

1999 DRAFTING REQUEST

Bill AB 806

Received: 03/15/2000

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Senate Chief Clerk 266-2517

By/Representing: Donna Doyle

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

Alt. Drafters: kahlepj

Subject: Health - public health
Insurance - miscellaneous

Extra Copies: ISR

Pre Topic:

No specific pre topic given

Topic:

Lead hazard control

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	kenneda	1-3-17-2000 Hmg	CH 3-20	CH 3-20 JK			

FE Sent For:

<END>

BILL HISTORY FOR ASSEMBLY BILL 806 (LRB -4539)

An Act to repeal 254.17, 254.176 (3) (b), 254.178 (2) (b) and chapter 606; to renumber and amend 254.154 and 254.166 (2) (c); to amend 20.435 (1) (gm), 254.15 (1), 254.166 (1), 254.167 (intro.), 254.167 (1), 254.167 (2), 254.167 (3) and 254.174; to repeal and recreate 254.172; and to create 254.11 (4g), 254.11 (4h), 254.11 (5m), 254.11 (8d), 254.11 (8s), 254.11 (9g), 254.154 (2), 254.166 (2) (c) 2., 254.166 (2) (c) 3., 254.166 (2) (e), 254.171, 254.173, 254.179, 254.18, chapter 606 and 901.055 of the statutes; relating to: conducting lead investigations, lead-bearing paint hazard control, requirements for certification of lead-free or lead-safe status for dwellings and premises, immunity from liability for lead poisoning or lead exposure, a state residential lead liability fund, granting rule-making authority, requiring the exercise of rule-making authority and making appropriations. (FE)

2000

- 02-25. A. Introduced by Representatives Sykora and Coggs; cosponsored by Senator Jauch.
- 02-25. A. Read first time and referred to committee on Housing 680
- 02-28. A. Assembly substitute amendment 1 offered by committee on Housing (LRB s0347) 682
- 02-28. A. Executive action taken.
- 03-06. A. Report Assembly substitute amendment 1 adoption recommended by committee on Housing, Ayes 6, Noes 1 697
- 03-06. A. Report passage as amended recommended by committee on Housing, Ayes 6, Noes 1 697
- 03-06. A. Referred to joint committee on Finance 697
- 03-07. A. Executive action taken.
- 03-07. A. Assembly substitute amendment 2 offered by joint committee on Finance (LRB s0387) 711
- 03-07. A. Report Assembly substitute amendment 2 adoption recommended by joint committee on Finance, Ayes 16, Noes 0 702
- 03-07. A. Report passage as amended recommended by joint committee on Finance, Ayes 16, Noes 0 ... 702
- 03-07. A. Referred to calendar 703
- 03-08. A. ~~LRB correction (Assembly substitute amendment 1)~~ 720
- 03-09. A. ~~Read a second time~~ 732
- 03-09. A. Assembly amendment 1 to Assembly substitute amendment 2 offered by Representatives Sykora, Coggs, Riley, Young, Morris-Tatum and Albers (LRB a1712) 732
- 03-09. A. Assembly amendment 1 to Assembly amendment 1 to Assembly substitute amendment 2 offered by Representative Sykora (LRB f61) 732
- 03-09. A. Assembly amendment 1 to Assembly amendment 1 to Assembly substitute amendment 2 adopted 732
- 03-09. A. Assembly amendment 1 to Assembly substitute amendment 2 adopted 732
- 03-09. A. Assembly substitute amendment 2 adopted 732
- 03-09. A. Ordered to a third reading 732
- 03-09. A. Rules suspended 732
- 03-09. A. Read a third time and passed, Ayes 97, Noes 0 732
- 03-09. A. Ordered immediately messaged 732
- 03-14. S. Received from Assembly.
- 03-14. S. Read first time and referred to committee on Economic Development, Housing and Government Operations.
- 03-14. S. Printed engrossed by the direction of the Senate Chief Clerk.

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 806**

March 9, 2000 - Offered by Representatives SYKORA, COGGS, RILEY, YOUNG,
MORRIS-TATUM and ALBERS.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 8, line 1: after the period insert "A certificate of lead-safe status
3 obtained under this section may not be for less than 12 months in duration."

4 **2.** Page 10, line 20: after the comma, delete the material beginning with
5 "except" and ending with "and" on line 21.

6 **3.** Page 10, line 23: delete "2."

7 **4.** Page 11, line 9: delete lines 9 to 15.

8 **5.** Page 11, line 16: delete "2." and substitute:

9 "(b)".

10 **6.** Page 11, line 19: delete "a." and substitute:

11 "1."

1 **7.** Page 11, line 21: delete lines 21 to 23 and substitute:

2 “2. The owner shows by clear and convincing evidence that the property was
3 in compliance with the standard to obtain a certificate of lead-free status or a
4 certificate of lead-safe status by the end of the 90-day period and that the owner
5 obtained the certificate in a reasonable amount of time following the owner’s acts to
6 achieve compliance.”.

7 **8.** Page 12, line 8: delete “and” and substitute an underscored comma.

8 **9.** Page 12, line 9: after “poisoning” insert “and a resident of a 1st class city”.

9 **10.** Page 12, line 22: after “dwelling” insert “, with the goal of long-term lead
10 hazard reduction”.

11 **11.** Page 13, line 13: after the period insert “The rules shall further specify
12 that applications for certificates of lead-safe status for identical premises may be
13 made only as follows:

14 a. A person may apply for no more than 2 successive certificates of lead-safe
15 status that have a duration of less than 12 months and, if again applying for a
16 certificate of lead-safe status, shall apply for a certificate that has a duration of more
17 than 12 months.

18 b. A person to whom subd. 2 a. applies shall, if applying for a certificate of
19 lead-safe status that is additional to the certificates specified in subd. 2. a. and that
20 has a duration of less than 12 months, provide the department with a reason for the
21 necessity for issuance of a certificate of that duration.

22 c. A person to whom subd. 2. a. and b. applies shall, if applying for a certificate
23 of lead-safe status that is additional to the certificates specified in subd. 2. a. and b.
24 and that has a duration of less than 12 months, provide the department with clear

1 and convincing evidence of the necessity for issuance of a certificate of that
2 duration.”.

3 **12.** Page 14, line 13: delete “fees.” and substitute “fees and notification.
4 (1)”.

5 **13.** Page 14, line 17: after that line insert:

6 “(2) The department shall, at least quarterly, notify a local health department
7 concerning issuance of certificates of lead-free status and certificates of lead-safe
8 status in the area of jurisdiction of the local health department.”.

9 **14.** Page 17, line 6: delete “to rehabilitate” and substitute “for lead hazard
10 reduction activities for and rehabilitation of”.

11 **15.** Page 17, line 12: delete the material beginning with “energy” and ending
12 with “replacements” on line 13 and substitute “reduction of lead paint hazards in
13 dwellings that is done to allow for and in conjunction with energy conservation
14 activities”.

15 **16.** Page 17, line 17: after the period insert “In awarding moneys under this
16 subsection, the department of administration shall give priority to projects that
17 emphasize comprehensive lead removal plans for rental properties.”.

18

(END)

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 806**

March 9, 2000 – Offered by Representative SYKORA.

- 1 At the locations indicated, amend the amendment as follows: *ccc*
- 2 *✓* 1. Page 2, line 16: delete the material beginning with "~~duration of~~" and ending *more*
- 3 with "months" on line 17 and substitute "12 months or more".

4 (END)

1999-2000 LEGISLATURE

CORRECTIONS IN:

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 806**

Prepared by the Legislative Reference Bureau
(March 14, 2000)

- ✓ **1.** Page 1, line 2: delete "duration of" and substitute "more".

NOTE: This change reflects the drafting record content for Assembly Amendment 1.

BILL HISTORY FOR ASSEMBLY BILL 806 (LRB -4539)

An Act to repeal 254.17, 254.176 (3) (b), 254.178 (2) (b) and chapter 606; to renumber and amend 254.154 and 254.166 (2) (c); to amend 20.435 (1) (gm), 254.15 (1), 254.166 (1), 254.167 (intro.), 254.167 (1), 254.167 (2), 254.167 (3) and 254.174; to repeal and recreate 254.172; and to create 254.11 (4g), 254.11 (4h), 254.11 (5m), 254.11 (8d), 254.11 (8s), 254.11 (9g), 254.154 (2), 254.166 (2) (c) 2., 254.166 (2) (c) 3., 254.166 (2) (c), 254.171, 254.173, 254.179, 254.18, chapter 606 and 901.055 of the statutes; relating to: conducting lead investigations, lead-bearing paint hazard control, requirements for certification of lead-free or lead-safe status for dwellings and premises, immunity from liability for lead poisoning or lead exposure, a state residential lead liability fund, granting rule-making authority, requiring the exercise of rule-making authority and making appropriations. (FE)

2000

02-25.	A.	Introduced by Representatives Sykora and Coggs; cosponsored by Senator Jauch.	
02-25.	A.	Read first time and referred to committee on Housing	680
02-28.	A.	Assembly substitute amendment 1 offered by committee on Housing (LRB s0347)	682
02-28.	A.	Executive action taken.	
03-06.	A.	Report Assembly substitute amendment 1 adoption recommended by committee on Housing, Ayes 6, Noes 1	697
03-06.	A.	Report passage as amended recommended by committee on Housing, Ayes 6, Noes 1	697
03-06.	A.	Referred to joint committee on Finance	697
03-07.	A.	Executive action taken.	
03-07.	A.	Assembly substitute amendment 2 offered by joint committee on Finance (LRB s0387)	711
03-07.	A.	Report Assembly substitute amendment 2 adoption recommended by joint committee on Finance, Ayes 16, Noes 0	702
03-07.	A.	Report passage as amended recommended by joint committee on Finance, Ayes 16, Noes 0	702
03-07.	A.	Referred to calendar	703
03-08.	A.	LRB correction (Assembly substitute amendment 1)	720
03-09.	A.	Read a second time	732
03-09.	A.	Assembly amendment 1 to Assembly substitute amendment 2 offered by Representatives Sykora, Coggs, Riley, Young, Morris-Tatum and Albers (LRB a1712)	732
03-09.	A.	Assembly amendment 1 to Assembly amendment 1 to Assembly substitute amendment 2 offered by Representative Sykora (LRB f61)	732
03-09.	A.	Assembly amendment 1 to Assembly amendment 1 to Assembly substitute amendment 2 adopted	732
03-09.	A.	Assembly amendment 1 to Assembly substitute amendment 2 adopted	732
03-09.	A.	Assembly substitute amendment 2 adopted	732
03-09.	A.	Ordered to a third reading	732
03-09.	A.	Rules suspended	732
03-09.	A.	Read a third time and passed, Ayes 97, Noes 0	732
03-09.	A.	Ordered immediately messaged	732
03-14.	S.	Received from Assembly	495
03-14.	S.	Read first time and referred to committee on Economic Development, Housing and Government Operations	496
03-14.	S.	Printed engrossed by the direction of the Senate Chief Clerk.	
03-16.	S.	LRB correction	508
03-17.	S.	Public hearing held.	

