

West's Smith-Hurd Illinois Compiled Statutes Annotated [Currentness](#)

Chapter 410. Public Health

▣ Health Prevention and Protection

→ [Act 45. Lead Poisoning Prevention Act \(Refs & Annos\)](#)

→ **45/1. Short title**

§ 1. Short title. This Act may be cited as the Lead Poisoning Prevention Act.

#### **45/2. Definitions**

§ 2. Definitions. As used in this Act:

“Abatement” means the removal or encapsulation of all leadbearing substances in a residential building or dwelling unit.

“Child care facility” means any structure used by a child care provider licensed by the Department of Children and Family Services or public school structure frequented by children through 6 years of age.

“Delegate agency” means a unit of local government or health department approved by the Department to carry out the provisions of this Act.

“Department” means the Department of Public Health of the State of Illinois.

“Dwelling” means any structure all or part of which is designed or used for human habitation.

“High risk area” means an area in the State determined by the Department to be high risk for lead exposure for children through 6 years of age. The Department shall consider, but not be limited to, the following factors to determine a high risk area: age and condition (using Department of Housing and Urban Development definitions of “slum” and “blighted”) of housing, proximity to highway traffic or heavy local traffic or both, percentage of housing determined as rental or vacant, proximity to industry using lead, established incidence of elevated blood lead levels in children, percentage of population living below 200% of federal poverty guidelines, and number of children residing in the area who are 6 years of age or younger.

“Exposed surface” means any interior or exterior surface of a dwelling or residential building.

“Lead abatement contractor” means any person or entity licensed by the Department to perform lead abatement and mitigation.

“Lead abatement worker” means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and mitigation.

“Lead bearing substance” means any item containing or coated with lead such that the lead content is more than six-hundredths of one percent (0.06%) lead by total weight; or any dust on surfaces or in furniture or other nonpermanent elements of the dwelling; or any paint or other surface coating material containing more than five-tenths of one percent (0.5%) lead by total weight (calculated as lead metal) in the total non-volatile content of liquid paint; or lead bearing substances containing greater than one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or regulation; or more than 1 milligram per square centimeter in the dried film of paint or previously applied substance; or item or dust on item containing lead in excess of the amount specified in the rules and regulations authorized by this Act or a lower standard for lead content as may be established by federal law or regulation. “Lead bearing substance” does not include firearm ammunition or components as defined by the Firearm Owners Identification Card Act.

“Lead hazard” means a lead bearing substance that poses an immediate health hazard to humans.

“Lead poisoning” means the condition of having blood lead levels in excess of those considered safe under State and federal rules and regulations.

“Low risk area” means an area in the State determined by the Department to be low risk for lead exposure for children through 6 years of age. The Department shall consider the factors named in “high risk area” to determine low risk areas.

“Mitigation” means the remediation, in a manner described in Section 9, of a lead hazard so that the lead bearing substance does not pose an immediate health hazard to humans.

“Owner” means any person, who alone, jointly, or severally with others:

(a) Has legal title to any dwelling or residential building, with or without accompanying actual possession of the dwelling or residential building, or

(b) Has charge, care or control of the dwelling or residential building as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner.

“Person” means any one or more natural persons, legal entities, governmental bodies, or any combination.

“Residential building” means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures.

“Risk assessment” means a questionnaire to be developed by the Department for use by physicians and other health care providers to determine risk factors for children through 6 years of age residing in areas designated as low risk for lead exposure.

#### **45/3. Lead bearing substance use**

§ 3. Lead bearing substance use. No person shall use or apply lead bearing substances:

- (a) In or upon any exposed surface of a dwelling or dwelling unit;
- (b) In or around the exposed surfaces of a child care facility or other structure frequented by children;
- (c) In or upon any fixtures or other objects used, installed, or located in or upon any exposed surface of a dwelling or residential building, or child care facility, or intended to be so used, installed, or located and that, in the ordinary course of use, are accessible to or chewable by children;
- (d) In or upon any items, including, but not limited to, clothing, accessories, jewelry, decorative objects, edible items, candy, food, dietary supplements, toys, furniture, or other articles used by or intended to be chewable by children;
- (e) Within or upon a residential building or dwelling, child care facility, school, playground, park, or recreational area, or other areas regularly frequented by children.

#### **45/4. Sale of items containing lead bearing substance**

§ 4. Sale of items containing lead bearing substance. No person shall sell, have, offer for sale, or transfer toys, furniture, clothing, accessories, jewelry, decorative objects, edible items, candy, food, dietary supplements, or other articles used by or intended to be chewable by children that contains a lead bearing substance.

#### **45/5. Sale of objects containing lead bearing substance**

§ 5. Sale of objects containing lead bearing substance. No person shall sell or transfer or offer for sale or transfer any fixtures or other objects intended to be used, installed, or located in or upon any surface of a dwelling or residential building, or child care facility, that contains a lead bearing substance and that, in the ordinary course of use, are accessible to or chewable by children.

