



Rep. Arthur L. Turner

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1 AMENDMENT TO HOUSE BILL 4481

2 AMENDMENT NO. _____. Amend House Bill 4481 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Childhood Lead Poisoning Reduction Act.

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

7 (a) More than 300,000 American children may have levels of
8 lead in their blood in excess of 10 micrograms per deciliter.
9 Unless prevented or treated, elevated blood lead levels in
10 egregious cases may result in impairment of the ability to
11 think, concentrate, and learn.

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

15 (c) The health and development of these children and many
16 others are endangered by chipping or peeling lead-based paint
17 or excessive amounts of lead-contaminated dust in poorly
18 maintained homes.

19 (d) Ninety percent of lead-based paint still remaining in
20 occupied housing exists in units built before 1960, with the
21 remainder in units built before 1978.

22 (e) The dangers posed by lead-based paint can be
23 substantially reduced and largely eliminated by taking
24 measures to prevent paint deterioration and limiting

1 children's exposure to paint chips and lead dust.

2 (f) The deterioration of lead-based paint in older
3 residences results in increased expenses each year for the
4 State of Illinois in the form of special education and other
5 education expenses, medical care for lead-poisoned children,
6 and expenditures for delinquent youth and others needing
7 special supervision.

8 (g) Older housing units remain an important part of
9 Illinois housing stock, particularly for those of modest or
10 limited incomes.

11 (h) The possibility of liability exposure among landlords
12 has led many to abandon older properties or to place them in
13 "shell corporations" in order to avoid personal liability.

14 (i) Knowledge of lead-based paint hazards, their control,
15 mitigation, abatement, and risk avoidance is not sufficiently
16 widespread, especially outside urban areas.

17 (j) The incidence of childhood lead poisoning can be
18 reduced substantially without significant additional cost to
19 the State by creating appropriate incentives for property
20 owners to make their properties lead-free or lead-safe and by
21 targeting existing State resources used to prevent childhood
22 lead poisoning more effectively.

23 Section 10. Purpose. To promote the elimination of
24 childhood lead poisoning in Illinois, the purposes of this Act
25 are:

26 (a) to significantly reduce the incidence of childhood lead
27 poisoning in Illinois;

28 (b) to increase the supply of affordable rental housing in
29 Illinois in which measures have been taken to reduce
30 substantially the risk of childhood lead poisoning;

31 (c) to improve public awareness of lead safety issues and
32 to educate property owners and tenants about practices that can
33 reduce the incidence of lead poisoning;

1 (d) to provide protection from potentially ruinous tort
2 actions for those landlords who undertake specified lead hazard
3 reduction measures;

4 (e) to encourage the testing of children likely to suffer
5 the consequences of lead poisoning so that prompt diagnosis and
6 treatment, as well as the prevention of harm, are possible; and

7 (f) to provide a mechanism to facilitate prompt payment of
8 medical and rehabilitation expenses and relocation costs for
9 those individuals who are affected by childhood lead poisoning.

10 Section 15. Definitions. In this Act:

11 "Abatement" means any set of measures designed to
12 permanently eliminate lead-based paint or lead-based paint
13 hazards. Abatement includes the removal of lead-based paint and
14 dust-lead hazards, the permanent enclosure or encapsulation of
15 lead-based paint, the replacement of components or fixtures
16 painted with lead-based paint, and the removal or permanent
17 covering of soil-based hazards.

18 "Affected property" means a room or group of rooms within a
19 property constructed before 1978 that form a single independent
20 habitable dwelling unit for occupation by one or more
21 individuals that has living facilities with permanent
22 provisions for living, sleeping, eating, cooking, and
23 sanitation. "Affected property" does not include:

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

26 (2) unit within a hotel, motel, or similar seasonal or
27 transient facility unless such unit is occupied by one or
28 more persons at risk for a period exceeding 30 days;

29 (3) an area which is secured and inaccessible to
30 occupants;

31 (4) a unit which is not offered for rent; or

32 (5) any property owned or operated by a unit of
33 federal, State, or local government, or any public,

1 quasi-public, or municipal corporation, if the property is
2 subject to lead standards that are equal to, or more
3 stringent than, the requirements for lead-safe status
4 under subsection (b) of Section 25.