3-14

1999

TUESDAY

LRB 4761 / 1

ENGROSS BILL

[or 2nd House Sub]

(To Be Printed for Legislature)

DAK# PJK: KMG

WPO: FREEZE SECTIONS

ENGROSSED 1999 ASSEMBLY BILL 806

(Date) March 15, 2000 - Printed by direction of SENATE CHIEF CLERK

JOINT RULE 63. Reproduction of engrossed measures. Upon the finding by the chief clerk of either house that a bill, joint resolution, resolution or major amendment thereto has been amended in the house of origin to a considerable degree, the chief clerk may instruct the legislative reference bureau to prepare and have reproduced an engrossed copy of the measure. In preparing engrossed copy for a bill, joint resolution or resolution the legislative reference bureau shall, if time permits, provide it with a revised analysis. Upon receipt from the legislative reference bureau of the engrossed copy, the chief clerk shall enter that fact in the history file for the measure. Any subsequent amendments to a measure ordered reproduced with all adopted amendments engrossed therein shall be drafted to the reproduced engrossed text.

ADOPTED DOCUMENTS:

Orig

A SubAmdt 2

50387/2

Amendments to above (if none, write "NONE"): Assembly amendment

1 to Assembly amendment 1 and Assembly amendment

Corrections - show date (if none, write "NONE"): March 14, 2000

Date Drafter Editor
Debora A. Kennedy KMG

ELECTRONIC PROCEDURE: Follow automatic or manual engrossing procedures in TEXT2000 Reference Guide, Document Specific Procedures, Ch. 20, Engrossing and Enrolling.

WORD PROCESSING OPERATOR: Give paper copy of engrossed bill to drafter for final check before forwarding.

Make 15 copies of ENGROSSED BILL: Enter introductory information on engrossed bill cover sheet corresponding to the house of the chief clerk who directed the engrossed bill printed. Distribute copies and send copy of engrossed bill electronically to DOA for printing.

DISTRIBUTION:

DIRECTING CHIEF CLERK:

- Cover sheet and 9 copies

LRB:

- Drafting file original

- Drafting attorney 1 copy
Legal section editors 1 copy each
Bill index librarian 1 copy



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4761/1
DAK&PJK...: King

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

INS. "KM"

1 AN ACT ^{Gen. Cat.} relating to: ~~the~~ INSERT REL

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) must develop and implement a comprehensive statewide lead poisoning or lead exposure prevention and treatment program. Under this program, among other things, DHFS may promulgate rules establishing procedures for conducting lead inspections of dwellings and premises, governing lead hazard reduction, certifying persons who perform or supervise performance of lead hazard reduction or lead management activities and establishing requirements for accreditation of lead training courses and approval of lead instructors; the certification and accreditation rules must meet, but may not exceed, federal environmental protection agency requirements. Before promulgating all these rules, DHFS must consult with a technical advisory committee that includes representatives from local health departments, the housing industry, medical or public health professions and persons who are certified to perform or supervise performance of lead hazard reduction or lead management activities. A city, village, town or other political subdivision may enact and enforce ordinances that establish systems of lead poisoning or lead exposure control with the same or higher standards than those specified under the program.

of
and

Currently, the governor is required to submit to the legislature a proposal to expend oil overcharge restitution funds disbursed by the federal government to this state.

With specified exceptions, this bill provides immunity from civil and criminal liability for lead poisoning or lead exposure to owners of dwellings or units of dwellings and their employees and agents and prohibits these persons from being

subjected to administrative hearings (other than for the enforcement of DHFS rules) if, at the time ^{that} the poisoning or exposure occurred, a certificate of lead-free status or a certificate of lead-safe status was in effect for the dwelling or unit. This immunity also is provided for acts or omissions of owners, ^{their} employes and agents related to lead poisoning or lead exposure that occur during the first 30 days after the owner acquires a dwelling or unit of a dwelling, unless the poisoning or exposure results from a lead-bearing paint hazard created by the owner, employe or agent. This temporary immunity is extended for an additional 60 days if the owner, employe or agent performs one of several specified actions during the first 30-day period and if, during the additional 60-day period, the owner obtains a certificate of lead-free or lead-safe status or if the owner shows by clear and convincing evidence that the property was in compliance by the end of the 90-day period with the standard to obtain the certificate and that the owner obtained the certificate in a reasonable amount of time. If the owner of a dwelling or unit of a dwelling receives written notice from DHFS or a local health department that a child under six years of age residing in the dwelling or unit has an elevated blood lead level (as defined in the bill), the owner must obtain a certificate of lead-free or lead-safe status in a timely manner, based on reasonable availability of lead risk assessors or other certified persons to conduct necessary activities and on time required for issuance of a certificate. A certificate obtained in this circumstance must be for at least 12 months duration. The bill requires DHFS to promulgate rules that set the standards for issuance of a certificate of lead-free status or a certificate of lead-safe status, the procedures by which such a certificate may be issued or revoked and the period of validity of the certificate. Further, the bill specifies conditions that must be specified in the DHFS rules as to successive applications for certificates of lead-safe status for identical premises. DHFS must promulgate rules to create a registry of all premises, dwellings and units of dwellings for which a certificate of lead-free or lead-safe status is issued. Funds for operation of the registry are required to be obtained from fees for issuance of the certificates. DHFS is authorized to impose a fee of \$50 for issuance of a certificate of lead-free status and a fee of \$25 for issuance of a certificate of lead-safe status and must review the fees every two years. DHFS also must, at least quarterly, notify a local health department concerning issuance of certificates of lead-free or lead-safe status in the area of jurisdiction of the local health department. DHFS also must promulgate rules that specify the requirements for a course of up to 16 hours that a property owner or his or her agent may complete in order to receive certification and the scope of activities that the owner or agent may perform following certification, consistent with federal law. DHFS must review all these required rules, beginning January 1, 2003, and every two years thereafter and promulgate changes if necessary to maintain consistency with federal law. DHFS may promulgate rules setting forth safe work practices for demolition of buildings constructed before January 1, 1978.

The bill changes rules requirements to require that lead investigations, rather than lead inspections, of dwellings and premises be conducted; in addition, the bill requires that, if DHFS is notified that a child under six years of age who is an occupant of a dwelling or premises has an elevated blood lead level, DHFS conduct

Handwritten annotations:

- that* (above "the poisoning or exposure occurred")
- their* (above "employes and agents")
- the* (under "based on reasonable availability")
- the* (under "issuance of a certificate")
- the* (under "issuance of a certificate of lead-free status")
- the* (under "issuance of a certificate of lead-safe status")
- the* (under "issuance of certificates")
- of* (under "these required rules")
- on* (under "DHFS must review all")
- apart from the* (circled note on the right side)

a lead investigation or ensure that a lead investigation is conducted. DHFS also must notify the occupant of the dwelling or premises or his or her representative of the results of any lead investigations conducted on or in the dwelling or premises and any actions taken to reduce or eliminate the lead hazard. A certified lead risk assessor who conducts a lead investigation of a dwelling or premises must conduct the investigation and issue a report in accordance with DHFS rules and, if the report indicates that the dwelling or premises meets criteria for issuance of a certificate of lead-free or lead-safe status, issue the appropriate certificate. DHFS is authorized to promulgate rules governing lead hazard reduction that DHFS determines are consistent with federal law; this authorization replaces ~~previous authorization to~~ promulgate numerous rules concerning lead hazard reduction.

The bill eliminates authorization for DHFS to promulgate rules requiring that, after June 30, 1997, owners or operators of rental or leased dwellings or premises have a lead inspection, if any part of the dwelling or premises was constructed before January 1, 1978, and if DHFS determines that the dwellings or premises are likely to contain lead hazards. The bill also eliminates the requirements that certification and accreditation rules meet, but not exceed, federal environmental protection agency requirements.

The bill changes provisions relating to enactment and enforcement of municipal ordinances on lead poisoning or lead exposure control to specify that only the immunity and temporary immunity provisions for owners of dwellings or units of dwellings, as created in the bill, impair the right of a person or entity to sue for damages or equitable relief and that no limitations exist on the right of a municipality to impose a penalty for or restrain the violation of its ordinance on lead poisoning or lead exposure.

The bill authorizes DHFS to request a one-time supplement of general purpose revenues from the joint committee on finance (JCF) to pay initial costs of establishing the registry of properties that are issued certificates of lead-free status or certificates of lead-safe status. If DHFS requests the supplement, DHFS must submit a plan to JCF to expend not more than \$520,000 for fiscal year 2000-01. In addition, the bill provides for a one-time increase of \$215,000 in general ~~budgetary~~ revenues to increase DHFS staff, for performance of certification for the performance of lead paint hazard reduction. When moneys received from the imposition of fees for issuance of certificates of lead-free status and lead-safe status are sufficient, the secretary of administration must transfer to the general fund \$735,000 from the appropriation account into which the fees have been deposited.

INSERT
ANAL
PJK

The bill provides that any proposal submitted by the governor to the legislature to expend oil overcharge funds must provide for the expenditure of all available funds for reduction of lead paint hazards in dwellings to allow for and in conjunction with energy conservation activities in rental properties owned by persons seeking certificates of lead-free or lead-safe status.

Lastly, the bill expands the membership of the technical advisory committee with which DHFS must consult before promulgating certain rules relating to lead hazard control to include advocates for persons at risk of lead poisoning and a resident of a ~~first~~ class city.

STAT

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

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

(END)



→ **FREEZE SECTIONS**

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

1 SECTION 1. 20.435 (1) (gm) of the statutes, as affected by 1999 Wisconsin Act
2 9, is amended to read:

3 20.435 (1) (gm) *Licensing, review and certifying activities; fees; supplies and*
4 *services.* The amounts in the schedule for the purposes specified in ss. 146.50 (8),
5 250.05 (6), 252.23, 252.24, 252.245, 254.176, 254.178, 254.179 (1) (d), 254.20 (5) and
6 (8), 254.31 to 254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2) and ch. 69, for
7 the purchase and distribution of medical supplies and to analyze and provide data
8 under s. 250.04. All moneys received under ss. 146.50 (5) (f), (8) (d), 250.04 (3m),
9 250.05 (6), 252.23 (4) (a), 252.24 (4) (a), 252.245 (9), 254.176, 254.178, 254.181,
10 254.20 (5) and (8), 254.31 to 254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2)
11 (b) and ch. 69 and as reimbursement for medical supplies shall be credited to this
12 appropriation account.

13 SECTION 2. 20.505 (1) (md) of the statutes is amended to read:

14 20.505 (1) (md) *Oil overcharge restitution funds.* All federal moneys received
15 as oil overcharge funds, as defined in s. 14.065 (1), for expenditure under proposals
16 approved by the joint committee on finance under s. 14.065 and, for transfers under
17 1993 Wisconsin Act 16, section 9201 (1z), and for allocation under 1999 Wisconsin
18 Act ... (this act), section 32 (7).