#### **45/6. Warning statement**

§ 6. Warning statement.

(a) Definitions. As used in this Section:

“Children's jewelry” means jewelry that is made for, marketed for use by, or marketed to children under the age of 12 and includes jewelry that meets any of the following conditions:

(1) represented in its packaging, display, or advertising as appropriate for use by children under the age of 12;

(2) sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children under 12;

(3) sized for children and not intended for use by adults; or

(4) sold in any of the following places: a vending machine; a retail store, catalogue, or online Web site in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or a discrete portion of a retail store, catalogue, or online Web site in which a person offers for sale products that are packaged, displayed or advertised as appropriate for use by children.

“Child care article” means an item that is designed or intended by the manufacturer to facilitate the sleep, relaxation, or feeding of children under the age of 6 or to help with children under the age of 6 who are sucking or teething.

“Toy containing paint” means a painted toy designed for or intended for use by children under the age of 12 at play. In determining whether a toy containing paint is designed for or intended for use by children under the age of 12, the following factors shall be considered:

(i) a statement by a manufacturer about the intended use of the product, including a label on the product, if such statement is reasonable;

(ii) whether the product is represented in its packaging, display, promotion, or advertising as appropriate for children under the age of 12; and

(iii) whether the product is commonly recognized by consumers as being intended for use by a child under the age of 12.

(b) Children's products. Effective January 1, 2010, no person, firm, or corporation shall sell, have, offer for sale, or transfer the items listed in this Section that contain a total lead content in any component part of the item that is more than 0.004% (40 parts per million) but less than 0.06% (600 parts per million) by total weight or a lower standard for lead content as may be established by federal or State law or regulation unless that item bears a warning statement that indicates that at least one component part of the item contains lead.

The warning statement for items covered under this subsection (b) shall contain at least the following: "WARNING: CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD."

An entity is in compliance with this subsection (b) if the warning statement is provided on the children's product or on the label on the immediate container of the children's product. This subsection (b) does not apply to any product for which federal law governs warning in a manner that preempts State authority.

(c) Other lead bearing substance. No person, firm, or corporation shall have, offer for sale, sell, or give away any lead bearing substance that may be used by the general public, except as otherwise provided in subsection (b) of this Section, unless it bears the warning statement as prescribed by federal regulation. If no regulation is prescribed the warning statement shall be as follows when the lead bearing substance is a lead-based paint or surface coating: "WARNING--CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. See Other Cautions on (Side or Back) Panel. Do not apply on toys, or other children's articles, furniture, or interior, or exterior exposed surfaces of any residential building or facility that may be occupied or used by children. KEEP OUT OF THE REACH OF CHILDREN.". If no regulation is prescribed the warning statement shall be as follows when the lead bearing substance contains lead-based paint or a form of lead other than lead-based paint: "WARNING CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD. KEEP OUT OF THE REACH OF CHILDREN.".

For the purposes of this subsection (c), the generic term of a product, such as "paint" may be substituted for the word "substance" in the above labeling.

(d) The warning statements on items covered in subsections (a), (b), and (c) of this Section shall be in accordance with, or substantially similar to, the following:

(1) the statement shall be located in a prominent place on the item or package such that consumers are likely

to see the statement when it is examined under retail conditions;

(2) the statement shall be conspicuous and not obscured by other written matter;

(3) the statement shall be legible; and

(4) the statement shall contrast with the typography, layout and color of the other printed matter.

Compliance with [16 C.F.R. 1500.121](#) adopted under the Federal Hazardous Substances Act constitutes compliance with this subsection (d).

(e) The manufacturer or importer of record shall be responsible for compliance with this Section.

(f) Subsection (c) of this Section does not apply to any component part of a consumer electronic product, including, but not limited to, personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen used to access interactive software and their associated peripherals, that is not accessible to a child through normal and reasonably foreseeable use of the product. A component part is not accessible under this subsection (f) if the component part is not physically exposed by reason of a sealed covering or casing and does not become physically exposed through reasonably foreseeable use and abuse of the product. Paint, coatings, and electroplating, singularly or in any combination, are not sufficient to constitute a sealed covering or casing for purposes of this Section. Coatings and electroplating are sufficient to constitute a sealed covering for connectors, power cords, USB cables, or other similar devices or components used in consumer electronics products.

#### **45/6.01. Warning statement where supplies sold**

§ 6.01. Warning statement where supplies sold.

(a) Any retailer, store, or commercial establishment that offers paint or other supplies intended for the removal of paint shall display, in a prominent and easily visible location, a poster containing, at a minimum, the following:

(1) a statement that dry sanding and dry scraping of paint in dwellings built before 1978 is dangerous;

(2) a statement that the improper removal of old paint is a significant source of lead dust and the primary cause of lead poisoning; and

(3) contact information where consumers can obtain more information.

