

1 AN ACT concerning public health.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Lead Poisoning Prevention Act of 2003.

6 Section 5. Findings. The General Assembly finds that:

7 (1) Nearly 1,000,000 American children may have
8 levels of lead in their blood in excess of 10 micrograms
9 per deciliter. Unless prevented or treated, elevated
10 blood lead levels in egregious cases may result in
11 impairment of the ability to think, concentrate, and
12 learn.

13 (2) A significant cause of lead poisoning in
14 children is the ingestion of lead particles from
15 deteriorating or abraded lead-based paint from older,
16 poorly maintained residences.

17 (3) The health and development of these children
18 and many others is endangered by chipping or peeling
19 lead-based paint or excessive amounts of
20 lead-contaminated dust in poorly maintained homes.

21 (4) Ninety percent of lead-based paint still
22 remaining in occupied housing exists in units built
23 before 1960, with the remainder in units built before
24 1978.

25 (5) The dangers posed by lead-based paint can be
26 substantially reduced and largely eliminated by taking
27 measures to prevent paint deterioration and limiting
28 children's exposure to paint chips and lead dust.

29 (6) The deterioration of lead-based paint in older
30 residences results in increased expenses each year for
31 the State in the form of special education and other

1 education expenses, medical care for lead-poisoned
2 children, and expenditures for delinquent youth and
3 others needing special supervision.

4 (7) Older housing units remain an important part of
5 this State's housing stock, particularly for people of
6 modest or limited incomes.

7 (8) The existing system of enforcing housing codes
8 has proven ineffective in inducing widespread lead-based
9 paint hazard abatement, mitigation, and control.

10 (9) The financial incentives currently in place
11 have not proven sufficient to motivate landlords and
12 other property owners to undertake widespread and
13 effective lead-based paint hazard abatement, mitigation,
14 and control.

15 (10) Insurance coverage generally is not available
16 to landlords or other property owners to protect them
17 against potentially ruinous legal actions brought on
18 behalf of lead-poisoned children.

19 (11) The possibility of liability exposure among
20 landlords has led many to abandon older properties or to
21 place them in shell corporations to avoid personal
22 liability.

23 (12) Knowledge of lead-based paint hazards, their
24 control, mitigation, abatement, and risk avoidance is not
25 sufficiently widespread, especially outside urban areas.

26 Section 10. Purposes. To promote the elimination of
27 childhood lead poisoning in Illinois, the purposes of this
28 Act are:

29 (1) to substantially reduce and eventually
30 eliminate the incidence of childhood lead poisoning in
31 Illinois;

32 (2) to increase the supply of affordable rental
33 housing in Illinois, where measures have been taken to

1 reduce substantially the risk of childhood lead
2 poisoning;

3 (3) to make enforcement of lead hazard control
4 standards in Illinois more certain and more effective;

5 (4) to improve public awareness of lead safety
6 issues and to educate both property owners and tenants
7 about practices that can reduce the incidence of lead
8 poisoning;

9 (5) to provide protection from potentially ruinous
10 tort actions for those landlords who undertake specified
11 lead hazard reduction measures;

12 (6) to assure the availability and affordability of
13 liability insurance protection to those landlords and
14 other owners who undertake specified lead hazard
15 reduction measures;

16 (7) to mandate the testing of children likely to
17 suffer the consequences of lead poisoning so that prompt
18 diagnosis and treatment, as well as the prevention of
19 harm, are possible;

20 (8) to provide a mechanism to facilitate prompt
21 payment of medical, rehabilitation, and relocation
22 expenses for those remaining individuals who are affected
23 by childhood lead poisoning; and

24 (9) to define the scope of authority of State
25 agencies and departments for lead hazard control,
26 mitigation, education, and insurance availability, and to
27 provide for the coordination of these efforts.

28 Section 15. Definitions. In this Act:

29 "Abatement" means any set of measures designed to
30 permanently eliminate lead-based paint or lead-based paint
31 hazards. "Abatement" includes the removal of lead-based paint
32 and dust-lead hazards, the permanent enclosure or
33 encapsulation of lead-based paint, the replacement of

1 components or fixtures painted with lead-based paint, and the
2 removal or permanent covering of soil-based hazards.

3 "Affected property" means a room or group of rooms within
4 a property constructed before 1978, forming a single
5 independent habitable dwelling unit for occupation by one or
6 more individuals that has living facilities with permanent
7 provisions for living, sleeping, eating, cooking, and
8 sanitation. "Affected property" does not include:

9 (1) an area not used for living, sleeping, eating,
10 cooking, or sanitation, such as an unfinished basement;

11 (2) a unit within a hotel, motel, or similar
12 seasonal or transient facility unless that unit is
13 occupied by one or more persons at risk for a period
14 exceeding 30 days;

15 (3) an area that is secured and inaccessible to
16 occupants;

17 (4) a unit that is not offered for rent; or

18 (5) any property owned or operated by a unit of
19 federal, State, or local government or a public,
20 quasi-public, or municipal corporation if the property is
21 subject to lead standards that are equivalent to or more
22 stringent than the requirements for lead-safe status
23 under subsection (d) of Section 25.

24 "Change in occupancy" means a change of tenant in an
25 affected property when the property is vacated and possession
26 is either surrendered to the owner or abandoned.

27 "Chewable surface" means an interior or exterior surface
28 painted with lead-based paint that a child under the age of 6
29 can mouth or chew. Hard metal substrates and other materials
30 that cannot be dented by the bite of a child under the age of
31 6 are not considered chewable.

32 "Containment" means the physical measures taken to ensure
33 that the dust and debris created or released during
34 lead-based paint hazard reduction are not spread, blown, or

1 tracked from inside to outside of the worksite.

2 "Deteriorated paint" means any interior or exterior paint
3 or other coating that is peeling, chipping, chalking, or
4 cracking or any paint or coating located on an interior or
5 exterior surface or fixture that is otherwise damaged or
6 separated from the substrate.

7 "Director" means the Director of Public Health.

8 "Director's local designee" means a municipal, county, or
9 other official designated by the Director of Public Health as
10 responsible for assisting the Director, relevant State
11 agencies, and relevant county and municipal authorities in
12 implementing the activities specified by this Act for the
13 geographical area where the affected property is located.

14 "Dust-lead hazard" means surface dust in a residential
15 dwelling or a facility occupied by a person at risk that
16 contains a mass per area concentration of lead equal to or
17 exceeding 40 micrograms per square foot on floors or 250
18 micrograms per square foot on interior windowsills based on
19 wipe samples.

20 "Dwelling unit" means:

21 (1) a single-family dwelling, including attached
22 structures such as porches and stoops; or

23 (2) a housing unit in a structure that contains
24 more than one separate housing unit and where each unit
25 is used or occupied or intended to be used or occupied,
26 in whole or in part, as the home or separate living
27 quarters of one or more persons.

28 "Elevated blood lead" means a quantity of lead in whole
29 venous blood, expressed in micrograms per deciliter, that
30 exceeds 15 micrograms per deciliter or any other level as may
31 be specifically provided in this Act.

32 "Encapsulation" means the application of a covering or
33 coating that acts as a barrier between the lead-based paint
34 and the environment and that relies for its durability on

1 adhesion between the encapsulant and the painted surface and
2 on the integrity of the existing bonds between paint layers
3 and between the paint and the substrate. Encapsulation may be
4 used as a method of abatement if it is designed and performed
5 to be permanent.

6 "Exterior surfaces" means:

7 (1) all fences and porches that are part of an
8 affected property;

9 (2) all outside surfaces of an affected property
10 that are accessible to a child under the age of 6 and:

11 (A) are attached to the outside of an affected
12 property; or

13 (B) consist of other buildings that are part
14 of the affected property; and

15 (3) all painted surfaces in stairways, hallways,
16 entrance areas, recreation areas, laundry areas, and
17 garages within a multifamily rental dwelling unit that
18 are common to individual dwelling units and are
19 accessible to a child under the age of 6.

20 "Friction surface" means an interior or exterior surface
21 that is subject to abrasion or friction, including, but not
22 limited to, certain window, floor, and stair surfaces.

23 "Hazard reduction" means measures designed to reduce or
24 eliminate human exposure to lead-based hazards through
25 methods that include interim controls or abatement or a
26 combination of interim controls and abatement.