19 SECTION 3. 254.11 (4g) of the statutes is created to read:

20 254.11 (4g) "Certificate of lead-free status" means a certificate issued by a
21 certified lead risk assessor or other person certified under s. 254.176 that documents
22 a finding by the assessor that a premises, dwelling or unit of a dwelling is free of
23 lead-bearing paint as of the date specified on the certificate.

1 **SECTION 4.** 254.11 (4h) of the statutes is created to read:

2 254.11 (4h) “Certificate of lead–safe status” means a certificate issued by a
3 certified lead risk assessor or other person certified under s. 254.176 that documents
4 that the assessor detected no lead–bearing paint hazards affecting the premises,
5 dwelling or unit of the dwelling on the date specified on the certificate.

6 **SECTION 5.** 254.11 (5m) of the statutes is created to read:

7 254.11 (5m) “Elevated blood lead level” means a level of lead in blood that is
8 any of the following:

9 (a) Twenty or more micrograms per 100 milliliters of blood, as confirmed by one
10 venous blood test.

11 (b) Fifteen or more micrograms per 100 milliliters of blood, as confirmed by 2
12 venous blood tests that are performed at least 90 days apart.

13 **SECTION 6.** 254.11 (8d) of the statutes is created to read:

14 254.11 (8d) “Lead–bearing paint hazard” has the meaning specified by rule by
15 the department.

16 **SECTION 7.** 254.11 (8s) of the statutes is created to read:

17 254.11 (8s) “Lead investigation” means a measure or set of measures designed
18 to identify the presence of lead or lead hazards, including examination of painted or
19 varnished surfaces, paint, dust, water and other environmental media.

20 **SECTION 8.** 254.11 (9g) of the statutes is created to read:

21 254.11 (9g) “Lead risk assessor” has the meaning specified by rule by the
22 department.

23 **SECTION 9.** 254.15 (1) of the statutes is amended to read:

24 254.15 (1) Develop and implement a comprehensive statewide lead poisoning
25 or lead exposure prevention and treatment program that includes lead poisoning or

1 lead exposure prevention grants under s. 254.151; any childhood lead poisoning
2 screening requirement under rules promulgated under ss. 254.158 and 254.162; any
3 requirements regarding care coordination and follow-up for children with lead
4 poisoning or lead exposure required under rules promulgated under s. 254.164;
5 departmental responses to reports of lead poisoning or lead exposure under s.
6 254.166; any lead ~~inspection~~ investigation requirements under rules promulgated
7 under ss. 254.167; any lead inspection requirements under rules promulgated under
8 254.168 and 254.17; any lead hazard reduction requirements under rules
9 promulgated under s. 254.172; ~~and~~ certification, accreditation and approval
10 requirements under ss. 254.176 and 254.178; any certification requirements and
11 procedures under rules promulgated under s. 254.179; and any fees imposed under
12 s. 254.181.

13 SECTION 10. 254.154 of the statutes is amended to read:

14 254.154 This subchapter does not prohibit any city, village, town or other
15 political subdivision from enacting and enforcing ordinances establishing a system
16 of lead poisoning or lead exposure control that provides the same or higher standards
17 than those set forth in this subchapter. Nothing in this subchapter other than s.
18 254.173 (2) and (3) may be interpreted or applied in any manner to impair the right
19 of any person, or entity, municipality or other political subdivision to sue for damages
20 or equitable relief or to restrain a violation of such an ordinance. Nothing in this
21 subchapter may be interpreted or applied in any manner to impair the right of a
22 municipality or other political subdivision to impose a penalty for or restrain the
23 violation of an ordinance specified in this section.

24 SECTION 11. 254.166 (1) of the statutes is amended to read:

1 254.166 (1) The department may, after being notified that an occupant of a
2 dwelling or premises who is under 6 years of age has blood lead poisoning or lead
3 exposure, present official credentials to the owner or occupant of the dwelling or
4 premises, or to a representative of the owner, and request admission to conduct a lead
5 ~~inspection~~ investigation of the dwelling or premises. If the department is notified
6 that an occupant of a dwelling or premises who is a child under 6 years of age has
7 an elevated blood lead level, the department shall conduct a lead investigation of the
8 dwelling or premises or ensure that a lead investigation of the dwelling or premises
9 is conducted. The lead ~~inspection~~ investigation shall be conducted during business
10 hours, unless the owner or occupant of the dwelling or premises consents to an
11 ~~inspection~~ investigation during nonbusiness hours or unless the department
12 determines that the dwelling or premises presents an imminent lead hazard. The
13 department shall use reasonable efforts to provide prior notice of the lead ~~inspection~~
14 investigation to the owner of the dwelling or premises. The department may remove
15 samples or objects necessary for laboratory analysis to determine the presence of a
16 lead hazard in the dwelling or premises. The department shall prepare and file
17 written reports of all ~~inspections~~ lead investigations conducted under this section
18 and shall make the contents of these reports available for inspection by the public,
19 except for medical information, which may be disclosed only to the extent that
20 patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner
21 or occupant refuses admission, the department may seek a warrant to ~~inspect~~
22 investigate the dwelling or premises. The warrant shall advise the owner or
23 occupant of the scope of the ~~inspection~~ lead investigation.

24 **SECTION 12.** 254.166 (2) (c) of the statutes is renumbered 254.166 (2) (c) (intro.)
25 and amended to read:

1 254.166 (2) (c) (intro.) Notify the occupant of the dwelling or premises or that
2 person's ~~the occupant's~~ representative ~~that~~ of all of the following:

3 1. That a lead hazard is present on or in the dwelling or premises and may
4 ~~constitute a health hazard.~~

5 **SECTION 13.** 254.166 (2) (c) 2. of the statutes is created to read:

6 254.166 (2) (c) 2. The results of any lead investigations conducted on or in the
7 dwelling or premises.

8 **SECTION 14.** 254.166 (2) (c) 3. of the statutes is created to read:

9 254.166 (2) (c) 3. Any actions taken to reduce or eliminate the lead hazard.

10 **SECTION 15.** 254.166 (2) (e) of the statutes is created to read:

11 254.166 (2) (e) If an order is issued under par. (d), conduct or require a certified
12 lead risk assessor or other person certified under s. 254.176 to conduct a lead
13 investigation, a check of work completed and dust tests for the presence of hazardous
14 levels of lead to ensure compliance with the order.

15 **SECTION 16.** 254.167 (intro.) of the statutes is amended to read:

16 **254.167 Conduct of lead ~~inspection~~ investigation.** (intro.) Subject to the
17 limitation under s. 254.174, the department may promulgate rules establishing
18 procedures for conducting lead ~~inspections~~ investigations of dwellings and premises.
19 ~~Any rules promulgated under this section shall meet, but not exceed, any~~
20 ~~requirements under regulations promulgated by the administrator of the federal~~
21 ~~environmental protection agency under section 402 of the federal toxic substances~~
22 ~~control act, as created by section 1021 of P.L. 102-550. The rules promulgated under~~
23 this section may include the following:

24 **SECTION 17.** 254.167 (1) of the statutes is amended to read:

1 254.167 (1) Specific procedures for ~~inspecting~~ investigating, testing or
2 sampling painted, varnished or other finished surfaces, drinking water, household
3 dust, soil and other materials that may contain lead.

4 **SECTION 18.** 254.167 (2) of the statutes is amended to read:

5 254.167 (2) Specific procedures for the notification of owners, operators,
6 occupants or prospective occupants, mortgagees and lienholders of lead levels
7 identified during ~~an inspection~~ a lead investigation and of any health risks that are
8 associated with the lead level and condition of the lead found during the ~~inspection~~
9 lead investigation.

10 **SECTION 19.** 254.167 (3) of the statutes is amended to read:

11 254.167 (3) The form of lead ~~inspection~~ investigation reports, the requirements
12 for filing the reports with the department and the procedures by which members of
13 the public may obtain copies of ~~inspection~~ lead investigation reports.

14 **SECTION 20.** 254.17 of the statutes is repealed.

15 **SECTION 21.** 254.171 of the statutes is created to read:

16 **254.171 Dwellings and units of dwellings where child has elevated**
17 **blood lead level.** If an owner of a dwelling or unit of a dwelling receives written
18 notice from the department or a local health department that a child under 6 years
19 of age, who resides in the owner's owner-occupied dwelling or unit or who resides in
20 the owner's dwelling or unit under the terms of a rental agreement, has an elevated
21 blood lead level, the owner shall obtain a certificate of lead-free status or certificate
22 of lead-safe status for the affected dwelling or unit in a timely manner, based on the
23 reasonable availability of lead risk assessors or other persons certified under s.
24 254.176 to conduct any necessary lead investigation or lead hazard reduction
25 activities and based on the time required for issuance of a certificate of lead-free

AA1
INSERT 8-1

① status or a certificate of lead-safe status. Nothing in this section precludes the
2 department or the department's agent from conducting a lead investigation or
3 issuing an order under s. 254.166.

4 **SECTION 22.** 254.172 of the statutes is repealed and recreated to read:

5 **254.172 Prevention and control of lead-bearing paint hazards in**
6 **dwelling and premises.** (1) Subject to the limitation under s. 254.174, the
7 department may promulgate rules governing lead hazard reduction that the
8 department determines are consistent with federal law.

9 (2) If a certified lead risk assessor or other person certified under s. 254.176
10 conducts a lead investigation of a dwelling or premises, he or she shall conduct the
11 lead investigation and issue a report in accordance with any rules promulgated
12 under s. 254.167. If the report indicates that the dwelling or premises meets criteria
13 under s. 254.179 (1) (a) for issuance of a certificate of lead-free or of a certificate of
14 lead-safe status, the lead risk assessor or other person shall issue the appropriate
15 certificate, subject to s. 254.181.

16 **SECTION 23.** 254.173 of the statutes is created to read:

17 **254.173 Immunity from liability for lead poisoning or lead exposure;**
18 **restrictions.** (1) **LEGISLATIVE FINDINGS AND PURPOSE.** (a) The legislature finds all
19 of the following:

20 1. That a national task force appointed by the federal department of housing
21 and urban development, the task force on lead-based paint hazard reduction and
22 financing, found that 1,700,000 children under 6 years of age have blood lead levels
23 at or above the federally established level of concern. The task force also found that
24 the most common cause of childhood lead poisoning is ingestion of

1 lead-contaminated dust and chips from lead-bearing paint. The other significant
2 cause is dust from bare lead-contaminated soil.

3 2. That high levels of lead in a child's blood can cause permanent nervous
4 system damage and even relatively low blood lead levels can cause significant
5 nervous system effects. Of 58,797 children who were screened in this state in fiscal
6 year 1995-96, 11,170, or 19%, were newly identified as having blood lead levels that
7 constitute lead poisoning or lead exposure.

