



1999 ASSEMBLY BILL 806

February 25, 2000 - Introduced by Representatives SYKORA and COGGS,
cosponsored by Senator JAUCH. Referred to Committee on Housing.

1 **AN ACT to repeal** 254.17, 254.176 (3) (b), 254.178 (2) (b) and chapter 606; **to**
2 **renumber and amend** 254.154 and 254.166 (2) (c); **to amend** 20.435 (1) (gm),
3 254.15 (1), 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), 254.154 (2), 254.166 (2)
6 (c) 2., 254.166 (2) (c) 3., 254.166 (2) (e), 254.171, 254.173, 254.179, 254.18,
7 chapter 606 and 901.055 of the statutes; **relating to:** conducting lead
8 investigations, lead-bearing paint hazard control, requirements for
9 certification of lead-free or lead-safe status for dwellings and premises,
10 immunity from liability for lead poisoning or lead exposure, a state residential
11 lead liability fund, granting rule-making authority, requiring the exercise of
12 rule-making authority and making appropriations.

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

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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.

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 employes and agents and prohibits these persons from being subjected to administrative hearings if, at the time 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 related to lead poisoning or lead exposure of owners, their employes and agents that occur during the first 90 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. 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 promptly obtain a certificate of lead-free or lead-safe status. 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 certificates. Further, 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 also must promulgate rules that specify the requirements for a course 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, that are preliminary to activities and standards required to obtain a certificate of lead-free or lead-safe status. 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 a lead investigation or ensure that a lead investigation is conducted. However,

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DHFS may waive this requirement in a city of the 1st class (Milwaukee). 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 may promulgate rules governing lead hazard reduction that DHFS determines are not preempted by federal law.

The bill creates, in the office of the commissioner of insurance, a state residential lead liability fund to issue policies that insure residential property against liability resulting from lead-bearing paint hazards if a certificate of lead-free status or a certificate of lead-safe status is in effect for the property. Policies must be issued by the fund if the fund "manager" (defined in current law as the commissioner of insurance) makes a determination, by rule, that this liability coverage is not sufficiently affordable or sufficiently available in the private insurance market. The state residential lead liability fund terminates if, after eight years, the manager has not made this determination.

The bill eliminates authorization for DHFS to promulgate rules requiring that, after June 30, 1997, owners or operators of rental or leased dwelling 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 specifies that the statutes relating to lead poisoning or lead exposure treatment and prevention may not be interpreted to supersede ordinances of Milwaukee that relate to the liability of an owner of property with respect to a lead-based paint hazard. Further, if the criteria specified in Milwaukee ordinances that relate to achieving a lead-free or lead-safe status are the same as or higher than the standards promulgated by DHFS by rule, the owner of a dwelling, unit or premises that meets the ordinance criteria is subject to the ordinances, rather than to the rules and is entitled to receive a certificate of lead-free status or a certificate of lead-safe status.

The bill authorizes DHFS to request a supplement of general purpose revenues from the joint committee on finance (JCF) to pay initial costs of establishing a 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 an increase in general program revenues to increase DHFS staff, for performance of certification for the performance of lead paint hazard reduction.

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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:

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, 254.18, 254.20
10 (5) and (8), 254.31 to 254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2) (b) and
11 ch. 69 and as reimbursement for medical supplies shall be credited to this
12 appropriation account.

13 **SECTION 2.** 254.11 (4g) of the statutes is created to read:

14 254.11 (4g) “Certificate of lead-free status” means a certificate issued by a
15 certified lead risk assessor that documents a finding by the assessor that a premises,
16 dwelling or unit of a dwelling is free of lead-bearing paint as of the date specified on
17 the certificate.

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

19 254.11 (4h) “Certificate of lead-safe status” means a certificate issued by a
20 certified lead risk assessor that documents that the assessor detected no

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1 lead-bearing paint hazards affecting the premises, dwelling or unit of the dwelling
2 on the date specified on the certificate.

3 **SECTION 4.** 254.11 (5m) of the statutes is created to read:

4 254.11 (5m) "Elevated blood lead level" means a level of lead in blood that is
5 any of the following:

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

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

10 **SECTION 5.** 254.11 (8d) of the statutes is created to read:

11 254.11 (8d) "Lead-bearing paint hazard" has the meaning specified by rule by
12 the department.

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

14 254.11 (8s) "Lead investigation" means a measure or set of measures designed
15 to identify the presence of lead or lead hazards, including examination of painted or
16 varnished surfaces, paint, dust, water and other environmental media.

17 **SECTION 7.** 254.11 (9g) of the statutes is created to read:

18 254.11 (9g) "Lead risk assessor" has the meaning specified by rule by the
19 department.

20 **SECTION 8.** 254.15 (1) of the statutes is amended to read:

21 254.15 (1) Develop and implement a comprehensive statewide lead poisoning
22 or lead exposure prevention and treatment program that includes lead poisoning or
23 lead exposure prevention grants under s. 254.151; any childhood lead poisoning
24 screening requirement under rules promulgated under ss. 254.158 and 254.162; any
25 requirements regarding care coordination and follow-up for children with lead

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1 poisoning or lead exposure required under rules promulgated under s. 254.164;
2 departmental responses to reports of lead poisoning or lead exposure under s.
3 254.166; any lead ~~inspection~~ investigation requirements under rules promulgated
4 under ss. 254.167, ; any lead inspection requirements under rules promulgated
5 under 254.168 and 254.17; any lead hazard reduction requirements under rules
6 promulgated under s. 254.172; ~~and~~ certification, accreditation and approval
7 requirements under ss. 254.176 and 254.178; any certification requirements and
8 procedures under rules promulgated under s. 254.179; and any fees imposed under
9 s. 254.18.