(b) The Department shall provide sample posters and brochures that commercial establishments may use. The Department shall make these posters and brochures available in hard copy and via download from the Department's Internet website.

(c) A commercial establishment shall be deemed to be in compliance with this Section if the commercial establishment displays lead poisoning prevention posters or provides brochures to its customers that meet the minimum requirements of this Section but come from a source other than the Department.

#### **45/6.1. Removal of leaded soil**

§ 6.1. Removal of leaded soil. The Department shall, in consultation with the IEPA, specify safety guidelines for workers undertaking removal or covering of leaded soil. Soil inspection requirements shall apply to inspection of residential buildings or child care facilities subject to the requirements of this Section.

#### **45/6.2. Physicians to screen children**

§ 6.2. Physicians to screen children.

(a) Every physician licensed to practice medicine in all its branches or health care provider shall screen children 6 months through 6 years of age for lead poisoning who are determined to reside in an area defined as high risk by the Department. Children residing in areas defined as low risk by the Department shall be assessed for risk by a risk assessment procedure developed by the Department. Children shall be screened, in accordance with guidelines and criteria set forth by the American Academy of Pediatrics, at the priority intervals and using the methods specified in the guidelines.

(b) Each licensed, registered, or approved health care facility serving children from 6 months through 6 years of age, including but not limited to, health departments, hospitals, clinics, and health maintenance organizations approved, registered, or licensed by the Department, shall take the appropriate steps to ensure that the patients receive lead poisoning screening, where medically indicated or appropriate.

(c) Children 6 years and older may also be screened by physicians or health care providers, in accordance with guidelines and criteria set forth by the American Academy of Pediatrics, according to the priority intervals specified in the guidelines. Physicians and health care providers shall also screen children for lead poisoning in conjunction with the school health examination, as required under the School Code, [FN1] when, in the medical judgement of the physician, advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advance practice nurse to perform health examinations, or physi-

cian assistant who has been delegated to perform health examinations by the supervising physician, the child is potentially at high risk of lead poisoning.

(d) Nothing in this Section shall be construed to require any child to undergo a lead blood level screening or test whose parent or guardian objects on the grounds that the screening or test conflicts with his or her religious beliefs.

[FN1] 105 ILCS 5/1-1 et seq.

#### **45/6.3. Information provided by the Department of Healthcare and Family Services**

§ 6.3. Information provided by the Department of Healthcare and Family Services.

(a) The Director of Healthcare and Family Services shall provide, upon request of the Director of Public Health, an electronic record of all children less than 7 years of age who receive Medicaid, Kidcare, or other health care benefits from the Department of Healthcare and Family Services. The records shall include a history of claims filed for each child and the health care provider who rendered the services. On at least an annual basis, the Director of Public Health shall match the records provided by the Department of Healthcare and Family Services with the records of children receiving lead tests, as reported to the Department under Section 7 of this Act.

(b) The Director shall prepare a report documenting the frequency of lead testing and elevated blood and lead levels among children receiving benefits from the Department of Healthcare and Family Services. On at least an annual basis, the Director shall prepare and deliver a report to each health care provider who has rendered services to children receiving benefits from the Department of Healthcare and Family Services. The report shall contain the aggregate number of children receiving benefits from the Department of Healthcare and Family Services to whom the provider has provided services, the number and percentage of children tested for lead poisoning, and the number and percentage of children having an elevated lead level. The Department of Public Health may exclude health care providers who provide specialized or emergency medical care and who are unlikely to be the primary medical care provider for a child. Upon the request of a provider, the Department of Public Health may generate a list of individual patients treated by that provider according to the claims records and the patients' lead test results.

#### **45/7. Reports of lead poisoning required**

§ 7. Reports of lead poisoning required. Every physician who diagnoses, or a nurse, hospital administrator or public health officer who has verified information of the existence of any person found or suspected to have a level of lead in the blood in excess of the permissible limits set forth in regulations adopted by the Department, within 48 hours of receipt of verification, shall report to the Department the name, address, laboratory results, date of birth, and any other information about the person deemed essential by the Department. Direct-

ors of clinical laboratories must report to the Department, within 48 hours of receipt of verification, positive results of all blood lead analyses performed in their facility. The information included in the clinical laboratories report shall include, but not be limited to, the child's name, address, date of birth, name of physician ordering analysis, and specimen type. All negative results must be reported to the Department in accordance with rules adopted by the Department. These rules shall not require reporting in less than 30 days after the end of the month in which the negative results are obtained. All reports shall be treated in the same manner as information subject to the provisions of Part 21 of Article VIII of the Code of Civil Procedure. [FN1] Any physician, nurse, hospital administrator, director of a clinical laboratory, public health officer, or allied health professional making a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from the making of a report.