8 (b) The legislature encourages property owners to address the problems
9 associated with lead-bearing paint by bringing their property into compliance with
10 the applicable state standards and finds that an appropriate method to so encourage
11 property owners is to hold them not liable with respect to a person who develops lead
12 poisoning or lead exposure in the property. The purpose of these standards and this
13 restriction on liability is to reduce the exposure of children and others to
14 lead-bearing paints, thereby substantially reducing the number of persons who
15 develop lead poisoning or lead exposure. In addition, these standards and this
16 restriction on liability will improve the quality of this state's housing stock and result
17 in greater availability of insurance coverage for lead hazards.

18 (2) IMMUNITY; CONDITIONS; RESTRICTIONS. An owner of a dwelling or unit of a
19 dwelling and his or her employes and agents are immune from civil and criminal
20 liability and may not be subject to an agency proceeding under ch. 227, other than
21 for the enforcement of rules promulgated by the department under this subchapter,
22 for their acts or omissions related to lead poisoning or lead exposure of a person who
23 resides in or has visited the dwelling or unit if, at the time that the lead poisoning
24 or lead exposure occurred, a certificate of lead-free status or a certificate of lead-safe

1 status was in effect for the dwelling or unit. This subsection does not apply if it is
2 shown by clear and convincing evidence that one of the following has occurred:

3 (a) The owner or his or her employe or agent obtained the certificate by fraud.

4 (b) The owner or his or her employe or agent violated a condition of the
5 certificate.

6 (c) During renovation, remodeling, maintenance or repair after receiving the
7 certificate, the owner or his or her employe or agent created a lead-bearing paint
8 hazard that was present in the dwelling or unit of the dwelling at the time that the
9 lead poisoning or lead exposure occurred.

10 (d) The owner or his or her employe or agent failed to respond in a timely
11 manner to notification by a tenant, by the department or by a local health
12 department that a lead-bearing paint hazard might be present.

13 (e) The lead poisoning or lead exposure was caused by a source of lead in the
14 dwelling or unit of the dwelling other than lead-bearing paint.

15 (3) TEMPORARY IMMUNITY; EXCEPTION. (a) An owner of a dwelling or unit of a
16 dwelling and his or her employes and agents are immune from civil and criminal
17 liability and may not be subject to an agency proceeding under ch. 227, other than
18 for the enforcement of rules promulgated by the department under this subchapter,
19 for their acts or omissions related to lead poisoning or lead exposure that occur
20 during the first 30 days after the owner acquires the dwelling or unit, ~~except as~~ ^{AAI}

AAI (20)
AAI (21)

21 ~~provided in par. (b) 1. 249~~ except that this subsection does not apply to lead poisoning
22 or lead exposure that results from a lead-bearing paint hazard created by the owner

AAI (23)

23 or his or her employe or agent. Except as provided in par. (b) ~~1~~ [✓], immunity under this
24 subsection is extended for an additional 60 days if the owner of the dwelling or unit

1 of a dwelling or his or her employe or agent has done one of the following during that
2 first 30-day period:

3 1. Completed a lead investigation report or entered into a contract for a lead
4 investigation with respect to the dwelling or unit.

5 2. Entered into a contract for lead hazard reduction with respect to the dwelling
6 or unit.

7 3. Registered for a course under s. 254.179 (1) (e).

8 4. Received certification under s. 254.176.

9 ~~(b) 1. Immunity under par. (a) for the first 30 days after an owner acquires a
10 dwelling or unit of a dwelling applies only if all of the following occur:~~

11 ~~a. The owner obtains a certificate of lead-free status or a certificate of lead-safe
12 status for the dwelling or unit.~~

13 ~~b. The person issuing the certificate under subd. 1. a. certifies that the property
14 was in compliance with the standards to obtain the certificate before that 30-day
15 period ended.~~

AAI (b)
16 (b) Immunity under par. (a) for an additional 60 days following the first 30 days
17 after an owner acquires a dwelling or unit of a dwelling applies only if all of the
18 following occur:

AAI (1)
19 (1) The owner obtains a certificate of lead-free status or a certificate of lead-safe
20 status for the dwelling or unit.

AAI
21 b. The person issuing the certificate certifies that the property was in
22 compliance with the standards to obtain the certificate before that 60-day period
23 ended.

INSERT
11-23 24

SECTION 24. 254.174 of the statutes is amended to read:

1 **254.174 Technical advisory committees.** Before the department may
 2 promulgate rules under s. 254.167, 254.168, ~~254.17~~ or 254.172 or 254.179, the
 3 department shall appoint a technical advisory committee under s. 227.13 and shall
 4 consult with the technical advisory committee on the proposed rules. Any technical
 5 advisory committee required under this section shall include representatives from
 6 local health departments that administer local lead programs, representatives from
 7 the housing industry, persons certified under s. 254.176 and, representatives from
 8 the medical or public health professions ~~and~~ ⁽²⁾ advocates for persons at risk of lead
 9 poisoning. Any technical advisory committee required under this section before
 10 promulgating rules under s. 254.168 shall also include representatives of facilities
 11 serving children under 6 years of age. INSERT 12-9 ✓

12 **SECTION 25.** 254.176 (3) (b) of the statutes is repealed.

13 **SECTION 26.** 254.178 (2) (b) of the statutes is repealed.

14 **SECTION 27.** 254.179 of the statutes is created to read:

15 **254.179 Rules for dwellings and premises.** (1) Subject to s. 254.174 and
 16 after review of ordinances of cities, towns and villages in this state, the department
 17 shall, by use of a research-based methodology, promulgate as rules all of the
 18 following:

19 (a) Except as provided in s. 254.18, the standards for a premises, dwelling or
 20 unit of a dwelling that must be met for issuance of a certificate of lead-free status
 21 or a certificate of lead-safe status to the owner of the premises, dwelling or unit of
 22 a dwelling. INSERT 12-22

23 (b) The procedures by which a certificate of lead-free status or a certificate of
 24 lead-safe status may be issued or revoked.

AAI (8)
9

AAI (22)

1 (c) The period of validity of a certificate of lead-free status or a certificate of
2 lead-safe status, including all of the following:

3 1. Authorization for the certificate of lead-free status to remain in effect unless
4 revoked because of erroneous issuance or because the premises, dwelling or unit of
5 the dwelling is not free of lead-bearing paint. The rules shall specify that the face
6 of the certificate shall indicate that the certificate is valid unless revoked.

7 2. The standards limiting the length of validity of a certificate of lead-safe
8 status, including the condition of a premises, dwelling or unit of a dwelling, the type
9 of lead hazard reduction activity that was performed, if any, and any other
10 requirements that must be met to maintain certification, unless the certificate is
11 earlier revoked because of erroneous issuance or because the premises, dwelling or
12 unit of the dwelling is not safe from lead-bearing paint hazards. The rules shall
13 specify that the face of the certificate shall indicate the certificate's length of validity.

✓
INSET
13-13

AA 13
14 (d) A mechanism for creating a registry of all premises, dwellings or units of
15 dwellings for which a certificate of lead-free status or a certificate of lead-safe status
16 is issued.

17 (e) The requirements for a course of up to 16 hours that a property owner or his
18 or her employe or agent may complete in order to receive certification of completion
19 and the scope of the lead investigation and lead hazard reduction activities that the
20 owner, employe or agent may perform following certification, to the extent consistent
21 with federal law.

22 (2) By January 1, 2003, and every 2 years thereafter, the department shall
23 review the rules under sub. (1) and shall promulgate changes to the rules if necessary
24 in order to maintain consistency with federal law.

1 (3) Subject to s. 254.174, the department may promulgate rules that set forth
2 safe work practices that shall be followed in the demolition of a building constructed
3 before January 1, 1978, to avoid exposure by persons to lead hazards in the area of
4 the demolition.

5 SECTION 28. 254.18 of the statutes is created to read:

6 254.18 Lead hazard reduction in dwellings and premises. Sampling or
7 testing of dwellings, units of dwellings or premises for the presence of lead-bearing
8 paint or a lead hazard is not required before lead hazard reduction activities are
9 conducted if the presence of lead-bearing paint or a lead hazard is assumed and the
10 lead hazard reduction activities are performed in a lead-safe manner.

11 SECTION 29. 254.181 of the statutes is created to read:

ⓑ
and notification. (1)
AA

12 254.181 ~~Certificate of lead-free status and certificate of lead-safe~~
13 ~~status; fees/~~ The department may impose a fee of \$50 for issuance of a certificate
14 of lead-free status and a fee of \$25 for issuance of a certificate of lead-safe status.
15 Fees under this section may not exceed actual costs of issuance and of maintaining
16 the registry under s. 254.179 (1) (d). The department shall review the fees every 2
17 years and adjust the fees to reflect the actual costs.

AA/ 13
AA/ 17
INSERT 14-17

18 SECTION 30. 254.182 of the statutes is created to read:

19 254.182 Repayment to general fund. The secretary of administration shall
20 transfer from the appropriation account under s. 20.435 (1) (gm) to the general fund
21 the amount of \$735,000 when the secretary of administration determines that
22 program revenues from fees imposed under ss. 254.176 (3) (e) and (4), 254.178 (2) (d)
23 and 254.181 are sufficient to make the transfer.

24 SECTION 31. 901.055 of the statutes is created to read:

1 **901.055 Admissibility of results of dust testing for the presence of lead.**

2 The results of a test for the presence of lead in dust are not admissible during the
3 course of a civil or criminal action or proceeding or an administrative proceeding
4 unless the test was conducted by a person certified for this purpose by the
5 department of health and family services.

6 **SECTION 32. Nonstatutory provisions.**

7 (1) RULES CONCERNING LEAD FOR DWELLINGS, UNITS OF DWELLINGS AND PREMISES.

8 The department of health and family services shall submit in proposed form the rules
9 required under section 254.179 (1) of the statutes, as created by this act, to the
10 legislative council staff under section 227.15 (1) of the statutes no later than the first
11 day of the 7th month beginning after the effective date of this paragraph. In
12 submitting the rules, the department shall include a summary of the differences
13 between standards under the rules proposed to meet the requirement of section
14 254.179 (1) (a) of the statutes, as created by this act, and standards under a similar
15 ordinance of a 1st class city.

16 (2) SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES. The

17 department of health and family services may request the joint committee on finance
18 to supplement, from the appropriation account under section 20.865 (4) (a) of the
19 statutes, the appropriation account under section 20.435 (1) (a) of the statutes, to pay
20 initial costs of establishing under section 254.179 (1) (d) of the statutes, as created
21 by this act, a registry of properties that are issued certificates of lead-free status or
22 certificates of lead-safe status. If the department of health and family services
23 requests supplementation of the appropriation account under section 20.435 (1) (a)
24 of the statutes, the department shall submit a plan to the joint committee on finance
25 to expend not more than \$520,000 for fiscal year 2000–01. If the cochairpersons of

1 the committee do not notify the secretary of the department within 14 working days
2 after the date of the department's submittal that the committee intends to schedule
3 a meeting to review the request, the appropriation account shall be supplemented
4 as provided in the request. If, within 14 working days after the date of the
5 department's submittal, the cochairpersons of the committee notify the secretary of
6 the department that the committee intends to schedule a meeting to review the
7 request, the appropriation account shall be supplemented only as approved by the
8 committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes, the committee
9 is not required to find that an emergency exists.