27 "High efficiency particle air vacuum" or "HEPA-vacuum"
28 means a device capable of filtering out particles of 0.3
29 microns or greater from a body of air at an efficiency of
30 99.97% or greater. "HEPA-vacuum" includes the use of a
31 HEPA-vacuum.

32 "Impact surface" means an interior or exterior surface
33 that is subject to damage by repeated sudden force, including
34 certain parts of door frames.

1 "Inspection" means a comprehensive investigation to
2 determine the presence of lead-based paint hazards and the
3 provision of a report explaining the results of the
4 investigation.

5 "Interim controls" means a set of measures designed to
6 reduce temporarily human exposure to lead-based paint
7 hazards. "Interim controls" include, but are not limited to,
8 repairs, painting, temporary containment, specialized
9 cleaning, clearance, ongoing lead-based paint maintenance
10 activities, and the establishment and operation of management
11 and resident education programs.

12 "Interior windowsill" means a portion of the horizontal
13 window ledge that protrudes into the interior of a room.

14 "Lead-based paint" means paint or other surface coatings
15 that contain lead equal to or exceeding 1 milligram per
16 square centimeter or 0.5 percent by weight or 5,000 parts per
17 million by weight.

18 "Lead-based paint hazard" means paint-lead hazards and
19 dust-lead hazards.

20 "Lead-contaminated dust" means dust in affected
21 properties that contains an area or mass concentration of
22 lead in excess of the lead content level determined by the
23 Department of Public Health by rule.

24 "Mitigation" means the remediation of a lead hazard so
25 that the lead bearing substance does not pose an immediate
26 health hazard to humans.

27 "Owner" means a person, firm, corporation, nonprofit
28 organization, partnership, government, guardian, conservator,
29 receiver, trustee, executor, or other judicial officer, or
30 other entity that, alone or with others, owns, holds, or
31 controls the freehold or leasehold title or part of the title
32 to property, with or without actually possessing it. "Owner"
33 includes a vendee who possesses the title, but does not
34 include a mortgagee or an owner of a reversionary interest

1 under a ground rent lease. "Owner" includes any authorized
2 agent of the owner, including a property manager or leasing
3 agent.

4 "Paint-lead hazard" means any one of the following:

5 (1) Any lead-based paint on a friction surface that
6 is subject to abrasion and where the dust-lead levels on
7 the nearest horizontal surface underneath the friction
8 surface, including the windowsill or floor, are equal to
9 or greater than the dust-lead hazard levels defined in
10 this Section.

11 (2) Any damaged or otherwise deteriorated
12 lead-based paint on an impact surface that is caused by
13 impact from a related building material including a door
14 knob that knocks into a wall or a door that knocks
15 against its door frame.

16 (3) Any chewable, lead-based, painted surface where
17 there is evidence of teeth marks.

18 (4) Any other deteriorated lead-based paint in or
19 on the exterior of any residential building or any
20 facility occupied by a person at risk.

21 "Permanent" means having an expected design life of at
22 least 20 years.

23 "Person at risk" means a child under the age of 6 years
24 or a pregnant woman who resides or regularly spends at least
25 24 hours per week in an affected property.

26 "Relocation expenses" means all expenses necessitated by
27 the relocation of a tenant's household to lead-safe housing,
28 including moving and hauling expenses, the HEPA-vacuuuming of
29 all upholstered furniture, payment of a security deposit for
30 the lead-safe housing, and installation and connection of
31 utilities and appliances.

32 "Soil-lead hazard" means soil on residential real
33 property or on the property of a facility occupied by a
34 person at risk that contains total lead equal to or exceeding

1 400 parts per million in a play area or the average of 1,200
2 parts per million of bare soil in the rest of the yard based
3 on soil samples.

4 "Tenant" means the individual named as the lessee in a
5 lease, rental agreement, or occupancy agreement for a
6 dwelling unit.

7 "Wipe sample" means a sample collected by wiping a
8 representative surface of known area, as determined by ASTM
9 E1728 ("Standard Practice for the Field Collection of Settled
10 Dust Samples Using Wipe Sampling Methods for Lead
11 Determination by Atomic Spectrometry Techniques"), with lead
12 determination conducted by an accredited laboratory
13 participating in the Environmental Lead Laboratory
14 Accreditation Program (ELLAP).

15 Section 20. Program for lead poisoning prevention and
16 treatment; council; commission.

17 (a) The Director of Public Health shall establish and
18 chair a Lead Poisoning Prevention Coordinating Council that
19 shall also include a designee of the Governor from the
20 Illinois Housing Development Authority and a designee of the
21 Governor from the Department of Public Health.

22 (b) Subject to appropriation, the Director, working in
23 coordination with the Lead Poisoning Prevention Coordinating
24 Council, shall establish a statewide program for the
25 prevention, screening, diagnosis, and treatment of lead
26 poisoning, including elimination of the sources of that
27 poisoning, through those research, educational,
28 epidemiologic, and clinical activities that may be necessary.

29 (c) The Governor shall establish a Lead Poisoning
30 Prevention Commission.

31 (1) The duties of the Commission are as follows:

32 (A) to study and collect information on the
33 effectiveness of this Act in fulfilling its

1 legislative purposes as defined in Section 10;

2 (B) to make policy recommendations on
3 achieving the legislative purposes of this Act as
4 set forth in Section 10;

5 (C) to consult with the Director and the
6 responsible departments of State government on the
7 implementation of this Act; and

8 (D) to write and submit a report each year to
9 the Governor on the results of implementing this
10 Act.

11 (2) The Commission shall consist of 14 members. The
12 membership shall include:

13 (A) the Director of Public Health and the
14 other 2 members of the Lead Poisoning Prevention
15 Coordinating Council as described in subsection (a);

16 (B) one member of the Senate, appointed by the
17 President;

18 (C) one member of the House of Representatives
19 appointed by the Speaker; and

20 (D) 9 members appointed by the Governor,
21 including:

22 (i) a child advocate;

23 (ii) a health care provider;

24 (iii) a parent of a lead-poisoned child;

25 (iv) a representative of local
26 government;

27 (v) 2 owners of rental property in the
28 State;

29 (vi) a representative from the insurance
30 industry that offers premises liability
31 coverage in the State;

32 (vii) either a lead hazard control
33 professional or contractor or a lead hazard
34 identification professional; and

1 (viii) one other member of the public
2 whose experience and expertise indicate his or
3 her contributions to the Commission will be
4 meaningful.

5 (3) The terms of the members are as follows:

6 (A) the term of a member appointed by the
7 Governor is 4 years;

8 (B) a member appointed by the President or the
9 Speaker shall serve at the pleasure of the
10 appointing officer;

11 (C) the terms of initial members appointed by
12 the Governor may be shortened or lengthened so that
13 the terms of future members are staggered;

14 (D) at the end of a term, a member shall
15 continue to serve until a successor is appointed and
16 qualifies; and

17 (E) a member appointed after the commencement
18 of a term shall serve only for the remainder of the
19 term and until a successor is appointed.

20 Section 25. Requirements for lead-free and lead-safe
21 status.

22 (a) An affected property shall comply with the
23 requirements of either "lead-free" status, as defined by
24 subsection (c), or "lead-safe" status, as defined by
25 subsection (d), no later than 2 years following the effective
26 date of this Act, except as otherwise provided in subsection
27 (b).

28 (b) An owner of 5 or more affected properties may apply
29 to the Director or the Director's local designee for an
30 extension of time to comply with the requirement of
31 subsection (a). The extension of time for compliance shall be
32 for a period of 3 years beyond the deadline specified in
33 subsection (a), meaning that the extended deadline for

1 compliance shall be 5 years following the effective date of
2 this Act. The Director shall grant the owner's request for an
3 extension only if:

4 (1) the owner of the affected property states under
5 penalty of perjury that the affected property for which
6 an extension is sought is not occupied by a person at
7 risk; and

8 (2) the owner of the affected property has complied
9 with the requirements of subsection (a) for more than 50%
10 of the other affected properties that the owner owns or
11 in which he or she has a beneficial interest.