5 "Change in occupancy" means a change of tenant in an
6 affected property in which the property is vacated and
7 possession is either surrendered to the owner or abandoned.

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

13 "Containment" means the physical measures taken to ensure
14 that dust and debris created or released during lead-based
15 paint hazard reduction are not spread, blown, or tracked from
16 inside to outside of the worksite.

17 "Deteriorated paint" means any interior or exterior paint
18 or other coating that is peeling, chipping, chalking, or
19 cracking, or any paint or coating located on an interior or
20 exterior surface or fixture that is otherwise damaged or
21 separated from the substrate.

22 "Dust-lead hazard" means surface dust in a residential
23 dwelling or a facility occupied by a person at risk that
24 contains a mass per area concentration of lead equal to or
25 exceeding 40 micrograms per square foot on floors or 250
26 micrograms per square foot on interior windowsills based on
27 wipe samples.

28 "Dwelling unit" means a:

29 (1) Single-family dwelling, including attached
30 structures such as porches and stoops; or

31 (2) Housing unit in a structure that contains more than
32 one separate housing unit, and in which each such unit is
33 used or occupied, or intended to be used or occupied, in
34 whole or in part, as the home or separate living quarters

1 of one or more persons.

2 "Elevated blood lead" or "EBL" means a quantity of lead in
3 whole venous blood, expressed in micrograms per deciliter, that
4 exceeds 15 micrograms per deciliter or such other level as may
5 be specifically provided in this Act.

6 "Encapsulation" means the application of a covering or
7 coating that acts as a barrier between the lead-based paint and
8 the environment and that relies for its durability on adhesion
9 between the encapsulant and the painted surface, and on the
10 integrity of the existing bonds between paint layers and
11 between the paint and the substrate. Encapsulation may be used
12 as a method of abatement if it is designed and performed so as
13 to be permanent.

14 "Exterior surfaces" means:

15 (1) all fences and porches that are part of an affected
16 property;

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

19 (A) are attached to the outside of an affected
20 property; or

21 (B) consist of other buildings that are part of the
22 affected property; and

23 (3) all painted surfaces in stairways, hallways,
24 entrance areas, recreation areas, laundry areas, and
25 garages within a multifamily rental dwelling unit that are
26 common to individual dwelling units and are accessible to a
27 child under the age of 6.

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

31 "Hazard reduction" means measures designed to reduce or
32 eliminate human exposure to lead-based hazards through methods
33 including interim controls or abatement or a combination of the
34 two.

1 "High efficiency particle air vacuum" or "HEPA-vacuum"
2 means a device capable of filtering out particles of 0.3
3 microns or greater from a body of air at an efficiency of
4 99.97% or greater. "HEPA-vacuum" includes use of a HEPA-vacuum.

5 "Impact surface" means an interior or exterior surface
6 that is subject to damage from the impact of repeated sudden
7 force, such as certain parts of door frames.

8 "Inspection" means a comprehensive investigation to
9 determine the presence of lead-based paint hazards and the
10 provision of a report explaining the results of the
11 investigation.

12 "Interim controls" means a set of measures designed to
13 reduce temporarily human exposure to lead-based paint hazards.
14 Interim controls include, but are not limited to, repairs,
15 painting, temporary containment, specialized cleaning,
16 clearance, ongoing lead-based paint maintenance activities,
17 and the establishment and operation of management and resident
18 education programs.

19 "Interior windowsill" means a portion of the horizontal
20 window ledge that is protruding into the interior of a room.

21 "Lead-based paint" means paint or other surface coatings
22 that contain lead equal to or exceeding one milligram per
23 square centimeter or 0.5 % by weight or 5,000 parts per million
24 by weight.

25 "Lead-based paint hazard" means paint-lead hazards and
26 dust-lead hazards.