[FN1] 735 ILCS 5/8-2101 et seq.

#### **45/7.1. Child care facilities must require lead blood level screening for admission**

§ 7.1. Child care facilities must require lead blood level screening for admission. By January 1, 1993, each day care center, day care home, preschool, nursery school, kindergarten, or other child care facility, licensed or approved by the State, including such programs operated by a public school district, shall include a requirement that each parent or legal guardian of a child between the ages of 6 months through 6 years provide a statement from a physician or health care provider that the child has been risk assessed, as provided in Section 6.2, if the child resides in an area defined as low risk by the Department, or screened for lead poisoning as provided for in Section 6.2, if the child resides in an area defined as high risk. This statement shall be provided prior to admission and subsequently in conjunction with required physical examinations.

Nothing in this Section shall be construed to require any child to undergo a lead blood level screening or test whose parent or guardian objects on the grounds that the screening or test conflicts with his or her religious beliefs.

Child care facilities that participate in the Illinois Child Care Assistance Program (CCAP) shall annually send or deliver to the parents or guardians of children enrolled in the facility's care an informational pamphlet regarding awareness of lead paint poisoning. Pamphlets shall be produced and made available by the Department and shall be downloadable from the Department's Internet website. The Department of Human Services and the Department of Public Health shall assist in the distribution of the pamphlet.

#### **45/7.2. Laboratory fees for blood lead screening; Lead Poisoning Fund**

§ 7.2. Laboratory fees for blood lead screening; Lead Poisoning Fund.

(a) The Department may establish fees according to a reasonable fee structure to cover the cost of providing a testing service for laboratory analysis of blood lead tests and any necessary follow-up. Fees collected from the

Department's testing service shall be placed in a special fund in the State treasury known as the Lead Poisoning Screening, Prevention, and Abatement Fund. Other State and federal funds for expenses related to lead poisoning screening, follow-up, treatment, and abatement programs may also be placed in the Fund. Moneys shall be appropriated from the Fund to the Department of Public Health solely for the purposes of providing lead screening, follow-up, and treatment programs.

(b) Any delegate agency may establish fees, according to a reasonable fee structure, to cover the costs of drawing blood for blood lead screening and any necessary follow-up.

#### **45/8. Inspection of buildings occupied by a person screening positive**

§ 8. Inspection of buildings occupied by a person screening positive. A representative of the Department, or delegate agency, may, after notification that an occupant of the dwelling unit in question is found to have a blood lead value of the value set forth in Section 7, upon presentation of the appropriate credentials to the owner, occupant, or his representative, inspect dwelling or dwelling units, at reasonable times, for the purposes of ascertaining that all surfaces accessible to children are intact and in good repair, and for purposes of ascertaining the existence of lead bearing substances. Such representative of the Department, or delegate agency, may remove samples or objects necessary for laboratory analysis, in the determination of the presence of lead-bearing substances in the designated dwelling or dwelling unit.

If a building is occupied by a child of less than 3 years of age screening positive, the Department, in addition to all other requirements of this Section, must inspect the dwelling unit and common place area of the child screening positive.

Following the inspection, the Department or its delegate agency shall:

(1) Prepare an inspection report which shall:

(A) State the address of the dwelling unit.

(B) Describe the scope of the inspection, the inspection procedures used, and the method of ascertaining the existence of a lead bearing substance in the dwelling unit.

(C) State whether any lead bearing substances were found in the dwelling unit.

(D) Describe the nature, extent, and location of any lead bearing substance that is found.

(E) State either that a lead hazard does exist or that a lead hazard does not exist. If a lead hazard does exist, the report shall describe the source, nature and location of the lead hazard. The existence of intact lead paint does not alone constitute a lead hazard for the purposes of this Section.

(F) Give the name of the person who conducted the inspection and the person to contact for further information regarding the inspection and the requirements of this Act.

(2) Mail or otherwise provide a copy of the inspection report to the property owner and to the occupants of the dwelling unit. If a lead bearing substance is found, at the time of providing a copy of the inspection report, the Department or its delegate agency shall attach an informational brochure.

#### **45/8.1. Licensing of lead inspectors**

§ 8.1. Licensing of lead inspectors.

(a) By January 1, 1994, the Department shall establish standards and licensing procedures for lead inspectors. An integral element of these procedures shall be an education and training program prescribed by the Department which shall include but not be limited to scientific sampling, chemistry, and construction techniques. No person shall make inspections without first being licensed by the Department. The penalty for inspection without a license shall be a Class A misdemeanor.

(b) The Department shall charge licensed inspectors reasonable license fees and the fees shall be placed in the Lead Poisoning Screening, Prevention, and Abatement Fund and used to fund the Department's licensing of inspectors and any other activities prescribed by this Act. An inspector employed by the Department or its delegate agency shall not be charged a license fee.

