

1999 ASSEMBLY BILL 741

February 10, 2000 – Introduced by Representatives SYKORA, F. LASEE, URBAN, KREIBICH, PETTIS, SUDER, MUSSER, STONE and KELSO, cosponsored by Senator WELCH. Referred to Committee on Housing.

1 **AN ACT to renumber and amend** 254.176 (3) (b), 254.20 (2) (d) and 254.20 (3)
2 (a); and **to create** 254.176 (3) (b) 1., 254.176 (3) (b) 2., 254.176 (3m), 254.20 (2)
3 (d) 1., 254.20 (2) (d) 2., 254.20 (3) (a) 1., 254.20 (3) (a) 2., 254.20 (3) (am) and
4 254.20 (3m) of the statutes; **relating to:** requiring bonding or insurance for
5 certain persons who are certified to perform lead hazard reduction, a lead
6 management activity, asbestos abatement or management activity or to
7 supervise the reduction, management or abatement and granting rule-making
8 authority.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) may promulgate rules establishing requirements for the certification of persons who conduct lead hazard reduction (such as removing lead-bearing paint), perform a lead management activity or supervise the performance of the reduction or activity. The requirements must meet but may not exceed requirements established in regulations promulgated by the administrator of the federal environmental protection agency.

Also under current law, DHFS may establish by rule certification requirements for persons performing or supervising asbestos abatement activity or performing

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asbestos management activities in connection with schools, as a part of public employment or in general.

This bill makes an exception to the DHFS' restriction from promulgating rules that exceed requirements of federal environmental protection agency regulations, to authorize DHFS, by rule, to require proof of bonding in the amount of \$25,000 or general liability insurance in the amount of \$2,000,000 for persons who are required to be certified to perform lead hazard reduction or a lead management activity or the supervision of the performance of any such reduction or activity. The bill also authorizes DHFS, by rule, to require proof of bonding in the amount of \$25,000 or general liability insurance in the amount of \$2,000,000 for persons, including public employes and persons performing asbestos abatement or management in schools, who are required to be certified to perform asbestos abatement activity or asbestos management activity or the supervision of the performance of any such abatement or management activity.

However, the bill excepts from this requirement an owner of real property who performs or supervises the performance of lead hazard reduction or a lead management activity or asbestos abatement or management activity for his or her property; the full-time employe of an owner of real property or the full-time employe of an owner's agent, if the employe performs lead hazard reduction, a lead management activity or asbestos abatement or management activity with respect to the owner's property in the course of his or her duty as an employe; and the full-time agent of an owner of real property, if the agent performs or supervises the performance of lead hazard reduction, a lead management activity or asbestos abatement or management activity with respect to the owner's property in the course of his or her duty as agent. The bill authorizes, but does not require, these persons to provide to DHFS proof of bonding or general liability insurance.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 254.176 (3) (b) of the statutes is renumbered 254.176 (3) (b) (intro.)
2 and amended to read:
3 254.176 **(3)** (b) (intro.) Shall meet, but not exceed, any requirements under
4 regulations promulgated by the administrator of the federal environmental
5 protection agency under section 402 of the federal toxic substances control act, as
6 created under section 1021 of P.L. 102-550. 15 USC 2682, except that the department
7 may by rule require that a person, other than a person specified under sub. (3m) (a)

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1 to (d), who is required to be certified under this section provide to the satisfaction of
2 the department proof that the person has in force one of the following:

3 **SECTION 2.** 254.176 (3) (b) 1. of the statutes is created to read:

4 254.176 (3) (b) 1. A bond of not less than \$25,000 endorsed by a surety company
5 authorized to do business in this state, conditioned upon the applicant complying
6 with all applicable provisions of this section.

7 **SECTION 3.** 254.176 (3) (b) 2. of the statutes is created to read:

8 254.176 (3) (b) 2. A policy of general liability insurance issued by an insurer
9 authorized to do business in this state insuring the applicant in the amount of at least
10 \$2,000,000 per occurrence because of bodily injury to or death of others or because
11 of damage to the property of others.