10 (3) **REGISTRY OF LEAD-FREE AND LEAD-SAFE PROPERTIES; LIMITATION ON FUNDING.**
11 Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information
12 under section 16.42 of the statutes for purposes of the 2001–2003 biennial budget
13 bill, the department of health and family services shall submit information
14 concerning the appropriation under section 20.435 (1) (a) of the statutes as though
15 any supplementation, under SECTION 32 (2) of this act, of the dollar amount of that
16 appropriation had not been made.

17 (4) **LEAD PAINT HAZARD REDUCTION; LIMITATION ON FUNDING.** Notwithstanding
18 section 16.42 (1) (e) of the statutes, in submitting information under section 16.42
19 of the statutes for purposes of the 2001–2003 biennial budget bill, the department
20 of health and family services shall submit information concerning the appropriation
21 under section 20.435 (1) (a) of the statutes as though the increase in the dollar
22 amount of that appropriation by SECTION 33 (1) of this act had not been made.

23 (5) **LEAD PAINT HAZARDS OUTREACH AND ABATEMENT.** In submitting information
24 under section 16.42 (1) of the statutes for purposes of the 2001–2003 biennial budget
25 bill, the department of health and family services shall submit a proposal, including

1 a request for additional funding, to conduct lead paint hazards outreach and
2 abatement activities.

3 (6) REHABILITATION OF RENTAL PROPERTY FOR LOW-INCOME PERSONS. In submitting
4 information under section 16.42 (1) of the statutes for purposes of the 2001-2003
5 biennial budget bill, the Wisconsin housing and economic development authority
6 shall submit a proposal ~~to rehabilitate~~ rental property for low-income persons in
7 Wisconsin. INSERT 17-6

AA/ 6

8 (7) ALLOCATION OF OIL OVERCHARGE FUNDS TO ENERGY PROGRAMS.
9 Notwithstanding section 14.065 of the statutes, the secretary of administration shall
10 allocate all oil overcharge restitution funds and all accruing interest earnings on
11 those funds under section 20.505 (1) (md) of the statutes that are not approved for

AA/ 12
13

12 expenditure on the effective date of this subsection, for ~~energy programs under~~
13 ~~section 16.95 of the statutes to provide energy efficient window replacements~~ in
14 rental properties owned by persons who seek a certificate of lead-free status, as
15 defined in section 254.11 (4g) of the statutes, as created by this act, or a certificate
16 of lead-safe status, as defined in section 254.11 (4h) of the statutes, as created by this
17 act. INSERT 17-17 ✓ INSERT 17-13

AA/ 17

18 (8) REPORT ON LIABILITY INSURANCE FOR LEAD PAINT HAZARDS. The office of the
19 commissioner of insurance shall review the cost and availability of insurance in the
20 private market that provides residential property owners with liability coverage for
21 lead-bearing paint hazards. On the basis of the review, the office shall, no later than
22 October 1, 2002, prepare and submit to the appropriate standing committees of the
23 legislature in the manner provided under section 13.172 (3) of the statutes a report
24 on whether such insurance is sufficiently affordable and sufficiently available in the
25 private insurance market. If the office determines and provides in its report that

1 such insurance is not either sufficiently affordable or sufficiently available in the
2 private insurance market, the office shall submit drafting instructions to the
3 legislative reference bureau for proposed legislation to create a state residential lead
4 liability fund and shall include such proposed legislation in its 2003–05 biennial
5 budget request under section 16.42 of the statutes.

6 **SECTION 33. Appropriation changes.**

7 (1) CERTIFICATION FOR PERFORMANCE OF LEAD PAINT HAZARD REDUCTION. In the
8 schedule under section 20.005 (3) of the statutes for the appropriation to the
9 department of health and family services under section 20.435 (1) (a) of the statutes,
10 as affected by the acts of 1999, the dollar amount is increased by \$215,000 for fiscal
11 year 2000–01 to increase the authorized FTE positions for the department by 5.0
12 positions on January 1, 2001, and to provide supporting costs to perform certification
13 for performance of lead paint hazard reduction.

14 (2) SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES. In the
15 schedule under section 20.005 (3) of the statutes for the appropriation to the joint
16 committee on finance under section 20.865 (4) (a) of the statutes, as affected by the
17 acts of 1999, the dollar amount is increased by \$520,000 for fiscal year 2000–01 to
18 increase funding to provide payment for initial costs of establishing a registry of
19 properties that are issued certificates of lead-free status or certificates of lead-safe
20 status.

21 **SECTION 34. Initial applicability.**

22 (1) IMMUNITY FROM LIABILITY FOR LEAD POISONING OR LEAD EXPOSURE. The
23 treatment of section 254.173 of the statutes first applies to lead poisoning or lead
24 exposure that occurs on the effective date of this subsection.

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 806**

March 7, 2000 - Offered by JOINT COMMITTEE ON FINANCE

1 **AN ACT to repeal** 254.17, 254.176 (3) (b) and 254.178 (2) (b); **to renumber and**
2 **amend** 254.166 (2) (c); **to amend** 20.435 (1) (gm), 20.505 (1) (md), 254.15 (1),
3 254.154, 254.166 (1), 254.167 (intro), 254.167 (1), 254.167 (2), 254.167 (3) and
4 254.174; **to repeal and recreate** 254.172; and **to create** 254.11 (4g), 254.11
5 (4h), 254.11 (5m), 254.11 (8d), 254.11 (8s), 254.11 (9g), 254.166 (2) (c) 2., 254.166
6 (2) (c) 3., 254.166 (2) (e), 254.171, 254.173, 254.179, 254.18, 254.181, 254.182
7 and 901.055 of the statutes; **relating to:** conducting lead investigations,

8 lead-bearing paint hazard control, requirements for certification of lead-free
9 or lead-safe status for dwellings and premises, immunity from liability for lead
10 poisoning or lead exposure, a report on the affordability and availability of
11 liability insurance for lead-bearing paint hazards, granting rule-making
12 authority, requiring the exercise of rule-making authority and making
13 appropriations.

✓
INSERT
REL

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4761/1insKM
DAK&PJK...:kmg...

Insert-KM

Engrossment information:

The text of Engrossed 1999 Assembly Bill 806 consists of the following documents adopted in the assembly on March 9, 2000: Assembly Substitute Amendment 2, as affected by the following Assembly Amendments: Assembly Amendment 1 (as affected by Assembly Amendment 1 thereto). The text also includes the March 14, 2000, chief clerk's correction to Assembly Amendment 1 to Assembly Amendment 1 to the substitute amendment.

Content of Engrossed 1999 Assembly Bill 806:

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4761/?ins
PJK.....

INSERT ANAL PJK

The bill requires the office of the commissioner of insurance (OCI) to review the cost and availability of insurance in the private market that insures residential property against liability resulting from lead-bearing paint hazards and to submit a report to the appropriate standing committees of the legislature on whether such insurance is sufficiently available and affordable in the private market. If OCI determines that the insurance is not sufficiently available or affordable, OCI must submit proposed legislation creating a state residential lead liability fund in its 2003-05 biennial budget request, as well as drafting instructions to the legislative reference bureau for the proposed legislation.

(END INSERT ANAL PJK)

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 806**

March 9, 2000 Offered by Representatives SYKORA, COGGS, RILEY, YOUNG,
MORRIS-TATUM and ALBERS.

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

INSERT
8-1

2 ✓ 1. Page 8, line 1, after the period insert "A certificate of lead-safe status
3 obtained under this section may not be for less than 12 months in duration."

4 ✓ 2. Page 10, line 20: ~~after the comma,~~ delete the material beginning with
5 "except" and ending with "and" on line 21.

6 ✓ 3. Page 10, line 23: delete "2."

7 ✓ 4. Page 11, line 9: delete lines 9 to 15.

8 ✓ 5. Page 11, line 16: delete "2." and substitute

9 "(b)".

10 ✓ 6. Page 11, line 19: delete "a." and substitute

11 "1."

1 ✓ ~~7. Page 11, line 21: delete lines 21 to 23 and substitute:~~

2 ✓ ② 2. The owner shows by clear and convincing evidence that the property was
3 INSERT 11-23 3 in compliance with the standard to obtain a certificate of lead-free status or a
4 4 certificate of lead-safe status by the end of the 90-day period and that the owner
5 5 obtained the certificate in a reasonable amount of time following the owner's acts to
6 ⑥ 6 achieve compliance. ~~44~~

~~cc 11~~

X X

7 ✓ ~~8. Page 12, line 8: delete "and" and substitute an underscored comma.~~

8 ✓ ⑧ ~~9. Page 12, line 9: after poisoning insert and a resident of a 1st class city~~

9 ✓ ⑨ ~~10. Page 12, line 22: after dwelling insert, with the goal of long-term lead~~
10 10 hazard reduction ~~44~~

11 ✓ ⑪ ~~11. Page 13, line 13: after the period insert~~ The rules shall further specify
12 12 that applications for certificates of lead-safe status for identical premises may be
13 13 made only as follows:

14 14 a. A person may apply for no more than 2 successive certificates of lead-safe
15 15 status that have a duration of less than 12 months and, if again applying for a
16 ⑬ 16 certificate of lead-safe status, shall apply for a certificate that has a duration of ~~more~~ ~~AAI to~~ ~~AAI~~

17 ⑭ 17 ~~than 12 months.~~ 12 months or more

18 18 b. A person to whom subd. 2, a. applies shall, if applying for a certificate of
19 19 lead-safe status that is additional to the certificates specified in subd. 2. a. and that
20 20 has a duration of less than 12 months, provide the department with a reason for the
21 21 necessity for issuance of a certificate of that duration.

22 22 c. A person to whom subd. 2. a. and b. applies shall, if applying for a certificate
23 23 of lead-safe status that is additional to the certificates specified in subd. 2. a. and b.
24 24 and that has a duration of less than 12 months, provide the department with clear

INSERT 3-13



INSERT
13-13
(cont.)

1 and convincing evidence of the necessity for issuance of a certificate of that
2 duration.

3 ~~12.~~ Page 14, line 13: delete "fees." and substitute "fees and notification.
4 (1)".

5 ~~13.~~ Page 14, line 17: after that line insert:

INSERT
14-17

6 (2) The department shall, at least quarterly, notify a local health department
7 concerning issuance of certificates of lead-free status and certificates of lead-safe
8 status in the area of jurisdiction of the local health department.

INSERT
17-6

9 ~~14.~~ Page 17, line 6: delete "to rehabilitate" and substitute "for lead hazard
10 reduction activities for and rehabilitation of"

11 ~~15.~~ Page 17, line 12: delete the material beginning with "energy" and ending
12 with "replacements" on line 13 and substitute "reduction of lead paint hazards in
13 dwellings that is done to allow for and in conjunction with energy conservation
14 activities"

INSERT
17-13

15 ~~16.~~ Page 17, line 17: after the period insert "In awarding moneys under this
16 subsection, the department of administration shall give priority to projects that
17 emphasize comprehensive lead removal plans for rental properties."