#### **45/8.2. Warrant procedures**

§ 8.2. Warrant procedures. If the occupant of a residential building or dwelling designated for inspection under Section 8 refuses to allow inspection, an agent of the Department or of the Department's delegate agency may apply for a search warrant to permit entry. A court may issue a warrant upon a showing that a victim of lead poisoning resides or has recently resided in the residential building. The findings of the inspection shall be reported to the Department and to the appropriate enforcement authorities established in this Act.

#### **45/9. Procedures upon determination of lead hazard**

§ 9. Procedures upon determination of lead hazard.

(1) If the inspection report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner that the owner is required to mitigate the lead hazard, and shall indicate the time period specified in this Section in which the owner must complete the mitigation. The notice shall include information describing mitigation activities which meet the requirements of this Act.

(2) If the inspection report identifies a lead hazard, the owner shall mitigate the lead hazard in a manner prescribed by the Department and within the time limit prescribed by this Section. The Department shall adopt rules regarding acceptable methods of mitigating a lead hazard. If the source of the lead hazard identified in the inspection report is lead paint or any other leaded surface coating, the lead hazard shall be deemed to have been mitigated if:

(A) The surface identified as the source of the hazard is no longer in a condition that produces a hazardous level of leaded chips, flakes, dust or any other form of leaded substance, that can be ingested or inhaled by humans, or;

(B) If the surface identified as the source of the hazard is accessible to children and could reasonably be chewed on by children, the surface coating is either removed or covered, the surface is removed, or the access to the leaded surface by children is otherwise prevented as prescribed by the Department.

(3) Mitigation activities which involve the destruction or disturbance of any leaded surface shall be conducted by a licensed lead abatement contractor using licensed lead abatement workers. The Department may prescribe by rule mitigation activities that may be performed without a licensed contractor or worker. The Department may, on a case by case basis, grant a waiver of the requirement to use licensed lead abatement contractors and workers, provided the waiver does not endanger the health or safety of humans.

(4) The Department shall establish procedures whereby an owner, after receiving a mitigation notice under this Section, may submit a mitigation plan to the Department or delegate agency for review and approval.

(5) When a mitigation notice is issued for a dwelling unit inspected as a result of an elevated blood lead level in a pregnant woman or a child, or if the dwelling unit is occupied by a child under 6 years of age or a pregnant woman, the owner shall mitigate the hazard within 30 days of receiving the notice; otherwise, the owner shall complete the mitigation within 90 days.

(6) An owner may apply to the Department or its delegate agency for an extension of the deadline for mitigation. If the Department or its delegate agency determines that the owner is making substantial progress toward mitigation, or that the failure to meet the deadline is the result of a shortage of licensed abatement contractors or workers, or that the failure to meet the deadline is because the owner is awaiting the review and approval of a mitigation plan, the Department or delegate agency may grant an extension of the deadline.

(7) The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any dwelling for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard as provided under this Section. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of this Act, which may include abatement if abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of this Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished.

#### **45/9.1. Owner's obligation to give notice**

§ 9.1. Owner's obligation to give notice. An owner of a dwelling unit or residential building who has received a mitigation notice under Section 9 of this Act shall, before entering into a lease agreement for the dwelling unit for which the mitigation notice was issued, provide prospective lessees of that unit with written notice that a lead hazard has previously been identified in the dwelling unit, unless the owner has obtained a certificate of compliance for the unit under Section 9. An owner may satisfy this notice requirement by providing the prospective lessee with a copy of the inspection report prepared pursuant to Section 9.

Before entering into a residential lease agreement, all owners of residential buildings or dwelling units built before 1978 shall give prospective lessees information on the potential health hazards posed by lead in residential dwellings by providing the prospective lessee with a copy of an informational brochure prepared by the Department. Within one year of the effective date of this amendatory Act of 1992, owners of residential buildings or dwelling units built before 1978 shall provide current lessees with such brochure.

#### **45/9.2. Multiple mitigation notices**

§ 9.2. Multiple mitigation notices. When mitigation notices are issued for 2 or more dwelling units in a building within a 5-year time period, the Department may inspect common areas in the building and shall inspect units where (i) children under the age of 6 reside, at the request of a parent or guardian of the child or (ii) a pregnant woman resides, at the pregnant woman's request. All lead hazards must be mitigated in a reasonable time frame, as determined by rules adopted by the Department. In determining the time frame for completion of mitigation of hazards identified under this Section, the Department shall consider, in addition to the considerations in subsection (6) of Section 9 of this Act, the owner's financial ability to complete the mitigation.

#### **45/9.3. Financial assistance for mitigation**

§ 9.3. Financial assistance for mitigation. Whenever a mitigation notice is issued pursuant to Section 9 or Section 9.2 of this Act, the Department shall make the owner aware of any financial assistance programs that may be available for lead mitigation through the federal, State, or local government or a not-for-profit organization.

