARITABLE OR  
14 VOLUNTEER ORGANIZATION THAT MEETS ALL OF THE FOLLOWING:

15 (A) IS IN COMPLIANCE WITH THE PROCEDURES ESTABLISHED UNDER  
16 SUBPART J OF PART 35 OF TITLE 24 OF THE CODE OF FEDERAL  
17 REGULATIONS, 24 CFR 35.900 TO 35.940.

18 (B) HAS WRITTEN GUIDELINES IN PLACE TO ENSURE SAFE WORK  
19 PRACTICES TO PROTECT RESIDENTS AND VOLUNTEERS FROM HAZARDS  
20 INCLUDING, BUT NOT LIMITED TO, LEAD EXPOSURE AND ASBESTOS EXPOSURE.

21 (C) IN WRITING, DISCLOSES TO THE OWNER OF THE RESIDENTIAL OR  
22 MULTIFAMILY DWELLING ALL OF THE FOLLOWING:

23 (I) THE PRESENCE OF ANY KNOWN LEAD-BASED PAINT AND LEAD-BASED  
24 PAINT HAZARDS.

25 (II) INFORMATION REGARDING THE LEAD SAFE HOUSING REGISTRY  
26 MAINTAINED BY THE DEPARTMENT UNDER SECTION 5474B.

27 (III) INFORMATION REGARDING THE OWNER'S OBLIGATIONS UNDER THE

1 FEDERAL LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARD DISCLOSURE RULE  
2 UNDER SUBPART F OF PART 745 OF TITLE 40 OF THE CODE OF FEDERAL  
3 REGULATIONS, 40 CFR 745.100 TO 745.119.

4 (D) NOTIFIES THE DEPARTMENT THAT THE RESIDENTIAL OR  
5 MULTIFAMILY DWELLING MAY BE REQUIRED TO BE ON THE LEAD SAFE HOUSING  
6 REGISTRY MAINTAINED BY THE DEPARTMENT.

7 (iii) THE ACTIVITY IS PERFORMED ONLY BY UNPAID VOLUNTEERS AND  
8 THE ORGANIZATION RECEIVES NO REMUNERATION DIRECTLY FROM THE OWNER  
9 OR OCCUPANT OF THE RESIDENTIAL DWELLING OR MULTIFAMILY DWELLING.

10 (iv) THE ACTIVITY DOES NOT INVOLVE THE USE OF A LEAD-BASED  
11 PAINT ENCAPSULATING PRODUCT THAT REQUIRES CERTIFICATION FROM THE  
12 DEPARTMENT.

13 (v) THE ACTIVITY DOES NOT INVOLVE THE USE OF HIGH-PRESSURE  
14 WATER OR COMPRESSED AIR CLEANING EQUIPMENT ON, THE DRY SANDING OF,  
15 OR THE SCRAPING OF, ASBESTOS SIDING PRIOR TO PAINTING.

16 (3) "Accredited training program" means a training program  
17 that has been accredited by the department under this part to  
18 provide training for individuals engaged in lead-based paint  
19 activities.

20 (4) "Adequate quality control" means a plan or design that  
21 ensures the authenticity, integrity, and accuracy of a sample  
22 including, but not limited to, a dust sample, a soil or paint chip  
23 sample, or a paint film sample. Adequate quality control also  
24 includes a provision in a plan or design described in this  
25 subsection for representative sampling.