12 (c) An affected property is "lead-free" if:

13 (1) the affected property was constructed after
14 1978; or

15 (2) the owner of the affected property submits to
16 the Director or the Director's designee for the
17 jurisdiction where the property is located an inspection
18 report indicating that the affected property has been
19 tested for the presence of lead in accordance with
20 standards and procedures established by the Department of
21 Public Health, by rule, and stating that:

22 (A) all interior surfaces of the affected
23 property are lead-free; and

24 (B) either (i) all exterior painted surfaces
25 of the affected property that were chipping,
26 peeling, or flaking have been restored with
27 non-lead-based paint; or (ii) no exterior painted
28 surfaces of the affected property are chipping,
29 peeling, or flaking.

30 (3) In order to maintain exemption from the
31 provisions of this Act, the owner of any affected
32 property with lead-based paint on any exterior surface
33 that has been certified as lead-free pursuant to
34 subdivision (2) shall submit to the Director or the

1 Director's designee for the jurisdiction where that
2 property is located, every 3 years, a certification by an
3 inspector accredited pursuant to the provisions of
4 Section 35, stating that no exterior painted surface of
5 the affected property is chipping, peeling, or flaking.

6 (d) An affected property is "lead-safe" if the following
7 treatments to reduce lead-based paint hazards have been
8 completed by someone certified under Section 35 of this Act
9 and in compliance with the regulations established by the
10 Director:

11 (1) visual review of all exterior and interior
12 painted surfaces;

13 (2) removal and repainting of chipping, peeling, or
14 flaking paint on exterior and interior painted surfaces;

15 (3) stabilization and repainting of any interior or
16 exterior painted surface that has lead-based paint
17 hazards;

18 (4) repair of any structural defect that is causing
19 the paint to chip, peel, or flake that the owner of the
20 affected property either knows or, with the exercise of
21 reasonable care, should know;

22 (5) stripping and repainting, replacing, or
23 encapsulating all interior windowsills and window troughs
24 with vinyl, metal, or any other durable materials that
25 render the surface smooth and cleanable;

26 (6) installation of caps of vinyl, aluminum, or any
27 other material in a manner and under conditions approved
28 by the Director in all window wells to make the window
29 wells smooth and cleanable;

30 (7) fixing the top sash of all windows in place to
31 eliminate the friction caused by movement of the top
32 sash, except for a treated or replacement window that is
33 free of lead-based paint on its friction surfaces;

34 (8) re-hanging all doors as necessary to prevent

1 the rubbing together of a lead-painted surface with
2 another surface;

3 (9) making all bare floors smooth and cleanable;

4 (10) ensuring that all kitchen and bathroom floors
5 are overlaid with a smooth, water-resistant covering; and

6 (11) HEPA-vacuuming and washing of the interior of
7 the affected property with high phosphate detergent or
8 its equivalent, as determined by the Director.

9 (e) Whenever an owner of an affected property intends to
10 make repairs or perform maintenance work that will disturb
11 the paint on interior surfaces of an affected property, the
12 owner shall give any tenant of the affected property written
13 notice at least 48 hours in advance and shall make reasonable
14 efforts to ensure that all persons who are not persons at
15 risk are not present in the area where work is performed and
16 that all persons at risk are removed from the affected
17 property when the work is performed.

18 (1) A tenant shall allow access to an affected
19 property, at reasonable times, to the owner to perform
20 any work required under this Act.

21 (2) If a tenant must vacate an affected property
22 for a period of 24 hours or more to allow an owner to
23 perform work that will disturb the paint on interior
24 surfaces, the owner shall pay the reasonable expenses the
25 tenant incurs that are directly related to the required
26 relocation.

27 (3) If an owner has made all reasonable efforts to
28 cause the tenant to temporarily vacate an affected
29 property to perform work that will disturb the paint on
30 interior surfaces and the tenant refuses to vacate the
31 affected property, then the owner is not liable for any
32 damages arising from the tenant's refusal to vacate.

33 (4) If an owner has made all reasonable efforts to
34 gain access to an affected property to perform any work

1 required under this Act and the tenant refuses to allow
2 access even after receiving reasonable advance notice of
3 the need for access, then the owner is not liable for any
4 damages arising from the tenant's refusal to allow
5 access.

6 Section 30. Inspection of affected properties.

7 (a) Initial inspection of each affected property shall
8 occur no later than 2 years following the effective date of
9 this Act, except as provided in subsection (b) of Section 25.

10 (b) Subsequent inspections shall occur at intervals of
11 not greater than 3 years.

12 (c) The requirement for a subsequent inspection may be
13 satisfied by certification by the owner with the Director or
14 the Director's designee for the jurisdiction where the
15 property is located, under penalty of perjury as provided in
16 the Criminal Code of 1961, that the tenants occupying an
17 affected property have not changed since the last inspection
18 and that no one residing within the affected property is a
19 person at risk.

20 (d) If the requirement for re-inspection of an affected
21 property has been satisfied by certification pursuant to
22 subsection (c), the requirement for a re-inspection under
23 this subsection is re-activated by either a change in tenancy
24 or the residence of a person at risk within the affected
25 property.

26 (e) The Director or the Director's designee for the
27 jurisdiction where the affected property is located shall
28 order an inspection of the affected property, at the expense
29 of the owner of the affected property, whenever the Director
30 or the Director's designee for the jurisdiction where the
31 property is located, after 2 years following the effective
32 date of this Act, is notified that the affected property
33 reasonably appears not to comply with either the lead-free

1 standard or the lead-safe standard as defined in Section 25
2 and a person at risk resides at the affected property or
3 spends more than 24 hours per week at the affected property.
4 An inspection required under this subsection shall be
5 completed within 90 days after notification of the Director
6 or the Director's designee for the jurisdiction where the
7 property is located.

8 (f) The Director or the Director's designee for the
9 jurisdiction where the affected property is located shall
10 order an inspection of the affected property, at the expense
11 of the owner of the affected property, whenever the Director
12 or the Director's designee for the jurisdiction where the
13 property is located, after the effective date of this Act, is
14 notified that a person at risk who resides at the affected
15 property or spends more than 24 hours per week at the
16 affected property has an elevated blood lead level greater
17 than or equal to 15 micrograms per deciliter. An inspection
18 under this subsection shall be completed within 15 days after
19 notification of the Director or the Director's designee for
20 the jurisdiction where the property is located.

21 (g) The inspector shall submit a verified report of the
22 result of the inspection to the Director or the Director's
23 designee for the jurisdiction where the property is located,
24 the owner, and the tenant, if any, of the affected property.

25 Section 35. Accreditation of inspectors and contractors.

26 (a) No person shall act as a contractor or supervisor to
27 perform the work necessary for lead-hazard abatement, as
28 defined in this Act, unless that person is accredited by the
29 Director. The Director shall accredit for these purposes any
30 person who:

31 (1) meets rules adopted by the Department of Public
32 Health pursuant to this Act governing the accreditation
33 of individuals to engage in lead-based paint activities

1 sufficient to satisfy the requirements of 40 C.F.R.
2 745.325 or any applicable successor provisions to 40
3 C.F.R. 745.325;

4 (2) is certified by the United States Environmental
5 Protection Agency to engage in lead-based paint
6 activities pursuant to 40 C.F.R. 745.226 or any
7 applicable successor provisions to 40 C.F.R. 745.226; or

8 (3) is certified by a state or tribal program
9 authorized by the United States Environmental Protection
10 Agency to certify individuals engaged in lead-based paint
11 activities pursuant to 40 C.F.R. 745.325 or any
12 applicable successor provisions to 40 C.F.R. 745.325.

13 The Department of Public Health shall, by rule, create
14 exceptions to the accreditation requirement for instances
15 where the disturbance of lead-based paint is incidental.

16 (b) An inspector accredited by the Director shall
17 conduct all inspections required by Section 25 or 30 or
18 otherwise required by this Act. The Director shall accredit
19 as an inspector any individual who:

20 (1) meets rules adopted by the Department of Public
21 Health pursuant to this Act governing the accreditation
22 of individuals eligible to conduct the inspections
23 required by this Act; or

24 (2) is certified to conduct risk assessments by the
25 EPA pursuant to 40 C.F.R. 745.226(b) or any applicable
26 successor provisions to 40 C.F.R. 745.226.