27 "Lead-contaminated dust" means dust in affected properties
28 that contains an area or mass concentration of lead in excess
29 of the lead content level determined by the Director by
30 regulation.

31 "Director's local designee" means a municipal, county, or
32 other official designated by the Director of Public Health,
33 responsible for assisting the Director or Director of Public
34 Health, relevant State agencies, and relevant county and

1 municipal authorities, in implementing the activities
2 specified by the Act for the geographical area in which the
3 affected property is located.

4 "Owner" means a person, firm, corporation, nonprofit
5 organization, partnership, government, guardian, conservator,
6 receiver, trustee, executor, or other judicial officer, or
7 other entity which, alone or with others, owns, holds, or
8 controls the freehold or leasehold title or part of the title
9 to property, with or without actually possessing it. The
10 definition includes a vendee who possesses the title, but does
11 not include a mortgagee or an owner of a reversionary interest
12 under a ground rent lease.

13 "Owner" includes any authorized agent of the owner,
14 including a property manager or leasing agent.

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

16 (1) Any lead-based paint on a friction surface that is
17 subject to abrasion and where the dust-lead levels on the
18 nearest horizontal surface underneath the friction surface
19 (e.g., the windowsill or floor) are equal to or greater
20 than the dust-lead hazard levels defined in this
21 subsection;

22 (2) Any damaged or otherwise deteriorated lead-based
23 paint on an impact surface that is caused by impact from a
24 related building material, such as a door knob that knocks
25 into a wall or a door that knocks against its door frame;

26 (3) Any chewable lead-based painted surface on which
27 there is evidence of teeth marks; or

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

31 "Permanent" means an expected design life of at least 20
32 years.

33 "Person at risk" means a child under the age of 6 or a
34 pregnant woman who resides or regularly spends at least 24

1 hours per week in an affected property.

2 "Relocation expenses" means all expenses necessitated by
3 the relocation of a tenant's household to lead-safe housing,
4 including moving and hauling expenses, the HEPA-vacuuming of
5 all upholstered furniture, payment of a security deposit for
6 the lead-safe housing, and installation and connection of
7 utilities and appliances.

8 "Soil-lead hazard" means soil on residential real property
9 or on property of a facility occupied by a person at risk that
10 contains total lead equal to or exceeding 400 parts per million
11 in a play area or average of 1,200 parts per million of bare
12 soil in the rest of the yard based on soil samples.

13 "Tenant" means the individual named as the lessee in a
14 lease, rental agreement, or occupancy agreement for a dwelling
15 unit.

16 "Wipe sample" means a sample collected by wiping a
17 representative surface of known area, as determined by ASTM
18 E1728 ("Standard Practice for the Field Collection of Settled
19 Dust Samples Using Wipe Sampling Methods for Lead Determination
20 by Atomic Spectrometry Techniques"), with lead determination
21 conducted by an accredited laboratory participating in the
22 Environmental Lead Laboratory Accreditation Program (NLAP).

23 Section 20. Lead Poisoning Prevention Commission.

24 (a) The Governor shall appoint a Lead Poisoning Prevention
25 Commission.

26 (1) The duties of the Commission are to:

27 (A) report to the Governor, the President of the
28 Senate, and the Speaker of the House in writing by
29 October 1, 2005, recommending legislation providing
30 effective measures providing both additional
31 incentives for all affected property owners to bring
32 their premises into compliance with the lead safe
33 standards outlined in subsection (b) of Section 25,

1 additional means of enforcement and penalties for
2 those property owners who fail to achieve compliance.
3 The incentives to be considered should include, among
4 others, state income or local property tax credits and
5 revolving loan funds;

6 (B) study and collect information on the
7 effectiveness of this Act in fulfilling its
8 legislative purposes as defined in Section 10;

9 (C) make policy recommendations, in addition to
10 those mandated by subparagraph (A), regarding how best
11 to achieve the legislative purposes of this Act as set
12 forth in Section 10;

13 (D) consult with the responsible departments of
14 state government on the implementation of this Act; and

15 (E) write and submit a report by October 1, 2005 to
16 the Governor, the President of the Senate, and the
17 Speaker of the House, on the results of implementing
18 this Act.