12 **SECTION 4.** 254.176 (3m) of the statutes is created to read:

13 254.176 (3m) Any of the following may, but is not required to, provide to the
14 satisfaction of the department proof of having in force a bond, as described in s.
15 254.20 (2) (d) 1., or a policy, as described in s. 254.20 (2) (d) 2.:

16 (a) An owner of real property who performs or supervises the performance of
17 lead hazard reduction or a lead management activity for his or her property.

18 (b) The full-time employe of an owner of real property, if the employe performs
19 lead hazard reduction or a lead management activity with respect to the owner's
20 property in the course of his or her duty as an employe.

21 (c) The full-time agent of an owner of real property, if the agent performs or
22 supervises the performance of lead hazard reduction or a lead management activity
23 with respect to the owner's property in the course of his or her duty as an agent.

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1 (d) The full-time employe of an agent of an owner of real property, if the
2 employe performs lead hazard reduction or a lead management activity with respect
3 to the owner's property in the course of his or her duty as an employe.

4 **SECTION 5.** 254.20 (2) (d) of the statutes is renumbered 254.20 (2) (d) (intro.)
5 and amended to read:

6 254.20 (2) (d) (intro.) Except as provided in s. 250.041 and subject to s. 254.115,
7 the department may establish by rule certification requirements for any person not
8 certified under pars. (a) to (c) who performs any asbestos abatement activity or
9 asbestos management activity or who supervises the performance of any asbestos
10 abatement activity or asbestos management activity, including the requirement
11 that a person required to be certified under this paragraph, other than a person
12 specified under sub. (3m) (a) to (d), provide to the satisfaction of the department proof
13 that the person has in force one of the following:

14 **SECTION 6.** 254.20 (2) (d) 1. of the statutes is created to read:

15 254.20 (2) (d) 1. A bond of not less than \$25,000 endorsed by a surety company
16 authorized to do business in this state, conditioned upon the applicant complying
17 with all applicable provisions of this section.

18 **SECTION 7.** 254.20 (2) (d) 2. of the statutes is created to read:

19 254.20 (2) (d) 2. A policy of general liability insurance issued by an insurer
20 authorized to do business in this state insuring the applicant in the amount of at least
21 \$2,000,000 per occurrence because of bodily injury to or death of others or because
22 of damage to the property of others.

23 **SECTION 8.** 254.20 (3) (a) of the statutes is renumbered 254.20 (3) (a) (intro.)
24 and amended to read:

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1 254.20 (3) (a) (intro.) Except as provided in s. 250.041, the department may
2 establish by rule eligibility requirements for persons applying for a certification card
3 required under sub. (2). ~~Any training required by the department under this~~
4 ~~paragraph may be approved by the department or provided by the department under~~
5 ~~sub. (8).~~ including the requirement that a person required to be certified under this
6 paragraph, other than a person specified under sub. (3m) (a) to (d), provide to the
7 satisfaction of the department proof that the person has in force one of the following:

8 **SECTION 9.** 254.20 (3) (a) 1. of the statutes is created to read:

9 254.20 (3) (a) 1. A bond of not less than \$25,000 endorsed by a surety company
10 authorized to do business in this state, conditioned upon the applicant complying
11 with all applicable provisions of this section.

12 **SECTION 10.** 254.20 (3) (a) 2. of the statutes is created to read:

13 254.20 (3) (a) 2. A policy of general liability insurance issued by an insurer
14 authorized to do business in this state insuring the applicant in the amount of at least
15 \$2,000,000 per occurrence because of bodily injury to or death of others or because
16 of damage to the property of others.

17 **SECTION 11.** 254.20 (3) (am) of the statutes is created to read:

18 254.20 (3) (am) Any training required by the department under par. (a) may
19 be approved by the department or provided by the department under sub. (8).

20 **SECTION 12.** 254.20 (3m) of the statutes is created to read:

21 254.20 (3m) Any of the following may, but is not required to, provide to the
22 satisfaction of the department proof of having in force a bond, as described in sub.
23 (2) (d) 1., or a policy, as described in sub. (2) (d) 2.:

24 (a) An owner of real property who performs or supervises the performance of
25 asbestos abatement activity or asbestos management activity for his or her property.