27 (c) The accreditation of contractors or supervisors of
28 those performing the work necessary for lead hazard abatement
29 and the accreditation of those performing the inspections
30 required by this Section shall be for a period of 3 years
31 unless the Director has probable cause to believe a person
32 accredited under this Section has violated the terms of the
33 accreditation or engaged in illegal or unethical conduct
34 related to inspections required by this Act. In this case

1 the accreditation to perform inspections shall be suspended
2 pending a hearing in accordance with the Hazardous Waste
3 Laborers Licensing Act and the Hazardous Waste Crane and
4 Hoisting Equipment Operators Licensing Act.

5 (d) The Department of Public Health shall establish, by
6 rule, a schedule of fees for the registration of persons
7 performing lead hazard abatement and a separate schedule for
8 persons performing inspections pursuant to this Act. Those
9 fees shall be paid at the time of initial registration and at
10 the time of subsequent renewal of registration, and shall be
11 sufficient to cover all costs, including the costs of State
12 personnel, attributable to accreditation activities conducted
13 under this Section.

14 (e) The Lead-Removal Inspectors Accreditation Fund is
15 created as a special fund in the State treasury into which
16 all fees collected pursuant to subsection (d) of this Section
17 shall be deposited. All money in the Fund shall be used,
18 subject to appropriation, by the Director for the purposes of
19 this Section.

20 (f) The provisions and procedures of the Hazardous Waste
21 Laborers Licensing Act and the Hazardous Waste Crane and
22 Hoisting Equipment Operators Licensing Act shall be used and
23 shall apply to enforce violations of this Section, any rules
24 adopted under this Act, and any conditions of accreditation
25 issued under this Act.

26 Section 40. Registration of affected properties.

27 (a) No later than 2 years after the effective date of
28 this Act, the owner of an affected property shall register
29 the affected property with the Director or the Director's
30 designee for the jurisdiction where that property is located.

31 (b) The owner shall register each affected property
32 using forms prepared by the Director, including the following
33 information:

- 1 (1) the name and address of the owner;
 - 2 (2) the address of the affected property;
 - 3 (3) if applicable, the name and address of each
4 property manager employed by the owner to manage the
5 affected property;
 - 6 (4) the name and address of each insurance company
7 providing property insurance or lead hazard coverage for
8 the affected property, together with the policy numbers
9 of that insurance or coverage;
 - 10 (5) the name and address of a resident agent, other
11 agent of the owner, or contact person in the State with
12 respect to the affected property;
 - 13 (6) the date of construction of the affected
14 property;
 - 15 (7) the date of the latest change in occupancy of
16 the affected property; and
 - 17 (8) the latest date, if any, on which the affected
18 property has been certified to be in compliance with the
19 provisions of Section 25 and the name and address of the
20 person conducting the inspection.
- 21 (c) Registration shall be renewed every 2 years. An
22 owner shall update the information contained in the owner's
23 registration no later than 30 days after any change in the
24 registration information.
- 25 (d) The information provided by an owner under this
26 Section shall be open to the public.
- 27 (e) The Department of Public Health shall establish, by
28 rule, a schedule of fees for the registration of affected
29 properties, required to be paid at the time of initial
30 registration and at the time of subsequent renewals of
31 registration, sufficient to cover all costs, including the
32 costs of State personnel, involved with registration
33 activities conducted under this Section.
- 34 (f) The Lead Poisoning-Affected Properties Registration

1 Fund is created as a special fund in the State treasury. All
2 fees collected pursuant to subsection (e) of this Section or
3 penalties collected under subsection (g) of this Section
4 shall be deposited into the Lead Poisoning-Affected
5 Properties Registration Fund. All money in the Fund shall be
6 used, subject to appropriation, by the Director for the
7 purposes of this Section.

8 (g) An owner of an affected property who fails to pay
9 the fees imposed under subsection (e) of this Section shall
10 be liable for the greater of \$150 or a civil penalty of
11 triple the cumulative amount of any and all unpaid
12 registration fees, together with all the costs of collection,
13 including reasonable attorney's fees. The penalty shall be
14 collected in a civil action in a court of competent
15 jurisdiction. Any unpaid penalty shall constitute a lien
16 against the affected property.

17 Section 45. Liability protection and the qualified
18 offer.

19 (a) This Section applies to all potential bases of civil
20 liability for alleged injury or loss to a person caused by
21 the ingestion of lead by a person at risk in an affected
22 property, except that this Section does not apply to any
23 claim in which the elevated blood lead level of the person at
24 risk is documented to have existed within 60 days after the
25 affected property where the person at risk resides or
26 otherwise allegedly was exposed to lead has been certified as
27 lead-free under subsection (c) of Section 25 or lead-safe
28 under subsection (d) of Section 25.

29 (b) A property owner and his or her agents and employees
30 are immune from civil liability to a person at risk, or his
31 or her parents or legal guardian if a minor, for injuries or
32 damages resulting from the ingestion of lead contained in an
33 affected property if:

1 (1) the property has been certified as lead-free
2 under subsection (c) of Section 25 or as lead-safe under
3 subsection (d) of Section 25; and

4 (2) the property owner or his or her agent has made
5 a qualified offer, as described in subsection (e) of this
6 Section, to the person at risk, or his or her parent or
7 legal guardian, in a case in which the person at risk has
8 a documented elevated blood lead level of 15 micrograms
9 per deciliter or more performed more than 60 days
10 following certification of the premises as lead-safe or
11 lead-free pursuant to Section 25, regardless of whether
12 the qualified offer has been accepted or rejected by the
13 person at risk, or his or her parent or legal guardian.

14 (c) The immunity described in subsection (b) of this
15 Section does not apply if it is shown that one of the
16 following has occurred:

17 (1) the owner or his or her employee or agent
18 obtained the certification of lead-free or lead-safe
19 status by fraud;

20 (2) the owner or his or her employee or agent
21 violated a condition of the certification;

22 (3) during renovation, remodeling, maintenance, or
23 repair after receiving the certificate, the owner or his
24 or her employee or agent created a lead-based paint
25 hazard that was present in the affected property at the
26 time the person at risk either was exposed to a
27 lead-based paint hazard or first was tested with an
28 elevated blood lead level greater than 15 micrograms per
29 deciliter;

30 (4) the owner or his or her employee or agent
31 failed to respond in a timely manner to notification by a
32 tenant, by the Director, by the Director's designee for
33 the jurisdiction where the property is located, or by a
34 local health department that a lead-based paint hazard

1 might be present; or

2 (5) the lead poisoning or lead exposure was caused
3 by a source of lead in the affected property other than
4 lead-based paint.

5 (d) No person shall bring an action against an owner of
6 an affected property whose property has been certified as
7 lead-free under subsection (c) of Section 25 or lead-safe
8 under subsection (d) of Section 25 for damages arising from
9 alleged injury or loss to a person at risk caused by a
10 lead-based paint hazard unless he or she documents his or her
11 alleged injury with a test for elevated blood levels and
12 presents a written notice to the owner of the affected
13 property or his or her agent or employee of the claim and
14 test results.

15 (1) If the test results show an elevated blood
16 level of less than 15 micrograms per deciliter, the
17 person at risk, or his or her parent or legal guardian if
18 a minor, shall not recover damages from the owner of the
19 affected property, his or her agents, or his or her
20 employees unless the person at risk, or his or her parent
21 or legal guardian, shows by clear and convincing evidence
22 that the damage or injury to the person at risk resulted
23 from exposure to lead-based paint and was caused by
24 either:

25 (A) intentional acts by the owner or his or
26 her agents or employees; or

27 (B) actions of the owner or his or her agents
28 or employees with knowledge, to a substantial degree
29 of certainty, that those actions would injure the
30 person at risk or others similarly situated.

31 (2) If the test results show an elevated blood
32 level of 15 micrograms per deciliter or greater, the
33 owner of the affected property or his or her agent or
34 employee shall have the opportunity to make a qualified

1 offer under subsection (e).

2 (3) If the concentration of lead in a whole venous
3 blood sample of a person at risk tested within 60 days
4 after the person at risk begins residence or regularly
5 spends at least 24 hours per week in an affected property
6 that is certified as being in compliance with the
7 provisions of subsection (c) or (d) of Section 25 is
8 equal to or greater than 15 micrograms per deciliter,
9 then it shall be presumed that the exposure to lead-based
10 paint occurred before a person at risk began residing or
11 regularly spending at least 24 hours per week at the
12 affected property.