19 (2) The Commission shall consist of 11 members. The
20 membership shall include:

21 (A) the Director of Public Health or his or her
22 local designee;

23 (B) the Director of the Illinois Housing
24 Development Authority or his or her local designee;

25 (C) two members of the State Senate, one appointed
26 by the President of the Senate and the other appointed
27 by the Senate Minority Leader;

28 (D) two members of the State House of
29 Representatives, one appointed by the Speaker of the
30 House and the other appointed by the House Minority
31 Leader; and

32 (E) five members appointed by the Governor
33 including:

34 (i) a child advocate;

- 1 (ii) a health care provider;
2 (iii) a representative of local government;
3 and
4 (iv) two owners of rental property in the
5 State.

6 (3) The Commission shall be chaired by the Director of
7 Public Health.

8 (4) Members of the Commission shall serve without
9 additional compensation.

10 Section 25. Requirements for lead-free status and
11 lead-safe status.

12 (a) Requirements for lead-free property status. An
13 affected property is lead-free if:

14 (1) the affected property was constructed after 1960;
15 or

16 (2) the owner of the affected property submits to the
17 Director of the Public Health for the jurisdiction in which
18 such property is located an inspection report which
19 indicates that the affected property has been tested for
20 the presence of lead in accordance with standards and
21 procedures established by the regulations promulgated by
22 the Director and states that:

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

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

30 (b) Requirements for lead-safe property status. An
31 affected property is lead-safe if the following treatments to
32 reduce lead-based paint hazards have been completed by someone
33 certified under Section 35 of this Act and in compliance with

1 the regulations established by the Director of Public Health:

2 (1) visual review of all exterior and interior painted
3 surfaces;

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

6 (3) stabilization and repainting of any interior or
7 exterior painted surface which have lead-based paint
8 hazards;

9 (4) repair of any structural defect that is causing the
10 paint to chip, peel, or flake that the owner of the
11 affected property has knowledge of, or with the exercise of
12 reasonable care, should have knowledge of;

13 (5) stripping and repainting, replacing, or
14 encapsulating all interior windowsills and window troughs
15 with vinyl, metal, or any other durable materials which
16 render the surface smooth and cleanable;

17 (6) installation of caps of vinyl, aluminum, or any
18 other material in a manner and under conditions approved by
19 the Director of Public Health in all window wells in order
20 to make the window wells smooth and cleanable;

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

25 (8) re-hanging all doors as necessary to prevent the
26 rubbing together of a lead-painted surface with another
27 surface;

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

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

31 (11) HEPA-vacuuming and washing of the interior of the
32 affected property with high phosphate detergent or its
33 equivalent, as determined by the Director of Public Health.

34 (c) Repairs to comply with standards.

1 (1) Whenever an owner of an affected property intends
2 to make repairs or perform maintenance work that will
3 disturb the paint on interior surfaces of an affected
4 property, the owner shall give any tenant in such affected
5 property at least 48 hours' written advance notice and
6 shall make reasonable efforts to ensure that all persons
7 who are not persons at risk are not present in the area
8 where work is performed and that all persons at risk are
9 removed from the affected property when the work is
10 performed.

11 (2) A tenant shall allow access to an affected
12 property, at reasonable times, to the owner to perform any
13 work required under this Act.

14 (3) If a tenant must vacate an affected property for a
15 period of 24 hours or more in order to allow an owner to
16 perform work that will disturb the paint on interior
17 surfaces, the owner shall pay the reasonable expenses that
18 the tenant incurs directly related to the required
19 relocation.

20 (4) If an owner has made all reasonable efforts to
21 cause the tenant to temporarily vacate an affected property
22 in order to perform work that will disturb the paint on
23 interior surfaces, and the tenant refuses to vacate the
24 affected property, the owner may not be liable for any
25 damages arising from the tenant's refusal to vacate.