#### **45/9.4. Owner's obligation to post notice**

§ 9.4. Owner's obligation to post notice. The owner of a dwelling unit or residential building who has received a mitigation notice under Section 9 of this Act shall post notices in common areas of the building specifying the identified lead hazards. The posted notices, drafted by the Department and sent to the property owner with the notification of lead hazards, shall indicate the following:

- (1) that a unit or units in the building have been found to have lead hazards;
- (2) that other units in the building may have lead hazards;
- (3) that the Department recommends that children 6 years of age or younger receive a blood lead screening;
- (4) where to seek further information; and
- (5) whether mitigation notices have been issued for 2 or more dwelling units within a 5-year period of time.

Once the owner has complied with a mitigation notice or mitigation order issued by the Department, the owner may remove the notices posted pursuant to this Section.

#### **45/10. Report of violations; withholding rent; eviction; relocation**

§ 10. The Department, or representative of a unit of local government or health department approved by the Department for this purpose, shall report any violation of this Act to the State's Attorney of the county in which the dwelling is located, who has then the authority to charge the owner with Class A misdemeanor, and who shall take additional measures to insure that rent is withheld from the owner by the occupants of the dwelling or dwelling units affected, until the mitigation requirements under Section 9 of this Act are complied with.

No tenant shall be evicted because an individual with an elevated blood lead level or with suspected lead poisoning resides in the dwelling unit, or because rent is withheld under the provisions of this Act, or because of any action required of the dwelling owner as a result of enforcement of this Act.

In cases where no action is taken which will result in the remedy of the hazard created by the lead-bearing substances within the stated time period, the local health officer and the local building officials may as practical utilize such community resources as are available to effect the relocation of the individuals who occupied the dwelling or dwelling unit affected until the remedy is made by the owner.

#### **45/11. Manner of mitigation of lead hazards**

§ 11. Manner of mitigation of lead hazards. All mitigation shall be accomplished in a manner which will not endanger the health or well-being of residential building or dwelling unit occupants, and will result in the safe removal from the premises, and the safe disposition, of flakes, chips, debris, dust, and other potentially harmful materials.

##### **45/11.05. Advisory Council**

§ 11.05. Advisory Council.

(a) The General Assembly finds the following:

(1) Lead-based paint poisoning is a potentially devastating but preventable disease and is the number one environmental threat to children's health in the United States.

(2) The number of lead-poisoned children in Illinois is among the highest in the nation, especially in older, affordable properties.

(3) Lead poisoning causes irreversible damage to the development of a child's nervous system. Even at low and moderate levels, lead poisoning causes learning disabilities, speech problems, shortened attention span, hyperactivity, and behavioral problems. Recent research links high levels of lead exposure to lower IQ scores and to juvenile delinquency.

(4) Older housing is the number one risk factor for childhood lead poisoning. Properties built before 1950 are statistically much more likely to contain lead-based paint hazards than buildings constructed more recently.

(5) Illinois ranks 10th out of the 50 states in the age of its housing stock. More than 50% of the housing units in Chicago and in Rock Island, Peoria, Macon, Madison, and Kankakee counties were built before 1960 and more than 43% of the housing units in St. Clair, Winnebago, Sangamon, Kane, and Cook counties were built before 1950.

(6) There are nearly 1.4 million households with lead-based paint hazards in Illinois.

(7) Most children are lead-poisoned in their own homes through exposure to lead dust from deteriorated lead-paint surfaces, like windows, and when lead paint deteriorates or is disturbed through home renovation and re-painting.

(8) The control of lead hazards significantly reduces lead poisoning rates. Other communities, including New York City and Milwaukee, have successfully reduced lead poisoning rates by removing lead-based paint hazards on windows.

(9) Windows are considered a higher lead exposure risk more often than other components in a housing unit. Windows are a major contributor of lead dust in the home, due to both weathering conditions and friction effects on paint.

(10) There is an insufficient pool of licensed lead abatement workers and contractors to address the problem in some areas of the State.

(11) Training, insurance, and licensing costs for lead removal workers are prohibitively high.

(12) Through grants from the United States Department of Housing and Urban Development, some communities in Illinois have begun to reduce lead poisoning of children. While this is an ongoing effort, it addresses only a small number of the low-income children statewide in communities with high levels of lead paint in the housing stock.

(b) For purposes of this Section:

“Advisory Council” means the Lead-Safe Housing Advisory Council created under subsection (c).

“Lead-Safe Housing Maintenance Standards” or “Standards” means standards developed by the Advisory Council pursuant to this Section.

“Low-income” means a household at or below 80% of the median income level for a given county as determined annually by the United States Department of Housing and Urban Development.

“Primary prevention” means removing lead hazards before a child is poisoned rather than relying on identification of a lead poisoned child as the triggering event.