13 (e) A qualified offer as described in this subsection
14 may be made to a person at risk by the offeror, that is,
15 either the owner of the affected property, an insurer of the
16 owner, or an agent, employee, or attorney of the owner.

17 (1) To qualify for the protection from liability
18 under subsection (b), a qualified offer shall be made in
19 writing and delivered by certified mail, return receipt
20 requested, within 30 days after the owner of the affected
21 property, his or her agent, or his or her employee
22 receives notice of the elevated blood level referred to
23 in subsection (d).

24 (2) A qualified offer made under this Section may
25 be accepted or rejected by a person at risk or, if a
26 person at risk is a minor, that person's parent or legal
27 guardian. If the qualified offer is not accepted within
28 30 days after receipt of the qualified offer, it shall be
29 deemed to have been rejected. By mutual agreement, the
30 parties may extend the period for acceptance of the
31 qualified offer.

32 (3) Subject to the exception in subdivision (4) of
33 this subsection (e), acceptance of a qualified offer by a
34 person at risk, or by a parent, legal guardian, or other

1 person authorized to respond on behalf of a person at
2 risk, shall discharge and release all potential liability
3 of the offeror, the offeror's insured or principal, and
4 any participating co-offeror to the person at risk and to
5 the parent or legal guardian of the person at risk for
6 alleged injury or loss caused by the lead-based paint
7 hazard in the affected property.

8 (4) No owner of an affected property, or his or her
9 agent, employee, attorney, or anyone else acting on his
10 or her behalf shall represent to a person at risk, his or
11 her parent or guardian, or anyone else acting on his or
12 her behalf, that an offer of settlement in an action
13 resulting from a lead-based paint hazard in an affected
14 property is a qualified offer unless the affected
15 property has been certified as lead-free under subsection
16 (c) of Section 25 or lead-safe under subsection (d) of
17 Section 25 and unless the offeror reasonably believes
18 that the settlement offer satisfies all requirements of
19 this Section.

20 (A) Any settlement resulting from a settlement
21 offer purporting to be a qualified offer that does
22 not satisfy the requirements of this Section shall,
23 at the election of the person at risk, his or her
24 parent or guardian, or other representative, be
25 deemed null and void.

26 (B) Misrepresentation of a settlement offer as
27 a qualified offer when in fact the offer does not
28 meet the requirements of this Section may subject
29 the offeror to criminal penalties for perjury under
30 Section 32-2 of the Criminal Code of 1961 or the
31 applicable professional disciplinary codes.

32 (C) The statute of limitations for an action
33 by a person at risk with an elevated blood level, or
34 his or her parent or legal guardian, is tolled until

1 the misrepresentation described in this subdivision
2 (4) is discovered.

3 (5) A copy of the qualified offer shall be sent to
4 the Director, the Director's local designee, or the local
5 health department. Upon receipt, the Director, the
6 Director's local designee, or the local health department
7 shall:

8 (A) maintain a copy of the qualified offer in
9 the case management file of the person at risk; and

10 (B) directly notify the person at risk or, in
11 the case of a minor, the parent or legal guardian of
12 the minor of State and local resources available for
13 lead poisoning prevention and treatment.

14 (6) A qualified offer shall include payment for
15 reasonable expenses and costs incurred by the person at
16 risk with an elevated blood level of 15 micrograms per
17 deciliter or greater for:

18 (A) the relocation of the household of the
19 person at risk to a lead-safe dwelling unit of
20 comparable size and quality that may provide for
21 either:

22 (i) the permanent relocation of the
23 household of the affected person at risk to
24 lead-safe housing, including relocation
25 expenses, a rent subsidy, and incidental
26 expenses; or

27 (ii) the temporary relocation of the
28 household of the affected person at risk to
29 lead-safe housing while necessary lead hazard
30 reduction treatments are being performed in the
31 affected property to make that affected
32 property lead-safe;

33 (B) medically necessary treatment for the
34 affected person at risk as determined by the

1 treating physician or other health care provider or
2 case manager of the person at risk that is necessary
3 to mitigate the effects of lead poisoning, as
4 provided for by the Department of Public Health by
5 rule, and, in the case of a child, until the child
6 reaches the age of 18 years; and

7 (C) reasonable attorney's fees, not to exceed
8 the lesser of \$2,500 or actual time spent in the
9 investigation, preparation, and presentation of the
10 claim multiplied by an hourly rate of \$150 per hour.

11 (7) An offeror is required to pay reasonable
12 expenses for medically necessary treatments under
13 subdivision (e)(6)(B) of this Section only if coverage
14 for these treatments is not otherwise provided by the
15 Medical Assistance Program under Article V of the
16 Illinois Public Aid Code or by a health insurance plan
17 covering the person at risk or where the person at risk
18 is enrolled. The health insurance plan shall have no
19 right of subrogation against the party making the
20 qualified offer.

21 (8) The amounts payable under a qualified offer
22 made under this Section are subject to the following
23 aggregate maximum caps:

24 (A) \$25,000 for all medically necessary
25 treatments as provided and limited in subdivision
26 (e)(6)(B);

27 (B) \$10,000 for all relocation benefits as
28 provided and limited in subdivision (e)(6)(A). All
29 payments under a qualified offer specified in
30 subdivision (e)(7) this Section shall be paid to the
31 provider of the service, except that payment of
32 incidental expenses may be paid directly to the
33 person at risk or, in the case of a child, to the
34 parent or legal guardian of the person at risk. The

1 payments under a qualified offer shall not be
2 considered income or an asset of the person at risk,
3 the parent of a person at risk who is a child, or
4 the legal guardian, for purposes of determining
5 eligibility under any State entitlement program.

6 (9) A qualified offer shall include a certification
7 by the owner of the affected property, under the penalty
8 of perjury as provided for in the Criminal Code of 1961,
9 that the owner has complied with the applicable
10 provisions of Section 25 and of this Section in a manner
11 that qualifies the owner to make a qualified offer.

12 (10) A qualified offer shall not be treated as an
13 offer of compromise for purposes of admissibility in
14 evidence, notwithstanding that the amount is not in
15 controversy.

16 (11) The Department of Public Health may adopt any
17 rules that are necessary to carry out the provisions of
18 this Section.

19 (f) An owner of an affected property, who is not in
20 compliance with the provisions of either subsection (c) or
21 subsection (d) of Section 25 during the period of residency
22 of a person at risk, is presumed to have failed to exercise
23 reasonable care with respect to lead-based paint hazards
24 during that period in an action seeking damages on behalf of
25 the person at risk for alleged injury or loss resulting from
26 exposure to lead-based paint hazards in the affected
27 property.

28 (1) The owner has the burden of rebutting this
29 presumption by clear and convincing evidence.

30 (2) The plaintiff in an action against an owner of
31 an affected property described in this subsection shall,
32 in addition to recovering all other legally cognizable
33 damages, including punitive damages when appropriate, be
34 entitled to recover reasonable attorney's fees.

1 Section 50. Availability of insurance coverage.

2 (a) Except as otherwise provided by this Act, no insurer
3 licensed or permitted by the Department of Insurance to
4 provide liability coverage to rental property owners shall
5 exclude from coverage, after the earlier of 26 months
6 following the effective date of this Act or 60 days after
7 certification under subsection (c) or (d) of Section 25 of an
8 affected property covered under a policy, losses or damages
9 caused by exposure to lead-based paint. The Department of
10 Insurance shall not permit, authorize, or approve any
11 exclusion for injury or damage resulting from exposure to
12 lead-based paint, except as specifically provided for in this
13 Section, that was not in effect as of the date of the
14 enactment of this Act, and all previously approved exclusions
15 shall terminate no later than the earlier of 26 months after
16 the effective date of this Act or 60 days after certification
17 under subsection (c) or (d) of Section 25 of an affected
18 property covered under a policy.

19 (b) All insurers issuing liability insurance policies,
20 including commercial lines insurance policies, personal lines
21 insurance policies, or any other policies covering affected
22 properties that are in compliance with the requirements of
23 this Act shall offer coverage for bodily injury caused by
24 exposure to lead-based paint. That coverage shall encompass
25 any claims made more than 60 days after certification of the
26 affected property as lead-free under subsection (c) of
27 Section 25 or lead-safe under subsection (d) of Section 25
28 asserting injury resulting from exposure to lead-based paint
29 on the premises of an affected property. Policy limits for
30 that coverage shall be in an amount equal to or greater than
31 the underlying policy limits of the applicable policy
32 insuring the affected property.