26 (5) If an owner has made all reasonable efforts to gain
27 access to an affected property in order to perform any work
28 required under this Act, and the tenant refuses to allow
29 access, even after receiving reasonable advance notice of
30 the need for access, the owner may not be liable for any
31 damages arising from the tenant's refusal to allow access.

32 Section 30. Inspection of affected properties.

33 (a) Voluntary inspections.

1 (1) An owner of an affected property at any time after
2 the effective date of this Act may request that the
3 Director of the Department of Public Health or a Director's
4 local designee inspect an affected property to determine
5 whether it complies with the requirements of lead-free as
6 specified in subsection (a) of Section 25 or the
7 requirements of lead-safe as specified in subsection (b) of
8 Section 25. Such inspection shall be completed within 30
9 days following the owner's request.

10 (2) Any affected property certified as either
11 lead-free or lead-safe following a voluntary inspection
12 pursuant to subsection (a)(1) shall be:

13 (A) entitled to the liability protection
14 provisions of Section 40; and

15 (B) in compliance with all state and local
16 requirements, whether included in housing codes or
17 ordinances or any other regulatory or criminal
18 statutes or ordinances, governing lead paint contained
19 in an affected property.

20 (3) Subsequent inspections shall occur at intervals of
21 not greater than 3 years.

22 (A) The requirement for a subsequent inspection
23 may be satisfied by certification of the owner with the
24 Director of the Department of Public Health or the
25 Director's designee for the locality in which such
26 property is located, under penalty of perjury, that the
27 tenants occupying an affected property have not
28 changed since the last inspection and that no one
29 residing within the affected property is a person at
30 risk.

31 (B) If the requirement for re-inspection of an
32 affected property has been satisfied by certification
33 pursuant to subparagraph (A) of paragraph (3) of
34 subsection (a) of this Section, the requirement for a

1 re-inspection under paragraph (1) of subsection (a) of
2 this Section is re-activated by either a change in
3 tenancy or the residence of a person at risk within the
4 affected property.

5 (b) Mandatory compliance. The Lead Poisoning Prevention
6 Commission established by Section 20 shall either develop a
7 proposal for mandatory inspections of all affected properties
8 to be implemented by January 1, 2006, or shall develop
9 alternative measures of enforcement and penalties to ensure
10 that all affected properties comply with either the lead-free
11 standard described in subsection (a) of Section 25 or the
12 lead-safe standard described in subsection (b) of Section 25
13 within a reasonable period of time following January 1, 2006.

14 (c) Expedited inspection. The Director of Public Health or
15 the Director's local designee for the jurisdiction in which
16 such property is located shall order an inspection of an
17 affected property, at the expense of the owner of the affected
18 property, whenever the Director of Public Health or the
19 Director's local designee for the jurisdiction in which such
20 property is located, after January 1, 2005, is notified that
21 the affected property reasonably appears to comply with neither
22 the lead-free standard or the lead-safe standard as those
23 standards are defined in Section 25 and a person at risk
24 resides in the affected property or spends more than 24 hours
25 per week in the affected property. An inspection required under
26 this subsection shall be completed within 90 days after
27 notification of the Director of Public Health or the Director's
28 local designee for the jurisdiction in which such property is
29 located.

30 (d) Emergency inspection. The Director of Public Health or
31 the Director's local designee for the jurisdiction in which
32 such property is located shall order an inspection of an
33 affected property, at the expense of the owner of the affected
34 property, whenever the Director of Public Health or the

1 Director's local designee for the jurisdiction in which such
2 property is located, is notified that a person at risk who
3 resides in the affected property or spends more than 24 hours
4 per week in the affected property has an elevated blood lead
5 level greater than or equal to 15 micrograms per deciliter. An
6 inspection under this subsection shall be completed within 15
7 days after notification of the Director of Public Health or the
8 Director's local designee for the jurisdiction in which such
9 property is located.

10 (e) Inspection report. The inspector shall submit a
11 verified report of the result of the inspection to the
12 Executive Director of the Illinois Housing Development
13 Authority or the Executive Director's designee, and the
14 Director of the Department of Public Health or the Director's
15 local designee for the jurisdiction in which such property is
16 located, the owner, and the tenant, if any, of the affected
17 property.