INSERT
17-17

18 (END)

Error No.	Introduced No.	Page No.	Line No.
1	There is an unrecognizable error.		
2	There is an unrecognizable error.		
3	There is an unrecognizable error.		
4	AA1-ASA2-AB806	000011	000023
	AA1-ASA2-AB806	000011	000023
5	AA1-ASA2-AB806	000012	000008
	AA1-ASA2-AB806	000012	000008
6	There is an unrecognizable error.	000013	000013
7	AA1-ASA2-AB806	000017	000013
	AA1-ASA2-AB806	000017	000013

Bill Sect. No.	Introduced No.	Page No.	Line No.	Error Message
21	AA1-ASA2-AB806	8	1	
23	AA1-ASA2-AB806	10	20	
23	AA1-ASA2-AB806	10	23	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	9	
23	AA1-ASA2-AB806	11	16	
23	AA1-ASA2-AB806	11	19	
23	AA1-ASA2-AB806	11	21	
23	AA1-ASA2-AB806	11	21	
23	AA1-ASA2-AB806	11	21	
24	AA1-ASA2-AB806	12	8	Invalid Instruction
24	AA1-ASA2-AB806	12	9	
27	AA1-ASA2-AB806	12	22	
29	AA1-ASA2-AB806	14	13	
29	AA1-ASA2-AB806	14	17	
32	AA1-ASA2-AB806	17	6	
32	AA1-ASA2-AB806	17	12	
32	AA1-ASA2-AB806	17	12	
32	AA1-ASA2-AB806	17	17	



State of Wisconsin
1999 - 2000 LEGISLATURE

"en-taga" version

LRBs0387/en
DAK&PJK:cjs:jf

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 806**

March 7, 2000 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT to repeal** 254.17, 254.176 (3) (b) and 254.178 (2) (b); **to renumber and**
2 **amend** 254.166 (2) (c); **to amend** 20.435 (1) (gm), 20.505 (1) (md), 254.15 (1),
3 254.154, 254.166 (1), 254.167 (intro.), 254.167 (1), 254.167 (2), 254.167 (3) and
4 254.174; **to repeal and recreate** 254.172; and **to create** 254.11 (4g), 254.11
5 (4h), 254.11 (5m), 254.11 (8d), 254.11 (8s), 254.11 (9g), 254.166 (2) (c) 2., 254.166
6 (2) (c) 3., 254.166 (2) (e), 254.171, 254.173, 254.179, 254.18, 254.181, 254.182
7 and 901.055 of the statutes; **relating to:** conducting lead investigations,
8 lead-bearing paint hazard control, requirements for certification of lead-free
9 or lead-safe status for dwellings and premises, immunity from liability for lead
10 poisoning or lead exposure, a report on the affordability and availability of
11 liability insurance for lead-bearing paint hazards, granting rule-making
12 authority, requiring the exercise of rule-making authority and making
13 appropriations.

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

1 **SECTION 1.** 20.435 (1) (gm) of the statutes, as affected by 1999 Wisconsin Act
2 9, is amended to read:

3 20.435 (1) (gm) *Licensing, review and certifying activities; fees; supplies and*
4 *services.* The amounts in the schedule for the purposes specified in ss. 146.50 (8),
5 250.05 (6), 252.23, 252.24, 252.245, 254.176, 254.178, 254.179 (1) (d), 254.20 (5) and
6 (8), 254.31 to 254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2) and ch. 69, for
7 the purchase and distribution of medical supplies and to analyze and provide data
8 under s. 250.04. All moneys received under ss. 146.50 (5) (f), (8) (d), 250.04 (3m),
9 250.05 (6), 252.23 (4) (a), 252.24 (4) (a), 252.245 (9), 254.176, 254.178, 254.181,
10 254.20 (5) and (8), 254.31 to 254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2)
11 (b) and ch. 69 and as reimbursement for medical supplies shall be credited to this
12 appropriation account.

13 **SECTION 2.** 20.505 (1) (md) of the statutes is amended to read:

14 20.505 (1) (md) *Oil overcharge restitution funds.* All federal moneys received
15 as oil overcharge funds, as defined in s. 14.065 (1), for expenditure under proposals
16 approved by the joint committee on finance under s. 14.065 ~~and~~, for transfers under
17 1993 Wisconsin Act 16, section 9201 (1z), and for allocation under 1999 Wisconsin
18 Act (this act), section 32 (7).

19 **SECTION 3.** 254.11 (4g) of the statutes is created to read:

20 254.11 (4g) "Certificate of lead-free status" means a certificate issued by a
21 certified lead risk assessor or other person certified under s. 254.176 that documents
22 a finding by the assessor that a premises, dwelling or unit of a dwelling is free of
23 lead-bearing paint as of the date specified on the certificate.

1 **SECTION 4.** 254.11 (4h) of the statutes is created to read:

2 254.11 (4h) “Certificate of lead–safe status” means a certificate issued by a
3 certified lead risk assessor or other person certified under s. 254.176 that documents
4 that the assessor detected no lead–bearing paint hazards affecting the premises,
5 dwelling or unit of the dwelling on the date specified on the certificate.

6 **SECTION 5.** 254.11 (5m) of the statutes is created to read:

7 254.11 (5m) “Elevated blood lead level” means a level of lead in blood that is
8 any of the following:

9 (a) Twenty or more micrograms per 100 milliliters of blood, as confirmed by one
10 venous blood test.

11 (b) Fifteen or more micrograms per 100 milliliters of blood, as confirmed by 2
12 venous blood tests that are performed at least 90 days apart.

13 **SECTION 6.** 254.11 (8d) of the statutes is created to read:

14 254.11 (8d) “Lead–bearing paint hazard” has the meaning specified by rule by
15 the department.

16 **SECTION 7.** 254.11 (8s) of the statutes is created to read:

17 254.11 (8s) “Lead investigation” means a measure or set of measures designed
18 to identify the presence of lead or lead hazards, including examination of painted or
19 varnished surfaces, paint, dust, water and other environmental media.

20 **SECTION 8.** 254.11 (9g) of the statutes is created to read:

21 254.11 (9g) “Lead risk assessor” has the meaning specified by rule by the
22 department.

23 **SECTION 9.** 254.15 (1) of the statutes is amended to read:

24 254.15 (1) Develop and implement a comprehensive statewide lead poisoning
25 or lead exposure prevention and treatment program that includes lead poisoning or

1 lead exposure prevention grants under s. 254.151; any childhood lead poisoning
2 screening requirement under rules promulgated under ss. 254.158 and 254.162; any
3 requirements regarding care coordination and follow-up for children with lead
4 poisoning or lead exposure required under rules promulgated under s. 254.164;
5 departmental responses to reports of lead poisoning or lead exposure under s.
6 254.166; any lead ~~inspection~~ investigation requirements under rules promulgated
7 under ss. 254.167; any lead inspection requirements under rules promulgated under
8 254.168 and 254.17; any lead hazard reduction requirements under rules
9 promulgated under s. 254.172; ~~and~~ certification, accreditation and approval
10 requirements under ss. 254.176 and 254.178; any certification requirements and
11 procedures under rules promulgated under s. 254.179; and any fees imposed under
12 s. 254.181.

13 **SECTION 10.** 254.154 of the statutes is amended to read:

14 254.154 This subchapter does not prohibit any city, village, town or other
15 political subdivision from enacting and enforcing ordinances establishing a system
16 of lead poisoning or lead exposure control that provides the same or higher standards
17 than those set forth in this subchapter. Nothing in this subchapter other than s.
18 254.173 (2) and (3) may be interpreted or applied in any manner to impair the right
19 of any person, ~~or entity, municipality or other political subdivision~~ to sue for damages
20 or equitable relief ~~or to restrain a violation of such an ordinance.~~ Nothing in this
21 subchapter may be interpreted or applied in any manner to impair the right of a
22 municipality or other political subdivision to impose a penalty for or restrain the
23 violation of an ordinance specified in this section.

24 **SECTION 11.** 254.166 (1) of the statutes is amended to read:

1 254.166 (1) The department may, after being notified that an occupant of a
2 dwelling or premises who is under 6 years of age has blood lead poisoning or lead
3 exposure, present official credentials to the owner or occupant of the dwelling or
4 premises, or to a representative of the owner, and request admission to conduct a lead
5 ~~inspection~~ investigation of the dwelling or premises. If the department is notified
6 that an occupant of a dwelling or premises who is a child under 6 years of age has
7 an elevated blood lead level, the department shall conduct a lead investigation of the
8 dwelling or premises or ensure that a lead investigation of the dwelling or premises
9 is conducted. The lead ~~inspection~~ investigation shall be conducted during business
10 hours, unless the owner or occupant of the dwelling or premises consents to an
11 ~~inspection~~ investigation during nonbusiness hours or unless the department
12 determines that the dwelling or premises presents an imminent lead hazard. The
13 department shall use reasonable efforts to provide prior notice of the lead ~~inspection~~
14 investigation to the owner of the dwelling or premises. The department may remove
15 samples or objects necessary for laboratory analysis to determine the presence of a
16 lead hazard in the dwelling or premises. The department shall prepare and file
17 written reports of all ~~inspections~~ lead investigations conducted under this section
18 and shall make the contents of these reports available for inspection by the public,
19 except for medical information, which may be disclosed only to the extent that
20 patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner
21 or occupant refuses admission, the department may seek a warrant to ~~inspect~~
22 investigate the dwelling or premises. The warrant shall advise the owner or
23 occupant of the scope of the ~~inspection~~ lead investigation.

24 **SECTION 12.** 254.166 (2) (c) of the statutes is renumbered 254.166 (2) (c) (intro.)
25 and amended to read:

1 254.166 (2) (c) (intro.) Notify the occupant of the dwelling or premises or ~~that~~
2 ~~person's~~ the occupant's representative ~~that~~ of all of the following:

3 1. That a lead hazard is present on or in the dwelling or premises ~~and may~~
4 ~~constitute a health hazard.~~

5 **SECTION 13.** 254.166 (2) (c) 2. of the statutes is created to read:

6 254.166 (2) (c) 2. The results of any lead investigations conducted on or in the
7 dwelling or premises.

8 **SECTION 14.** 254.166 (2) (c) 3. of the statutes is created to read:

9 254.166 (2) (c) 3. Any actions taken to reduce or eliminate the lead hazard.

10 **SECTION 15.** 254.166 (2) (e) of the statutes is created to read:

11 254.166 (2) (e) If an order is issued under par. (d), conduct or require a certified
12 lead risk assessor or other person certified under s. 254.176 to conduct a lead
13 investigation, a check of work completed and dust tests for the presence of hazardous
14 levels of lead to ensure compliance with the order.