(c) The Lead-Safe Housing Advisory Council is created to advise the Department on lead poisoning prevention activities. The Advisory Council shall be chaired by the Director or his or her designee and the chair of the Illinois Lead Safe Housing Task Force and provided with administrative support by the Department. The Advisory Council shall be comprised of (i) the directors, or their designees, of the Illinois Housing Development Authority and the Environmental Protection Agency; and (ii) the directors, or their designees, of public health departments of counties identified by the Department that contain communities with a concentration of high-risk, lead-contaminated properties.

The Advisory Council shall also include the following members appointed by the Governor:

- (1) One representative from the Illinois Association of Realtors.
- (2) One representative from the insurance industry.
- (3) Two pediatricians or other physicians with knowledge of lead-paint poisoning.
- (4) Two representatives from the private-sector, lead-based-paint-abatement industry who are licensed in Illinois as an abatement contractor, worker, or risk assessor.
- (5) Two representatives from community based organizations in communities with a concentration of high risk lead contaminated properties. High-risk communities shall be identified based upon the prevalence of low-income families whose children are lead poisoned and the age of the housing stock.
- (6) At least 3 lead-safe housing advocates, including (i) the parent of a lead-poisoned child, (ii) a representative from a child advocacy organization, and (iii) a representative from a tenant housing organization.
- (7) One representative from the Illinois paint and coatings industry.

Within 9 months after its formation, the Advisory Council shall submit a written report to the Governor and the General Assembly on:

- (1) developing a primary prevention program for addressing lead poisoning;
- (2) developing a sufficient pool of lead abatement workers and contractors;
- (3) targeting blood lead screening to children residing in high-risk buildings and neighborhoods;

- (4) ensuring lead-safe work practices in all remodeling, rehabilitation, and weatherization work;
- (5) funding mechanisms to assist residential property owners in costs of lead abatement and mitigation;
- (6) providing insurance subsidies to licensed lead abatement contractors who target their work to high-risk communities; and
- (7) developing any necessary legislation or rulemaking to improve the effectiveness of State and local programs in lead abatement and other prevention and control activities.

The Advisory Council shall develop handbooks and training for property owners and tenants explaining the Standards and State and federal requirements for lead-safe housing.

The Advisory Council shall meet at least quarterly. Its members shall receive no compensation for their services, but their reasonable travel expenses actually incurred shall be reimbursed by the Department.

#### **45/11.1. Licensing of lead abatement contractors and workers**

§ 11.1. Licensing of lead abatement contractors and workers. Except as otherwise provided in this Act, performing lead abatement or mitigation without a license is a Class A misdemeanor. The Department shall provide by rule for the licensing of lead abatement contractors and lead abatement workers and shall establish standards and procedures for the licensure. The Department may collect a reasonable fee for the licenses. The fees shall be deposited into the Lead Poisoning Screening, Prevention, and Abatement Fund and used by the Department for the costs of licensing lead abatement contractors and workers and other activities prescribed by this Act.

The Department shall promote and encourage minorities and females and minority and female owned entities to apply for licensure under this Act as either licensed lead abatement workers or licensed lead abatement contractors.

The Department may adopt any rules necessary to ensure proper implementation and administration of this Act and of the federal Toxic Substances Control Act, [15 USC 2682](#) and [2684](#), and the regulations promulgated thereunder: Lead; Requirements for Lead-Based Paint Activities (40 CFR 745). The application of this Section shall not be limited to the activities taken in regard to lead poisoned children and shall include all activities related to lead abatement, mitigation and training.

#### **45/11.2. Administrative action**

§ 11.2. Administrative action. Pursuant to the Illinois Administrative Procedure Act [FN1] and rules promulgated thereunder, the Department may deny, suspend, or revoke any license if the Department finds failure or refusal to comply with provisions of this Act or rules promulgated pursuant to the Act.

The Department may assess civil penalties against any licensed lead worker, licensed lead professional, licensed lead contractor, or approved lead training provider for violations of this Act and the rules promulgated hereunder, pursuant to rules for penalties established by the Department. Any penalties collected shall be deposited into the Lead Poisoning Screening, Prevention, and Abatement Fund.

[FN1] 5 ILCS 100/1-1 et seq.

#### 45/12. Violations of Act

§ 12. Violations of Act.

(a) Violation of any Section of this Act other than Section 6.01 or Section 7 shall be punishable as a Class A misdemeanor. A violation of Section 6.01 shall cause the Department to issue a written warning for a first offense and shall be a petty offense for a second or subsequent offense if the violation occurs at the same location within 12 months after the first offense.

(b) In cases where a person is found to have mislabeled, possessed, offered for sale or transfer, sold or transferred, or given away lead-bearing substances, a representative of the Department shall confiscate the lead-bearing substances and retain the substances until they are shown to be in compliance with this Act.