18 (f) Inspection fees. The owner of an affected property
19 shall pay a fee at the time of the inspection of an affected
20 property sufficient to pay the full costs of the inspection

21 Section 35. Accreditation of inspectors and contractors
22 performing work.

23 (a) Accreditation of persons performing lead hazard
24 reduction activities. No person shall act as a contractor or
25 supervisor to perform the work necessary for lead-hazard
26 abatement as defined in this Act unless that person is
27 accredited by the Director of Public Health. The Director shall
28 accredit for these purposes any person meeting the standards
29 described in one of the following subsections:

30 (1) Regulations to be adopted by the Director of Public
31 Health pursuant to this Act governing the accreditation of
32 individuals to engage in lead-based paint activities
33 sufficient to satisfy the requirements of 40 Code of

1 Federal Regulations (C.F.R.) 745.325 (2001) or any
2 applicable successor provisions to 40 C.F.R. 745.325
3 (2001).

4 (2) Certification by the United States Environmental
5 Protection Agency to engage in lead-based paint activities
6 pursuant to 40 C.F.R. 745.226 (2001) or any applicable
7 successor provisions to 40 C.F.R. 745.226 (2001).

8 (3) Certification 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 (2001) or any
12 applicable successor provisions to 40 C.F.R. 745.325
13 (2001). The Director of Public Health shall, by regulation,
14 create exceptions to the accreditation requirement for
15 instances where the disturbance of lead-based paint is
16 incidental.

17 (b) Accreditation of persons performing inspections. An
18 inspector accredited by the Director shall conduct all
19 inspections required by Section 30 of this Act, or otherwise
20 required by this Act. The Director of Public Health shall
21 accredit as an inspector any individual meeting the following
22 requirements:

23 (1) Regulations to be adopted by the Director pursuant
24 to this Act governing the accreditation of individuals
25 eligible to conduct the inspections required by this Act;
26 or

27 (2) Certification to conduct risk assessments by the
28 EPA pursuant to 40 C.F.R. 745.226(b) (2001) or any
29 applicable successor provisions to 40 C.F.R. 745.226
30 (2001).

31 (c) Duration of certification. The accreditation of
32 contractors or supervisors of those performing the work
33 necessary for lead hazard abatement, and the accreditation of
34 those performing the inspections required by this Section,

1 shall extend for a period of 3 years unless the Director of
2 Public Health has probable cause to believe a person accredited
3 under this Section has violated the terms of the accreditation
4 or engaged in illegal or unethical conduct related to
5 inspections required by this Act, in which case the
6 accreditation to perform inspections shall be suspended
7 pending a hearing in accordance with the provisions of state
8 law.

9 (d) Registration fees. The Director shall establish by
10 regulation a schedule of fees for the registration of persons
11 performing lead hazard abatement and a separate schedule for
12 persons performing inspections pursuant to this Act. Such fees
13 shall be required to be paid at the time of initial
14 registration and at the time of subsequent renewal of
15 registration, and shall be sufficient to cover all costs,
16 including the costs of state personnel, attributable to
17 accreditation activities conducted under this Section.

18 (1) Fees collected pursuant to this subsection will be
19 held in a continuing, non-lapsing special fund to be used
20 for accreditation purposes under this Section.

21 (2) The State Treasurer shall hold and the State
22 Comptroller shall account for this fund.

23 (3) The fund established under this subsection shall be
24 invested and reinvested and any investment earnings shall
25 be paid into the fund.

26 (e) Enforcement. The provisions and procedures of
27 appropriate state statutes governing violation of business and
28 professional licensing statutes shall be used and shall apply
29 to enforce violations of this Section, any regulations adopted
30 under this subtitle, and any condition of accreditation issued
31 under this Act.