33 (1) Liability coverage under this subsection for
34 losses or damages caused by lead-based paint at the

1 insured premises may be limited to the damages defined in
2 subsection (e) of Section 45.

3 (2) Notwithstanding the foregoing, to be eligible
4 for liability coverage under this subsection, the owner
5 of the affected property may, at the time insurance
6 coverage is sought, be required to present to the insurer
7 proof of meeting the lead-free standard under subsection
8 (c) of Section 25 or the lead-safe standard under
9 subsection (d) of Section 25 in the form of an affidavit
10 signed by the owner or designated party that
11 certification has been provided pursuant to inspection
12 under Section 30 and that the property has been properly
13 registered under Section 40.

14 (c) Nothing in this Act shall prevent insurers from
15 offering an endorsement for personal injury or bodily harm
16 liability coverage for injuries resulting from exposure to
17 lead-based paint for properties not in compliance with the
18 provisions of either subsection (c) or subsection (d) of
19 Section 25.

20 (d) Rates for the coverage specified in subsection (b)
21 of this Section shall be approved by the Department of
22 Insurance using the following standards:

23 (1) the rates shall not be excessive, inadequate,
24 or unfairly discriminatory; and

25 (2) in establishing the rates, consideration shall
26 be given to:

27 (A) past and prospective loss experience;

28 (B) a reasonable margin for profits and
29 contingencies;

30 (C) past and prospective expenses;

31 (D) other data the Department deems necessary;

32 and

33 (E) the past history of the owner with regard
34 to lead poisoning or any other liability or

1 violations of ordinances or statutes relating to the
2 affected property or similar properties the insurer
3 reasonably believes to be relevant.

4 (e) The Department of Insurance shall determine, within
5 2 years following the effective date of this Act, the
6 availability in Illinois of the personal injury or bodily
7 harm injury liability coverage described in subsection (b)
8 and, if that coverage is not generally available, may
9 establish a market assistance plan, take other measures to
10 assure the availability of the coverage that offers a
11 liability limit that is at least \$300,000, or require that
12 that coverage be made available through a joint underwriting
13 plan.

14 Section 55. Lead-Safe and Lead-Free Property Revolving
15 Loan Fund.

16 (a) The Lead-Safe and Lead-Free Property Revolving Loan
17 Fund is created as a special fund in the State treasury. The
18 Fund shall consist of any sums that the State may from time
19 to time appropriate, as well as donations, gifts, bequests,
20 and any other funds from a public or private source.

21 (b) The Director is authorized to:

22 (1) accept any and all grants, repayments of
23 interest and principal on loans, matching funds,
24 reimbursements, appropriations, income derived from
25 investments, and other things of value from the federal
26 or State government or from any institution, person,
27 partnership, joint venture, or corporation, whether
28 public or private, for deposit into the Fund; and

29 (2) use moneys deposited in the Fund, subject to
30 appropriation, expressly for the purpose of implementing
31 a revolving loan program according to procedures
32 established pursuant to this Act.

33 Any moneys collected as a result of foreclosures of loans

1 or other financing agreements or violations of any terms of
2 those loans or financing agreements shall be deposited into
3 the Fund.

4 Moneys in the Fund shall be used by the Director for the
5 purpose of financing additional projects and for the
6 Director's administrative expenses related to those projects.

7 (c) Funds placed in the Lead-Safe and Lead-Free Property
8 Revolving Loan Fund shall be made available, at the
9 discretion of the Director, to the owners of affected
10 properties or non-profit organizations for the purpose of
11 bringing the affected properties into compliance with either
12 subsection (c) or subsection (d) of Section 25. An owner of a
13 pre-1978 property who owns and occupies the dwelling unit
14 shall be eligible for loans under this Section in the same
15 manner and to the same extent as an owner of an affected
16 property.

17 (d) Loans made available under the provisions of this
18 Section may be made directly or in cooperation with other
19 public and private lenders or any agency, department, or
20 bureau of the federal government or the State.

21 (e) The proceeds from the repayment of any loans made
22 for that purpose shall be deposited into and returned to the
23 Lead-Safe and Lead-Free Property Revolving Loan Fund to
24 constitute a continuing revolving fund for the purposes
25 provided in this Section.

26 (f) The Director, the Illinois Housing Development
27 Authority, and other appropriate State agencies shall take
28 any action necessary to obtain federal assistance for lead
29 hazard reduction to be used in conjunction with the Lead-Safe
30 and Lead-Free Property Revolving Loan Fund.

31 Section 60. Enforcement.

32 (a) Owners of affected properties who fail to comply
33 with the provisions of Section 25 shall be deemed to be in

1 violation of any applicable housing codes. Those State or
2 local authorities that are responsible for the enforcement of
3 housing codes shall enforce vigorously civil remedies and
4 criminal penalties provided for by law arising out of the
5 failure to comply with the requirements of this Act and may
6 seek injunctive relief where appropriate.

7 (b) Any civil or criminal action by State or local
8 officials to enforce the provisions of this Act shall be
9 reported to the Director. The Director shall issue an annual
10 report specifically outlining the enforcement actions brought
11 pursuant to subsection (a), the identity of the owners of the
12 affected properties, the authority bringing the enforcement
13 action, the nature of the action, and the criminal penalties
14 or civil relief.

15 (c) After a second written notice from the Director, the
16 Director's local designee, the Illinois Housing Development
17 Authority or local housing authority, or the Illinois
18 Department of Public Health or local department of health of
19 violations of the provisions of this Act occurring within an
20 affected property or after 2 criminal or civil actions
21 pursuant to subsection (a) brought by either State or local
22 officials to enforce this Act arising out of violations
23 occurring within an affected property, unless the violations
24 alleged to exist are corrected, the affected property shall
25 be considered abandoned, and the Attorney General, the
26 Director, the Director's local designee, the Illinois Housing
27 Development Authority or local housing authority, the
28 Illinois Department of Public Health or local department of
29 health, or any other officials having jurisdiction over the
30 affected property shall have the specific power to request
31 the court to appoint a receiver for the property. The court
32 in these instances may specifically authorize the receiver to
33 apply for loans, grants, and other forms of funding necessary
34 to correct lead-based paint hazards and meet the standards

1 for lead-safe or lead-free status set forth in subsections
2 (c) and (d) of Section 25 and to hold the affected property
3 for the period of time that the funding source requires to
4 ensure that the purposes of the funding are met. The costs of
5 that receivership shall constitute a lien against the
6 property that, if not discharged by the owner upon receipt of
7 the receiver's demand for payment, shall constitute grounds
8 for foreclosure proceedings instituted by the receiver to
9 recover those costs.

10 Section 65. Private right to injunctive relief.

11 (a) A person at risk shall be deemed to have a right,
12 effective 2 years following the effective date of this Act,
13 to housing that is lead-free or lead-safe as outlined in
14 subsections (c) and (d) of Section 25.

15 (b) If an owner of an affected property fails to comply
16 with the standards of Section 25, a private right of action
17 shall exist to allow a person at risk or, if a minor, the
18 parent or legal guardian of a person at risk to seek
19 injunctive relief from a court with jurisdiction against the
20 owner of the affected property in the form of a court order
21 to compel compliance with the requirements of this Act.

22 (c) A court shall not grant the injunctive relief
23 requested pursuant to subsection (b) unless, at least 30 days
24 prior to the filing requesting the injunction, the owner of
25 the affected property has received written notice of the
26 violation of standards contained in Section 25 and has failed
27 to bring the affected property into compliance with the
28 applicable standards. This notice requirement is satisfied
29 when any of the following has occurred:

30 (1) a person at risk, his or her parent or legal
31 guardian if a minor, or his or her attorney, has notified
32 the owner of an affected property that the property fails
33 to meet the requirements for either lead-free status

1 under subsection (c) of Section 25 or lead-safe status
2 under subsection (d) of Section 25;

3 (2) the Illinois Housing Development Authority or
4 Department of Public Health has notified the owner of the
5 affected property of violations of the provisions of this
6 Act occurring within an affected property; or

7 (3) a criminal or civil action pursuant to
8 subsection (a) of Section 60 has been brought by either
9 State or local enforcement officials to enforce this Act
10 arising out of violations occurring within an affected
11 property.