15 **SECTION 16.** 254.167 (intro.) of the statutes is amended to read:

16 **254.167 Conduct of lead inspection investigation.** (intro.) Subject to the
17 limitation under s. 254.174, the department may promulgate rules establishing
18 procedures for conducting lead ~~inspections~~ investigations of dwellings and premises.
19 ~~Any rules promulgated under this section shall meet, but not exceed, any~~
20 ~~requirements under regulations promulgated by the administrator of the federal~~
21 ~~environmental protection agency under section 402 of the federal toxic substances~~
22 ~~control act, as created by section 1021 of P.L. 102-550. The rules promulgated under~~
23 this section may include the following:

24 **SECTION 17.** 254.167 (1) of the statutes is amended to read:

1 254.167 (1) Specific procedures for ~~inspecting~~ investigating, testing or
2 sampling painted, varnished or other finished surfaces, drinking water, household
3 dust, soil and other materials that may contain lead.

4 **SECTION 18.** 254.167 (2) of the statutes is amended to read:

5 254.167 (2) Specific procedures for the notification of owners, operators,
6 occupants or prospective occupants, mortgagees and lienholders of lead levels
7 identified during ~~an inspection~~ a lead investigation and of any health risks that are
8 associated with the lead level and condition of the lead found during the ~~inspection~~
9 lead investigation.

10 **SECTION 19.** 254.167 (3) of the statutes is amended to read:

11 254.167 (3) The form of lead ~~inspection~~ investigation reports, the requirements
12 for filing the reports with the department and the procedures by which members of
13 the public may obtain copies of ~~inspection~~ lead investigation reports.

14 **SECTION 20.** 254.17 of the statutes is repealed.

15 **SECTION 21.** 254.171 of the statutes is created to read:

16 **254.171 Dwellings and units of dwellings where child has elevated**
17 **blood lead level.** If an owner of a dwelling or unit of a dwelling receives written
18 notice from the department or a local health department that a child under 6 years
19 of age, who resides in the owner's owner-occupied dwelling or unit or who resides in
20 the owner's dwelling or unit under the terms of a rental agreement, has an elevated
21 blood lead level, the owner shall obtain a certificate of lead-free status or certificate
22 of lead-safe status for the affected dwelling or unit in a timely manner, based on the
23 reasonable availability of lead risk assessors or other persons certified under s.
24 254.176 to conduct any necessary lead investigation or lead hazard reduction
25 activities and based on the time required for issuance of a certificate of lead-free

1 status or a certificate of lead-safe status. A certificate of lead-safe status obtained
2 under this section may not be for less than 12 months in duration.[21;
3 **AA1-ASA2-AB806; Page: 8, Line: 1]** Nothing in this section precludes the
4 department or the department's agent from conducting a lead investigation or
5 issuing an order under s. 254.166.

6 **SECTION 22.** 254.172 of the statutes is repealed and recreated to read:

7 **254.172 Prevention and control of lead-bearing paint hazards in**
8 **dwelling and premises.** (1) Subject to the limitation under s. 254.174, the
9 department may promulgate rules governing lead hazard reduction that the
10 department determines are consistent with federal law.

11 (2) If a certified lead risk assessor or other person certified under s. 254.176
12 conducts a lead investigation of a dwelling or premises, he or she shall conduct the
13 lead investigation and issue a report in accordance with any rules promulgated
14 under s. 254.167. If the report indicates that the dwelling or premises meets criteria
15 under s. 254.179 (1) (a) for issuance of a certificate of lead-free or of a certificate of
16 lead-safe status, the lead risk assessor or other person shall issue the appropriate
17 certificate, subject to s. 254.181.

18 **SECTION 23.** 254.173 of the statutes is created to read:

19 **254.173 Immunity from liability for lead poisoning or lead exposure;**
20 **restrictions.** (1) **LEGISLATIVE FINDINGS AND PURPOSE.** (a) The legislature finds all
21 of the following:

22 1. That a national task force appointed by the federal department of housing
23 and urban development, the task force on lead-based paint hazard reduction and
24 financing, found that 1,700,000 children under 6 years of age have blood lead levels
25 at or above the federally established level of concern. The task force also found that

1 the most common cause of childhood lead poisoning is ingestion of
2 lead-contaminated dust and chips from lead-bearing paint. The other significant
3 cause is dust from bare lead-contaminated soil.

4 2. That high levels of lead in a child's blood can cause permanent nervous
5 system damage and even relatively low blood lead levels can cause significant
6 nervous system effects. Of 58,797 children who were screened in this state in fiscal
7 year 1995–96, 11,170, or 19%, were newly identified as having blood lead levels that
8 constitute lead poisoning or lead exposure.

9 (b) The legislature encourages property owners to address the problems
10 associated with lead-bearing paint by bringing their property into compliance with
11 the applicable state standards and finds that an appropriate method to so encourage
12 property owners is to hold them not liable with respect to a person who develops lead
13 poisoning or lead exposure in the property. The purpose of these standards and this
14 restriction on liability is to reduce the exposure of children and others to
15 lead-bearing paints, thereby substantially reducing the number of persons who
16 develop lead poisoning or lead exposure. In addition, these standards and this
17 restriction on liability will improve the quality of this state's housing stock and result
18 in greater availability of insurance coverage for lead hazards.

19 (2) IMMUNITY; CONDITIONS; RESTRICTIONS. An owner of a dwelling or unit of a
20 dwelling and his or her employes and agents are immune from civil and criminal
21 liability and may not be subject to an agency proceeding under ch. 227, other than
22 for the enforcement of rules promulgated by the department under this subchapter,
23 for their acts or omissions related to lead poisoning or lead exposure of a person who
24 resides in or has visited the dwelling or unit if, at the time that the lead poisoning
25 or lead exposure occurred, a certificate of lead-free status or a certificate of lead-safe

1 status was in effect for the dwelling or unit. This subsection does not apply if it is
2 shown by clear and convincing evidence that one of the following has occurred:

3 (a) The owner or his or her employe or agent obtained the certificate by fraud.

4 (b) The owner or his or her employe or agent violated a condition of the
5 certificate.

6 (c) During renovation, remodeling, maintenance or repair after receiving the
7 certificate, the owner or his or her employe or agent created a lead-bearing paint
8 hazard that was present in the dwelling or unit of the dwelling at the time that the
9 lead poisoning or lead exposure occurred.

10 (d) The owner or his or her employe or agent failed to respond in a timely
11 manner to notification by a tenant, by the department or by a local health
12 department that a lead-bearing paint hazard might be present.

13 (e) The lead poisoning or lead exposure was caused by a source of lead in the
14 dwelling or unit of the dwelling other than lead-bearing paint.

15 **(3) TEMPORARY IMMUNITY; EXCEPTION.** (a) An owner of a dwelling or unit of a
16 dwelling and his or her employes and agents are immune from civil and criminal
17 liability and may not be subject to an agency proceeding under ch. 227, other than
18 for the enforcement of rules promulgated by the department under this subchapter,
19 for their acts or omissions related to lead poisoning or lead exposure that occur
20 during the first 30 days after the owner acquires the dwelling or unit, **[23;**
21 **AA1-ASA2-AB806; Page: 10, Line: 20][23; AA1-ASA2-AB806; Page: 10, Line:**
22 **20]** except that this subsection does not apply to lead poisoning or lead exposure that
23 results from a lead-bearing paint hazard created by the owner or his or her employe
24 or agent. Except as provided in par. (b)**[23; AA1-ASA2-AB806; Page: 10, Line: 23],**
25 immunity under this subsection is extended for an additional 60 days if the owner

1 of the dwelling or unit of a dwelling or his or her employe or agent has done one of
2 the following during that first 30-day period:

3 1. Completed a lead investigation report or entered into a contract for a lead
4 investigation with respect to the dwelling or unit.

5 2. Entered into a contract for lead hazard reduction with respect to the dwelling
6 or unit.

7 3. Registered for a course under s. 254.179 (1) (e).

8 4. Received certification under s. 254.176.

9 **[23; AA1-ASA2-AB806; Page: 11, Line: 9][23; AA1-ASA2-AB806; Page:**
10 **11, Line: 9]**

11 **[23; AA1-ASA2-AB806; Page: 11, Line: 9][23; AA1-ASA2-AB806; Page:**
12 **11, Line: 9]**

13 **[23; AA1-ASA2-AB806; Page: 11, Line: 9][23; AA1-ASA2-AB806; Page:**
14 **11, Line: 9][23; AA1-ASA2-AB806; Page: 11, Line: 9]**

15 **[23; AA1-ASA2-AB806; Page: 11, Line: 16] (b)[23; AA1-ASA2-AB806;**
16 **Page: 11, Line: 16]** Immunity under par. (a) for an additional 60 days following the
17 first 30 days after an owner acquires a dwelling or unit of a dwelling applies only if
18 all of the following occur:

19 **[23; AA1-ASA2-AB806; Page: 11, Line: 19] 1.[23; AA1-ASA2-AB806;**
20 **Page: 11, Line: 19]** The owner obtains a certificate of lead-free status or a
21 certificate of lead-safe status for the dwelling or unit.

22 **[23; AA1-ASA2-AB806; Page: 11, Line: 21][23; AA1-ASA2-AB806; Page:**
23 **11, Line: 21][23; AA1-ASA2-AB806; Page: 11, Line: 21]**

24 2. The owner shows by clear and convincing evidence that the property was in
25 compliance with the standard to obtain a certificate of lead-free status or a

1 certificate of lead-safe status by the end of the 90-day period and that the owner
2 obtained the certificate in a reasonable amount of time following the owner's acts to
3 achieve compliance. [23; AA1-ASA2-AB806; Page: 11, Line: 21]

4 SECTION 24. 254.174 of the statutes is amended to read:

5 **254.174 Technical advisory committees.** Before the department may
6 promulgate rules under s. 254.167, 254.168, ~~254.17~~ or 254.172 or 254.179, the
7 department shall appoint a technical advisory committee under s. 227.13 and shall
8 consult with the technical advisory committee on the proposed rules. Any technical
9 advisory committee required under this section shall include representatives from
10 local health departments that administer local lead programs, representatives from
11 the housing industry, persons certified under s. 254.176 and, representatives from
12 ~~[24; AA1-ASA2-AB806; Page: 12, Line: 8; Invalid Instruction][24;~~
13 ~~AA1-ASA2-AB806; Page: 12, Line: 8; Invalid Instruction][24;~~
14 ~~AA1-ASA2-AB806; Page: 12, Line: 8; Could not find pattern match.]~~the
15 medical or public health professions [24; AA1-ASA2-AB806; Page: 12, Line: 8]
16 advocates for persons at risk of lead poisoning and a resident of a 1st class city[24;
17 ~~AA1-ASA2-AB806; Page: 12, Line: 9]. Any technical advisory committee required~~
18 under this section before promulgating rules under s. 254.168 shall also include
19 representatives of facilities serving children under 6 years of age.