32 Section 40. Enforcement.

33 (a) Full enforcement of criminal violations and civil

1 remedies. Owners of affected properties who fail to comply with
2 the provisions of either subsection (a) of Section 25 or
3 subsection (b) of Section 25 shall be deemed in violation of
4 any applicable housing codes. The Office of the Illinois
5 Attorney General and any local authorities responsible for the
6 enforcement of housing codes shall enforce vigorously civil
7 remedies and criminal penalties provided for by law arising out
8 of the failure to comply with the requirements of this Act and
9 may seek injunctive relief where appropriate.

10 (b) Reporting of enforcement actions. Any civil or criminal
11 action by state or local officials to enforce the provisions of
12 this Act shall be reported to the Director of Public Health or
13 his or her local designee. The Director of Public Health or his
14 or her local designee shall issue an annual report outlining
15 specifically the enforcement actions brought pursuant to
16 subsection (a), the identity of the owners of the affected
17 properties, the authority bringing the enforcement action, the
18 nature of the action, and describing the criminal penalties and
19 civil relief.

20 (c) Receivership of properties not meeting standards.
21 After the second written notice from the Director of Public
22 Health, the Director of Public Health's local designee, or the
23 local department of health, of violations of the provisions of
24 this Act occurring within an affected property, or after two
25 criminal or civil actions pursuant to subsection (a) brought by
26 either State or local officials to enforce this Act arising out
27 of violations occurring within an affected property, unless the
28 violations alleged to exist are corrected, the affected
29 property shall be considered abandoned, and the Attorney
30 General, the Director of Public Health, or the Director of
31 Public Health's local designee, or the local department of
32 health, or any other officials having jurisdiction over the
33 affected property shall have the specific power to request the
34 court to appoint a receiver for the property. The court in such

1 instances may specifically authorize the receiver to apply for
2 loans, grants, and other forms of funding necessary to correct
3 lead-based paint hazards and meet the standards for lead-safe
4 or lead-free status, and to hold the affected property for such
5 period of time as the funding source may require to assure that
6 the purposes of the funding have been met. The costs of such
7 receivership shall constitute a lien against the property that,
8 if not discharged by the owner upon receipt of the receiver's
9 demand for payment, shall constitute grounds for foreclosure
10 proceedings instituted by the receiver to recover such costs.

11 Section 45. Private right to injunctive relief.

12 (a) Right to lead-free or lead-safe housing. A person at
13 risk shall be deemed to have a right to housing which is either
14 lead-free or lead-safe as outlined in this Act.

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

23 (c) Notice of intent to seek injunctive relief. A court
24 shall not grant the injunctive relief requested pursuant to
25 subsection (b), unless, at least 30 days prior to the filing
26 requesting the injunction, the owner of the affected property
27 has received written notice of the violation of standards
28 contained in Section 25 and has failed to bring the affected
29 property into compliance with the applicable standards. This
30 notice to the owner of the affected property is satisfied when
31 any of the following has occurred: (1) a person at risk, his or
32 her parent or legal guardian, or attorney, has notified the
33 owner of an affected property that the property fails to meet

1 the requirements for either lead-free status under subsection
2 (a) of Section 25 or lead-safe status under subsection (b) of
3 Section 25; (2) a local or state housing authority or the
4 Department of Public Health has notified the owner of the
5 affected property of violations of the provisions of the Act
6 occurring within an affected property; or (3) a criminal or
7 civil action pursuant to subsection (a) of Section 40 has been
8 brought by either State or local enforcement officials to
9 enforce this Act arising out of violations occurring within an
10 affected property.

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

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

18 Section 50. Retaliatory evictions prohibited.

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

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

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

32 (b) A retaliatory action includes any of the following
33 actions in which the activities protected under subsection (a)

1 are a material factor in motivating the action:

2 (1) a refusal to renew a lease;

3 (2) a termination of a tenancy;

4 (3) an arbitrary rent increase or decrease in services
5 to which the person at risk or his or her parent or legal
6 guardian is entitled; or

7 (4) any form of constructive eviction.