12 (d) A person who prevails in an action under subsection
13 (b) is entitled to an award of the costs of the litigation
14 and to an award of reasonable attorney's fees in an amount to
15 be fixed by the court.

16 (e) Cases brought before the court under this Section
17 shall be granted an accelerated hearing.

18 Section 70. Retaliatory evictions prohibited.

19 (a) An owner of an affected property shall not evict or
20 take any other retaliatory action against a person at risk
21 or, if a minor, his or her parent or legal guardian in
22 response to the actions of the person at risk or his or her
23 parent or legal guardian in:

24 (1) providing information to the owner of the
25 affected property, the Director, the Director's designee
26 for the jurisdiction where the property is located, the
27 Illinois Department of Public Health, the Illinois
28 Housing Development Authority, local health officials, or
29 local housing officials concerning lead-based paint
30 hazards within an affected property or elevated blood
31 levels of a person at risk; or

32 (2) enforcing any of his or her rights under this
33 Act.

1 (b) For purposes of this Section, a retaliatory action
2 includes any of the following actions in which the activities
3 protected under subsection (a) are a material factor in
4 motivating the action:

5 (1) a refusal to renew a lease;

6 (2) termination of a tenancy;

7 (3) an arbitrary rent increase or decrease in
8 services to which the person at risk or, if a minor, his
9 or her parent or legal guardian is entitled; or

10 (4) any form of constructive eviction.

11 (c) A person at risk or, if a minor, a parent or legal
12 guardian of a person at risk who is subject to an eviction or
13 retaliatory action under this Section is entitled to any
14 relief that may be provided by law and any further relief
15 deemed just and equitable by the court and is eligible for
16 reasonable attorney's fees and costs.

17 Section 75. Educational programs.

18 (a) To achieve the purposes of this Act, there shall be
19 established a statewide, multifaceted, ongoing educational
20 program designed to meet the needs of tenants, property
21 owners, health care providers, early childhood educators and
22 care providers, realtors and real estate agents, insurers and
23 insurance agents, and local building officials.

24 (b) The Governor, in conjunction with the Director and
25 the Lead Poisoning Prevention Coordinating Council, shall
26 sponsor a series of public service announcements on radio,
27 television, the World Wide Web, and print media about the
28 nature of lead-based paint hazards, the importance of
29 lead-free and lead-safe housing, and the purposes and
30 responsibilities set forth in this Act. In developing and
31 coordinating this public information initiative, the sponsors
32 shall seek the participation and involvement of private
33 industry organizations, including those involved in real

1 estate, insurance, mortgage banking, and pediatrics.

2 (c) Within 120 days following the effective date of this
3 Act, the Director, in consultation with the Lead Poisoning
4 Prevention Coordinating Council and the Lead Poisoning
5 Prevention Commission, shall develop culturally and
6 linguistically appropriate information pamphlets regarding
7 childhood lead poisoning, the importance of testing for
8 elevated blood levels, prevention of childhood lead
9 poisoning, treatment of childhood lead poisoning, and, when
10 appropriate, the requirements of this Act. These information
11 pamphlets shall be distributed to the parents or legal
12 guardians of children 6 years of age or younger on the
13 following occasions:

14 (1) by the owner of any affected property or his or
15 her agents or employees at the time of the initiation of
16 a rental agreement with a new tenant whose household
17 includes a person at risk or any woman of childbearing
18 age;

19 (2) by a health care provider at the time of a
20 child's birth and at the time of any childhood
21 immunization or vaccination, unless it is established
22 that the information pamphlet has been provided
23 previously to the parent or legal guardian by the health
24 care provider within the prior 12 months; and

25 (3) by the owner or operator of any child care
26 facility, pre-school, or kindergarten class on or before
27 October 15 of the calendar year.

28 (d) The Director, in conjunction with the Illinois
29 Housing Development Authority, within 120 days following the
30 effective date of this Act, shall establish guidelines and a
31 trainer's manual for a Lead-Safe Housing Awareness Seminar
32 with a total class time of 3 hours or less. Those courses
33 shall be offered by professional associations and community
34 organizations with a training capacity, existing accredited

1 educational institutions, and for-profit educational
2 providers. All of the offering proposals shall be reviewed
3 and approved, on the criteria of seminar content and
4 qualifications of instructors, by the Illinois Housing
5 Development Authority.

6 (e) The Department of Insurance, within 18 months after
7 the effective date of this Act, shall adopt rules for and
8 issue an advisory bulletin to:

9 (1) all State-licensed, admitted insurers providing
10 liability coverage for property owners regarding an
11 insurer's responsibilities under this Act; and

12 (2) all State-licensed insurance agents and brokers
13 outlining the provisions of this Act and the new
14 requirements for State-licensed, admitted insurers.

15 (f) The Office of Banks and Real Estate, within 18
16 months after the effective date of this Act, shall:

17 (1) require reasonable familiarity of the relevant
18 portions of this Act for the licensure or renewal of
19 licenses of real estate brokers and salespersons; and

20 (2) develop an educational program for real estate
21 brokers and salespersons regarding their duties and
22 responsibilities under the Act.

23 Section 80. Screening Program.

24 (a) The Director shall establish a program for early
25 identification of persons at risk with elevated blood lead
26 levels. The program shall systematically screen children
27 under the age of 6 in the target populations identified in
28 subsection (b) for the presence of elevated blood lead
29 levels. Children within the specified target populations
30 shall be screened with a blood lead test at ages 12 and 24
31 months or at ages 36 to 72 months if they have not previously
32 been screened. The Department of Public Health shall, after
33 consultation with recognized professional medical groups and

1 other sources that the Department deems appropriate, adopt
2 rules establishing:

3 (1) the means by which and the intervals at which
4 children under 6 years of age shall be screened for lead
5 poisoning and elevated blood lead levels; and

6 (2) guidelines for the medical follow-up on
7 children found to have elevated blood lead levels.

8 (b) In developing screening programs to identify persons
9 at risk with elevated blood lead levels, the Director shall
10 give priority to persons within the following categories:

11 (1) all children enrolled in Medicaid at ages 12
12 and 24 months or at ages 36 to 72 months if they have not
13 previously been screened;

14 (2) children under the age of 6 exhibiting delayed
15 cognitive development or other symptoms of childhood lead
16 poisoning;

17 (3) persons at risk residing in the same household
18 or recently residing in the same household as another
19 person at risk with a blood lead level of 10 micrograms
20 per deciliter or greater;

21 (4) persons at risk residing, or who have recently
22 resided, in buildings or geographical areas where
23 significant numbers of cases of lead poisoning or
24 elevated blood lead levels have recently been reported;

25 (5) persons at risk who reside or have recently
26 resided at affected properties contained in buildings
27 that during the preceding 3 years have been subject to
28 enforcement actions described in subsection (a) of
29 Section 60, receivership actions under subsection (c) of
30 Section 60, or when injunctive relief has been sought
31 pursuant to Section 65;

32 (6) persons at risk who reside or have recently
33 resided at other affected properties with the same owner
34 as another building containing affected properties that,

1 during the preceding 3 years, have been subject to
2 enforcement actions described in subsection (a) of
3 Section 60, receivership actions under subsection (c) of
4 Section 60, or when injunctive relief has been sought
5 pursuant to Section 65; and

6 (7) persons at risk residing in other buildings or
7 geographical areas where the Director reasonably
8 determines there to be a significant risk of affected
9 individuals having a blood lead level of 10 micrograms
10 per deciliter or greater.

11 (c) The Director shall maintain comprehensive records of
12 all screenings conducted pursuant to this Section. Those
13 records shall be indexed geographically and by owner to
14 determine the location of areas of relatively high incidence
15 of lead poisoning and other elevated blood lead levels. Those
16 records, with the names of tested individuals removed for
17 privacy purposes, shall constitute public records. All cases
18 or probable cases of lead poisoning, as defined by the
19 Director, found in the course of screenings conducted
20 pursuant to this Section shall be reported immediately to the
21 affected individual, to his or her parent or legal guardian
22 if he or she is a minor, and to the Director.