20 SECTION 25. 254.176 (3) (b) of the statutes is repealed.

21 SECTION 26. 254.178 (2) (b) of the statutes is repealed.

22 SECTION 27. 254.179 of the statutes is created to read:

23 **254.179 Rules for dwellings and premises.** (1) Subject to s. 254.174 and
24 after review of ordinances of cities, towns and villages in this state, the department

1 shall, by use of a research-based methodology, promulgate as rules all of the
2 following:

3 (a) Except as provided in s. 254.18, the standards for a premises, dwelling or
4 unit of a dwelling that must be met for issuance of a certificate of lead-free status
5 or a certificate of lead-safe status to the owner of the premises, dwelling or unit of
6 a dwelling, with the goal of long-term lead hazard reduction[27;
7 **AA1-ASA2-AB806; Page: 12, Line: 22].**

8 (b) The procedures by which a certificate of lead-free status or a certificate of
9 lead-safe status may be issued or revoked.

10 (c) The period of validity of a certificate of lead-free status or a certificate of
11 lead-safe status, including all of the following:

12 1. Authorization for the certificate of lead-free status to remain in effect unless
13 revoked because of erroneous issuance or because the premises, dwelling or unit of
14 the dwelling is not free of lead-bearing paint. The rules shall specify that the face
15 of the certificate shall indicate that the certificate is valid unless revoked.

16 2. The standards limiting the length of validity of a certificate of lead-safe
17 status, including the condition of a premises, dwelling or unit of a dwelling, the type
18 of lead hazard reduction activity that was performed, if any, and any other
19 requirements that must be met to maintain certification, unless the certificate is
20 earlier revoked because of erroneous issuance or because the premises, dwelling or
21 unit of the dwelling is not safe from lead-bearing paint hazards. The rules shall
22 specify that the face of the certificate shall indicate the certificate's length of validity.

23 (d) A mechanism for creating a registry of all premises, dwellings or units of
24 dwellings for which a certificate of lead-free status or a certificate of lead-safe status
25 is issued.

1 (e) The requirements for a course of up to 16 hours that a property owner or his
2 or her employe or agent may complete in order to receive certification of completion
3 and the scope of the lead investigation and lead hazard reduction activities that the
4 owner, employe or agent may perform following certification, to the extent consistent
5 with federal law.

6 (2) By January 1, 2003, and every 2 years thereafter, the department shall
7 review the rules under sub. (1) and shall promulgate changes to the rules if necessary
8 in order to maintain consistency with federal law.

9 (3) Subject to s. 254.174, the department may promulgate rules that set forth
10 safe work practices that shall be followed in the demolition of a building constructed
11 before January 1, 1978, to avoid exposure by persons to lead hazards in the area of
12 the demolition.

13 **SECTION 28.** 254.18 of the statutes is created to read:

14 **254.18 Lead hazard reduction in dwellings and premises.** Sampling or
15 testing of dwellings, units of dwellings or premises for the presence of lead-bearing
16 paint or a lead hazard is not required before lead hazard reduction activities are
17 conducted if the presence of lead-bearing paint or a lead hazard is assumed and the
18 lead hazard reduction activities are performed in a lead-safe manner.

19 **SECTION 29.** 254.181 of the statutes is created to read:

20 **254.181 Certificate of lead-free status and certificate of lead-safe**
21 **status;**[29; AA1-ASA2-AB806; Page: 14, Line: 13] **fees and notification.**

22 (1)[29; AA1-ASA2-AB806; Page: 14, Line: 13] The department may impose a fee
23 of \$50 for issuance of a certificate of lead-free status and a fee of \$25 for issuance of
24 a certificate of lead-safe status. Fees under this section may not exceed actual costs

1 of issuance and of maintaining the registry under s. 254.179 (1) (d). The department
2 shall review the fees every 2 years and adjust the fees to reflect the actual costs.

3 (2) The department shall, at least quarterly, notify a local health department
4 concerning issuance of certificates of lead-free status and certificates of lead-safe
5 status in the area of jurisdiction of the local health department. [29;

6 **AA1-ASA2-AB806; Page: 14, Line: 17]**

7 **SECTION 30.** 254.182 of the statutes is created to read:

8 **254.182 Repayment to general fund.** The secretary of administration shall
9 transfer from the appropriation account under s. 20.435 (1) (gm) to the general fund
10 the amount of \$735,000 when the secretary of administration determines that
11 program revenues from fees imposed under ss. 254.176 (3) (e) and (4), 254.178 (2) (d)
12 and 254.181 are sufficient to make the transfer.

13 **SECTION 31.** 901.055 of the statutes is created to read:

14 **901.055 Admissibility of results of dust testing for the presence of lead.**
15 The results of a test for the presence of lead in dust are not admissible during the
16 course of a civil or criminal action or proceeding or an administrative proceeding
17 unless the test was conducted by a person certified for this purpose by the
18 department of health and family services.

19 **SECTION 32. Nonstatutory provisions.**

20 (1) **RULES CONCERNING LEAD FOR DWELLINGS, UNITS OF DWELLINGS AND PREMISES.**
21 The department of health and family services shall submit in proposed form the rules
22 required under section 254.179 (1) of the statutes, as created by this act, to the
23 legislative council staff under section 227.15 (1) of the statutes no later than the first
24 day of the 7th month beginning after the effective date of this paragraph. In
25 submitting the rules, the department shall include a summary of the differences

1 between standards under the rules proposed to meet the requirement of section
2 254.179 (1) (a) of the statutes, as created by this act, and standards under a similar
3 ordinance of a 1st class city.

4 (2) SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES. The
5 department of health and family services may request the joint committee on finance
6 to supplement, from the appropriation account under section 20.865 (4) (a) of the
7 statutes, the appropriation account under section 20.435 (1) (a) of the statutes, to pay
8 initial costs of establishing under section 254.179 (1) (d) of the statutes, as created
9 by this act, a registry of properties that are issued certificates of lead-free status or
10 certificates of lead-safe status. If the department of health and family services
11 requests supplementation of the appropriation account under section 20.435 (1) (a)
12 of the statutes, the department shall submit a plan to the joint committee on finance
13 to expend not more than \$520,000 for fiscal year 2000–01. If the cochairpersons of
14 the committee do not notify the secretary of the department within 14 working days
15 after the date of the department's submittal that the committee intends to schedule
16 a meeting to review the request, the appropriation account shall be supplemented
17 as provided in the request. If, within 14 working days after the date of the
18 department's submittal, the cochairpersons of the committee notify the secretary of
19 the department that the committee intends to schedule a meeting to review the
20 request, the appropriation account shall be supplemented only as approved by the
21 committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes, the committee
22 is not required to find that an emergency exists.

23 (3) REGISTRY OF LEAD-FREE AND LEAD-SAFE PROPERTIES; LIMITATION ON FUNDING.
24 Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information
25 under section 16.42 of the statutes for purposes of the 2001–2003 biennial budget

1 bill, the department of health and family services shall submit information
2 concerning the appropriation under section 20.435 (1) (a) of the statutes as though
3 any supplementation, under SECTION 32 (2) of this act, of the dollar amount of that
4 appropriation had not been made.

5 (4) LEAD PAINT HAZARD REDUCTION; LIMITATION ON FUNDING. Notwithstanding
6 section 16.42 (1) (e) of the statutes, in submitting information under section 16.42
7 of the statutes for purposes of the 2001–2003 biennial budget bill, the department
8 of health and family services shall submit information concerning the appropriation
9 under section 20.435 (1) (a) of the statutes as though the increase in the dollar
10 amount of that appropriation by SECTION 33 (1) of this act had not been made.

11 (5) LEAD PAINT HAZARDS OUTREACH AND ABATEMENT. In submitting information
12 under section 16.42 (1) of the statutes for purposes of the 2001–2003 biennial budget
13 bill, the department of health and family services shall submit a proposal, including
14 a request for additional funding, to conduct lead paint hazards outreach and
15 abatement activities.

16 (6) REHABILITATION OF RENTAL PROPERTY FOR LOW-INCOME PERSONS. In submitting
17 information under section 16.42 (1) of the statutes for purposes of the 2001–2003
18 biennial budget bill, the Wisconsin housing and economic development authority
19 shall submit a proposal[32; AA1-ASA2-AB806; Page: 17, Line: 6] for lead hazard
20 reduction activities for and rehabilitation of[32; AA1-ASA2-AB806; Page: 17,
21 Line: 6] rental property for low-income persons in Wisconsin.

22 (7) ALLOCATION OF OIL OVERCHARGE FUNDS TO ENERGY PROGRAMS.
23 Notwithstanding section 14.065 of the statutes, the secretary of administration shall
24 allocate all oil overcharge restitution funds and all accruing interest earnings on
25 those funds under section 20.505 (1) (md) of the statutes that are not approved for

1 expenditure on the effective date of this subsection, for **[32; AA1-ASA2-AB806;**
2 **Page: 17, Line: 12]**reduction of lead paint hazards in dwellings that is done to allow
3 for and in conjunction with energy conservation activities **[32; AA1-ASA2-AB806;**
4 **Page: 17, Line: 12]****[32; AA1-ASA2-AB806; Page: 17, Line: 12]** in rental
5 properties owned by persons who seek a certificate of lead-free status, as defined in
6 section 254.11 (4g) of the statutes, as created by this act, or a certificate of lead-safe
7 status, as defined in section 254.11 (4h) of the statutes, as created by this act. In
8 awarding moneys under this subsection, the department of administration shall give
9 priority to projects that emphasize comprehensive lead removal plans for rental
10 properties.**[32; AA1-ASA2-AB806; Page: 17, Line: 17]**

11 (8) REPORT ON LIABILITY INSURANCE FOR LEAD PAINT HAZARDS. The office of the
12 commissioner of insurance shall review the cost and availability of insurance in the
13 private market that provides residential property owners with liability coverage for
14 lead-bearing paint hazards. On the basis of the review, the office shall, no later than
15 October 1, 2002, prepare and submit to the appropriate standing committees of the
16 legislature in the manner provided under section 13.172 (3) of the statutes a report
17 on whether such insurance is sufficiently affordable and sufficiently available in the
18 private insurance market. If the office determines and provides in its report that
19 such insurance is not either sufficiently affordable or sufficiently available in the
20 private insurance market, the office shall submit drafting instructions to the
21 legislative reference bureau for proposed legislation to create a state residential lead
22 liability fund and shall include such proposed legislation in its 2003-05 biennial
23 budget request under section 16.42 of the statutes.

24 **SECTION 33. Appropriation changes.**



State of Wisconsin
1999-2000 LEGISLATURE

TODAY

CORRECTIONS IN: **CCC** (LRB-4761/1)

ENGROSSED 1999 ASSEMBLY BILL 806

()

Prepared by the Legislative Reference Bureau
(March 28, 2000)

1. Page 7, line 16: delete "254.154" and substitute "**254.154 Local authority.**".

KMG:

.....

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31, Assembly Rule 37 and Joint Rule 56.



State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS IN:

ENGROSSED 1999 ASSEMBLY BILL 806

Prepared by the Legislative Reference Bureau
(March 28, 2000)

1. Page 7, line 16: delete "254.154" and substitute "**254.154 Local authority.**".