(c) In addition to any other penalty provided under this Act, the court in an action brought under subsection (e) may impose upon any person who violates or does not comply with a notice of deficiency and a mitigation order issued under subsection (7) of Section 9 of this Act or who fails to comply with subsection (3) or subsection (5) of Section 9 of this Act a civil penalty not exceeding \$2,500 for each violation, plus \$250 for each day that the violation continues.

Any civil penalties collected in a court proceeding shall be deposited into a delegated county lead poisoning screening, prevention, and abatement fund or, if no delegated county or lead poisoning screening, prevention, and abatement fund exists, into the Lead Poisoning Screening, Prevention, and Abatement Fund established under Section 7.2.

(d) Whenever the Department finds that an emergency exists that requires immediate action to protect the health of children under this Act, it may, without administrative procedure or notice, cause an action to be brought by the Attorney General or the State's Attorney of the county in which a violation has occurred for a temporary restraining order or a preliminary injunction to require such action as is required to meet the emer-

gency and protect the health of children.

(e) The State's Attorney of the county in which a violation occurs or the Attorney General may bring an action for the enforcement of this Act and the rules adopted and orders issued under this Act, in the name of the People of the State of Illinois, and may, in addition to other remedies provided in this Act, bring an action for a temporary restraining order or preliminary injunction as described in subsection (d) or an injunction to restrain any actual or threatened violation or to impose or collect a civil penalty for any violation.

#### **45/12.1. Attorney General and State's Attorney report to General Assembly**

§ 12.1. Attorney General and State's Attorney report to General Assembly. The Attorney General and State's Attorney offices shall report to the General Assembly annually the number of lead poisoning cases that have been referred by the Department for enforcement due to violations of this Act or for failure to comply with a notice of deficiency and mitigation order issued pursuant to subsection (7) of Section 9 of this Act.

#### **45/13. Rules and regulations**

§ 13. The Department is authorized to promulgate reasonable rules and regulations for carrying out the provisions of this Act.

#### **45/13.1. Administrative Procedures Act; Application**

§ 13.1. Administrative Procedures Act; Application. The provisions of the Illinois Administrative Procedure Act [FN1] are adopted and shall apply to all administrative rules and procedures of the Department of Public Health under this Act, except that in cases of conflict between the Illinois Administrative Procedure Act and this Act, the provisions of this Act shall control. Section 5-35 of the Illinois Administrative Procedure Act [FN2] relating to procedures for rule-making does not apply to the adoption of any rule required by federal law in connection with which the Department is precluded by law from exercising any discretion.

[FN1] 5 ILCS 100/1-1 et seq.

[FN2] 5 ILCS 100/5-35.

#### **45/14. Departmental regulations and activities**

§ 14. Departmental regulations and activities. The Department shall establish and publish regulations and guidelines governing permissible limits of lead in and about residential buildings and dwellings.

The Department shall also initiate activities that:

(a) Will either provide for or support the monitoring and validation of all medical laboratories and private and public hospitals that perform lead determination tests on human blood or other tissues.

(b) Will, subject to Section 7.2 of this Act, provide laboratory testing of blood specimens for lead content to any physician, hospital, clinic, free clinic, municipality, or private organization that cannot secure or provide the services through other sources. The Department shall not assume responsibility for blood lead analysis required in programs currently in operation.

(c) Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication.

(d) May provide technical assistance and consultation to local, county, or regional governmental or private agencies for the promotion and development of lead poisoning prevention programs.

(e) Will provide recommendations by the Department on the subject of identification and treatment of lead poisoning.

(f) Will maintain a clearinghouse of information, and will develop additional educational materials, on (i) lead hazards to children, (ii) lead poisoning prevention, (iii) lead poisoning screening, (iv) lead mitigation, abatement, and disposal, and (v) health hazards during abatement. The Department shall make this information available to the general public.

#### **45/15. Other relief**

§ 15. Other relief. Nothing in this Act shall be interpreted or applied in any manner to defeat or impair the right of any person, entity, municipality or other political subdivision to maintain an action or suit for damages sustained or for equitable relief, or for violation of an ordinance by reason of or in connection with any violation of this Act. The failure to remove lead based substances within the time prescribed by this Act shall be prima facie evidence of negligence in any action brought to recover damages for injuries incurred after the expiration of that period. This Act shall not prohibit any city, village, incorporated township or other political subdivision from enacting and enforcing ordinances establishing a system of lead poisoning control which provide the same or higher standards than those set forth in this Act.

#### **45/16. Effect of invalid provisions or applications of Act**

§ 16. Effect of invalid provisions or applications of Act. If any provision of this Act or the application of this Act to any person or circumstances shall be held invalid, the invalidity shall not affect the provisions or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**45/17. Effective date**

§ 17. This act takes effect upon its becoming a law.

END OF DOCUMENT