8 (c) Remedies. A person at risk or his or her parent or
9 legal guardian subject to an eviction or retaliatory action
10 under this Section is entitled to the relief as may be provided
11 by statute or any further relief deemed just and equitable by
12 the court, and is eligible for reasonable attorney's fees and
13 costs.

14 Section 55. Educational programs.

15 (a) Distribution of literature about childhood lead
16 poisoning. Within 120 days following the effective date of this
17 Act, the Director of Public Health, in consultation with the
18 Lead Poisoning Prevention Commission, shall develop culturally
19 and linguistically appropriate information pamphlets regarding
20 childhood lead poisoning, the importance of testing for
21 elevated blood levels, prevention of childhood lead poisoning,
22 treatment of childhood lead poisoning, and where appropriate,
23 the requirements of this Act. It is a requirement of this Act
24 that the information pamphlets be distributed to parents or the
25 other legal guardians of children 6 years of age or younger on
26 the following occasions:

27 (1) by the owner of any affected property or his or her
28 agents or employees at the time of the initiation of a
29 rental agreement to a new tenant whose household includes a
30 person at risk or any other woman of childbearing age. The
31 owner of the affected property or his or her agents or
32 employees also shall specify whether the affected property
33 has been inspected and whether or not it complies with the

1 standards for either lead-safe status or lead-free status;

2 (2) by the health care provider at the time of the
3 child's birth and at the time of any childhood immunization
4 or vaccine unless it is established that such information
5 pamphlet has been provided previously to the parent or
6 legal guardian by the health care provider within the prior
7 12 months; and

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

11 (b) Lead-safe housing seminars. The Director of Public
12 Health, within 120 days following the effective date of this
13 Act, shall establish guidelines and a trainer's manual for a
14 Lead-Safe Housing Awareness Seminar with a total class time of
15 3 hours or less. Such courses shall be offered by professional
16 associations and community organizations with a training
17 capacity, existing accredited educational institutions, and
18 for-profit educational providers. All such offerings proposals
19 shall be reviewed and approved, on the criteria of seminar
20 content and qualifications of instructors, by the Illinois
21 Department of Public Health.

22 Section 60. Screening program.

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

1 as he or she deems appropriate, promulgate regulations
2 establishing, (i) the means by which and the intervals at which
3 such children under 6 years of age shall be screened for lead
4 poisoning and elevated blood lead levels; and (ii) guidelines
5 for the medical follow-up on children found to have elevated
6 blood lead levels.

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

11 (1) all children enrolled in Medicaid at ages 12 and 24
12 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, or
18 recently residing in the same household, as another person
19 at risk with a blood lead level of 10 micrograms per
20 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 elevated
24 blood lead levels have recently been reported;

25 (5) persons at risk residing, or who have recently
26 resided, in affected properties contained in buildings
27 which during the preceding 3 years have been subject to
28 enforcement actions described in subsection (a) of Section
29 40, receivership actions under subsection (c) of Section
30 45, or where injunctive relief has been sought pursuant to
31 Section 45;

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

1 during the preceding 3 years have been subject to
2 enforcement actions described in subsection (a) of Section
3 40, receivership actions under subsection (c) of Section
4 40, or where injunctive relief has been sought pursuant to
5 Section 45; 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 per
10 deciliter or greater.

11 (c) Director to maintain records of screenings and inform
12 designated individuals. The Director of Public Health or his or
13 her local designee shall maintain comprehensive records of all
14 screenings conducted pursuant to this Section. Such records
15 shall be indexed geographically and by owner in order to
16 determine the location of areas of relatively high incidence of
17 lead poisoning and other elevated blood lead levels. These
18 comprehensive records shall be communicated to the Director of
19 Public Health or his or her local designee on an ongoing basis.
20 Such records, with the names of tested individuals removed for
21 privacy purposes, shall be public records. All cases or
22 probable cases of lead poisoning, as defined by regulation by
23 the Director of Public Health, found in the course of
24 screenings conducted pursuant to this Section shall be reported
25 immediately to the affected individual, to his or her parent or
26 legal guardian if he or she is a minor, and to the Director."