

# Sherwin-Williams, ConAgra, and NL's Ballot Initiative to Shift Lead Paint Abatement Costs to Taxpayers (Initiative 17-0049)

In December 2017—a month after the landmark decision in *People v. ConAgra Grocery Products Company*—The Sherwin-Williams Company, ConAgra Grocery Products Company, and NL Industries, Inc. (“Manufacturers”) sponsored an initiative to void the judgment. Signatures were gathered to add the initiative to the November 2018 ballot, but the initiative was withdrawn after receiving extensive criticism in the press and from members of the California Legislature.

The initiative proposed issuance of state bonds to remediate structural and environmental hazards (including lead, mold, asbestos, and other hazards) for private residences, schools, assisted living and senior housing facilities.

Included in the initiative was a provision to invalidate the judgment in *People v. ConAgra*. It declared that “lead-based paint on or in private or public residential properties, whether considered individually, collectively, or in the aggregate, is not a public nuisance” and that this would apply to all cases pending on November 1, 2017. This would have shifted responsibility for cleaning up lead paint from the Manufacturers to taxpayers.

Manufacturers developed and funded the initiative. On the date that the initiative was introduced, Manufacturers established a committee in support of the initiative: Californians for Safe and Affordable Housing, Sponsored by Manufacturing Companies. Sherwin-Williams, ConAgra, and NL Industries were each listed as committee sponsors.

## ***The Attorney General's Official Title & Summary of Ballot Initiative 17-0049***

### **ELIMINATES CERTAIN LIABILITY FOR LEAD-PAINT MANUFACTURERS. AUTHORIZES BONDS TO FUND STRUCTURAL AND ENVIRONMENTAL REMEDIATION PROJECTS. INITIATIVE STATUTE.**

Declares that lead paint in homes is not a public nuisance.

Eliminates liability of lead-paint manufacturers—in cases pending on or after November 1, 2017—for claims that lead paint in homes causes a public nuisance.

Authorizes \$2 billion in state general obligation bonds to fund grants for certain structural and environmental remediation projects as follows: \$1.5 billion for certain residential units; \$400 million for schools; and \$100 million for senior housing facilities.

Appropriates money from the General Fund to repay bonds.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: State General Fund costs of \$3.9 billion to pay off principal (\$2 billion) and interest (\$1.9 billion) on bonds over a period of 35 years. Annual payments would average \$110 million, with payments lower in the initial and final few years and somewhat higher in the intervening years. Reduction of several hundred million dollars or more in funding for local programs to clean up lead-based paint in homes.