23 Section 85. Rules. The Department of Public Health may
24 adopt any rules necessary to implement this Act.

25 Section 800. The Department of Public Health Powers and
26 Duties Law of the Civil Administrative Code of Illinois is
27 amended by changing Section 2310-90 as follows:

28 (20 ILCS 2310/2310-90) (was 20 ILCS 2310/55.09)

29 Sec. 2310-90. Laboratories; fees; Public Health
30 Laboratory Services Revolving Fund. To maintain physical,
31 chemical, bacteriological, and biological laboratories; to

1 make examinations of milk, water, atmosphere, sewage, wastes,
2 and other substances, and equipment and processes relating
3 thereto; to make diagnostic tests for diseases and tests for
4 the evaluation of health hazards considered necessary for the
5 protection of the people of the State; and to assess a
6 reasonable fee for services provided as established by
7 regulation, under the Illinois Administrative Procedure Act,
8 which shall not exceed the Department's actual costs to
9 provide these services.

10 Excepting fees collected under the Phenylketonuria
11 Testing Act and the Lead Poisoning Prevention Act of 2003,
12 all fees shall be deposited into the Public Health Laboratory
13 Services Revolving Fund. Other State and federal funds
14 related to laboratory services may also be deposited into the
15 Fund, and all interest that accrues on the moneys in the Fund
16 shall be deposited into the Fund.

17 Moneys shall be appropriated from the Fund solely for the
18 purposes of testing specimens submitted in support of
19 Department programs established for the protection of human
20 health, welfare, and safety, and for testing specimens
21 submitted by physicians and other health care providers, to
22 determine whether chemically hazardous, biologically
23 infectious substances, or other disease causing conditions
24 are present.

25 (Source: P.A. 91-239, eff. 1-1-00.)

26 Section 805. The Illinois Income Tax Act is amended by
27 adding Section 213 as follows:

28 (35 ILCS 5/213 new)

29 Sec. 213. Lead-based paint removal credit.

30 (a) Beginning with taxable years ending on or after
31 December 31, 2004, each individual taxpayer is entitled to a
32 credit against the tax imposed by subsections (a) and (b) of

1 Section 201 in an amount equal to the amount spent by the
2 taxpayer in the taxable year, up to a maximum credit of
3 \$2,500 in the taxable year, for the removal of lead-based
4 paint or other repairs or renovations of an affected
5 property, as defined in the Lead Poisoning Prevention Act of
6 2003, necessary to comply with Section 25 of the Lead
7 Poisoning Prevention Act of 2003 if the taxpayer does all of
8 the following:

9 (1) Has the required removal of lead-based paint
10 hazards or other repairs or renovations described in this
11 Section performed by a contractor accredited pursuant to
12 Section 35 of the Lead Poisoning Prevention Act of 2003.

13 (2) Pays for the removal of lead-based paint
14 hazards or other repairs or renovations identified in
15 this Section.

16 (3) Obtains written certification by an inspector
17 accredited pursuant to Section 35 of the Lead Poisoning
18 Prevention Act of 2003 that the required removal of
19 lead-based paint hazards or other repairs or renovations
20 for the affected property has been completed in
21 accordance with all applicable requirements and that the
22 affected property may now be certified as either
23 lead-free or lead-safe under Section 25 of the Lead
24 Poisoning Prevention Act of 2003.

25 The tax credit shall be available to someone who owns and
26 occupies his or her own dwelling unit in the same manner as
27 and to the same extent that the tax credit is available to
28 the owner of an affected property who leases the premises.
29 The Department shall establish by rule those expenses that
30 are eligible for the tax credit. The tax credit may not
31 reduce the taxpayer's liability to less than zero.

32 (b) If the amount of the credit exceeds the tax liability
33 for the year, the excess may be carried forward and applied
34 to the tax liability of the 5 taxable years following the

1 excess credit year. The credit shall be applied to the
2 earliest year for which there is a tax liability. If there
3 are credits from more than one tax year that are available to
4 offset a liability, the earlier credit shall be applied
5 first.

6 Section 810. The Registered Titles (Torrens) Act is
7 amended by changing Section 102.2 as follows:

8 (765 ILCS 35/102.2)

9 Sec. 102.2. Lead poisoning prevention fund. The lead
10 poisoning prevention fund established with excess indemnity
11 fund monies as provided in Section 102.1 of this Act shall be
12 used to establish a program to provide financial assistance
13 to owners of residential property located within the county
14 to pay for the cost associated with lead mitigation and
15 abatement, as defined in the Lead Poisoning Prevention Act of
16 2003, and to fund such other related activities as provided
17 in this Section. Reasonable expenses for the administration
18 of the program established pursuant to this Section shall be
19 paid from the lead poisoning prevention fund. State,
20 federal, or private grants may be sought to supplement the
21 lead poisoning prevention fund.

22 (a) Use of principal. The principal of the fund shall
23 be used to provide financial assistance to owners of
24 residential property within the county to pay for the costs
25 associated with lead mitigation and abatement through loans,
26 grants, and other assistance the county deems appropriate.
27 In order to assure the continued availability of funds for
28 lead poisoning prevention, the county shall give due
29 consideration to providing the financial assistance in the
30 form of loans to property owners to finance lead mitigation
31 and abatement in their properties.

32 (1) The county shall establish reasonable criteria

1 for eligibility for the loans, grants, and other
2 assistance.

3 (2) In determining the eligibility for assistance,
4 priority shall be given to property owners who have
5 received a mitigation notice, a mitigation order, or an
6 abatement order under the Lead Poisoning Prevention Act,
7 and to other factors, including the immediacy of risk
8 that the lead in the structure poses to children.

9 (b) Use of interest. The county shall invest in
10 accordance with the Counties Code the principal and interest
11 of the fund which is not being used for disbursement of
12 financial assistance to property owners. All interest which
13 accrues on investment of the fund's principal and interest
14 and on loans shall be deposited into the fund. Any interest
15 or other dividends resulting from the investment of lead
16 poisoning prevention fund monies pursuant to this subsection
17 (b), and any interest received pursuant to loans made by the
18 lead poisoning prevention fund, may be expended as provided
19 in subsection (a) or for other lead poisoning prevention
20 activities, such as education, community outreach, and other
21 activities the county deems appropriate in the prevention of
22 lead poisoning.

23 (c) Voluntary participation. No property owner shall
24 be required to participate in the assistance program
25 established under this Act or under the implementing county
26 ordinance.

27 (d) No preemption. This amendatory Act of 1998 does not
28 preempt, rescind, modify, or revise any local, State, or
29 federal laws or rules governing lead paint mitigation or
30 abatement or lead poisoning prevention.

31 (e) Insufficient funds. Notwithstanding any other
32 provision of this Act, if the county determines that the
33 balance of funds in the indemnity fund is insufficient to
34 cover the present and future obligations of the indemnity

1 fund, the county may provide for the transfer of funds from
2 the lead poisoning prevention fund, or from any other fund to
3 which excess monies have been transferred, to the indemnity
4 fund. The level of such transfer shall not exceed the amount
5 necessary to satisfy any current obligation of the indemnity
6 fund.

7 (Source: P.A. 90-778, eff. 8-14-98.)

8 Section 900. The State Finance Act is amended by adding
9 Sections 5.595, 5.596, and 5.597 as follows:

10 (30 ILCS 105/5.595 new)

11 Sec. 5.595. The Lead-Removal Inspectors Accreditation
12 Fund.

13 (30 ILCS 105/5.596 new)

14 Sec. 5.596. The Lead Poisoning-Affected Properties
15 Registration Fund.

16 (30 ILCS 105/5.597 new)

17 Sec. 5.597. The Lead-Safe and Lead-Free Property
18 Revolving Loan Fund.

19 (410 ILCS 45/Act rep.)

20 Section 905. The Lead Poisoning Prevention Act is
21 repealed.

22 Section 999. Effective date. This Act takes effect upon
23 becoming law.

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INDEX

Statutes amended in order of appearance

- 20 ILCS 2310/2310-90 was 20 ILCS 2310/55.09
- 35 ILCS 5/213 new
- 765 ILCS 35/102.2
- 30 ILCS 105/5.595 new
- 30 ILCS 105/5.596 new
- 30 ILCS 105/5.597 new
- 410 ILCS 45/Act rep.