10 **SECTION 9.** 254.154 of the statutes is renumbered 254.154 (1) and amended to
11 read:

12 254.154 (1) This subchapter does not prohibit any city, village, town or other
13 political subdivision from enacting and enforcing ordinances establishing a system
14 of lead poisoning or lead exposure control that provides the same or higher standards
15 than those set forth in this subchapter. Nothing in this subchapter may be
16 interpreted to supersede ordinances of a city of the first class that relate to the
17 liability of an owner of property with respect to a lead-based paint hazard. Nothing
18 in this subchapter may be interpreted or applied in any manner to impair the right
19 of any person, entity, municipality or other political subdivision to sue for damages
20 or equitable relief or to restrain a violation of such an ordinance.

21 **SECTION 10.** 254.154 (2) of the statutes is created to read:

22 254.154 (2) If the criteria specified in ordinances of a city of the first class that
23 relate to achieving a lead-free or lead-safe status are the same as or higher than the
24 standards promulgated as rules under s. 254.179 (1) (a), the owner of a dwelling, unit
25 of a dwelling or premises that meets the criteria specified in the ordinances is subject

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1 to the ordinances, rather than the rules under s. 254.179 (1) (a) and is entitled to
2 receive a certificate of lead-free status or a certificate of lead-safe status, as
3 appropriate, under this subchapter. If issued, the certificate of lead-free status and
4 the certificate of lead-safe status are subject to this subchapter and rules
5 promulgated under this subchapter.

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

7 254.166 (1) The department may, after being notified that an occupant of a
8 dwelling or premises who is under 6 years of age has blood lead poisoning or lead
9 exposure, present official credentials to the owner or occupant of the dwelling or
10 premises, or to a representative of the owner, and request admission to conduct a lead
11 ~~inspection~~ investigation of the dwelling or premises. If the department is notified
12 that an occupant of a dwelling or premises who is a child under 6 years of age has
13 an elevated blood lead level, the department shall conduct a lead investigation of the
14 dwelling or premises or ensure that a lead investigation of the dwelling or premises
15 is conducted, except that the department may waive this requirement in a city of the
16 first class. The lead ~~inspection~~ investigation shall be conducted during business
17 hours, unless the owner or occupant of the dwelling or premises consents to an
18 ~~inspection~~ investigation during nonbusiness hours or unless the department
19 determines that the dwelling or premises presents an imminent lead hazard. The
20 department shall use reasonable efforts to provide prior notice of the lead ~~inspection~~
21 investigation to the owner of the dwelling or premises. The department may remove
22 samples or objects necessary for laboratory analysis to determine the presence of a
23 lead hazard in the dwelling or premises. The department shall prepare and file
24 written reports of all ~~inspections~~ lead investigations conducted under this section
25 and shall make the contents of these reports available for inspection by the public,

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1 except for medical information, which may be disclosed only to the extent that
2 patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner
3 or occupant refuses admission, the department may seek a warrant to inspect
4 investigate the dwelling or premises. The warrant shall advise the owner or
5 occupant of the scope of the ~~inspection~~ lead investigation.

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

8 254.166 (2) (c) (intro.) Notify the occupant of the dwelling or premises or ~~that~~
9 ~~person's~~ the occupant's representative ~~that~~ of all of the following:

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

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

13 254.166 (2) (c) 2. The results of any lead investigations conducted on or in the
14 dwelling or premises.

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

16 254.166 (2) (c) 3. Any actions taken to reduce or eliminate the lead hazard.

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

18 254.166 (2) (e) If an order is issued under par. (d), conduct or require a certified
19 lead risk assessor to conduct a lead investigation, a check of work completed and dust
20 tests for the presence of hazardous levels of lead to ensure compliance with the order.

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

22 **254.167 Conduct of lead ~~inspection~~ investigation.** (intro.) Subject to the
23 limitation under s. 254.174, the department may promulgate rules establishing
24 procedures for conducting lead ~~inspections~~ investigations of dwellings and premises.
25 Any rules promulgated under this section shall meet, but not exceed, any

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1 requirements under regulations promulgated by the administrator of the federal
2 environmental protection agency under section 402 of the federal toxic substances
3 control act, as created by section 1021 of P.L. 102-550. The rules promulgated under
4 this section may include the following:

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

6 254.167 (1) Specific procedures for ~~inspecting~~ investigating, testing or
7 sampling painted, varnished or other finished surfaces, drinking water, household
8 dust, soil and other materials that may contain lead.

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

10 254.167 (2) Specific procedures for the notification of owners, operators,
11 occupants or prospective occupants, mortgagees and lienholders of lead levels
12 identified during ~~an inspection~~ a lead investigation and of any health risks that are
13 associated with the lead level and condition of the lead found during the ~~inspection~~
14 lead investigation.

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

16 254.167 (3) The form of lead ~~inspection~~ investigation reports, the requirements
17 for filing the reports with the department and the procedures by which members of
18 the public may obtain copies of ~~inspection~~ lead investigation reports.

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

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

21 **254.171 Dwellings and units of dwellings where child has elevated**
22 **blood lead level.** If an owner of a dwelling or unit of a dwelling receives written
23 notice from the department or a local health department that a child under 6 years
24 of age, who resides in the owner's owner-occupied dwelling or unit or who resides in
25 the owner's dwelling or unit under the terms of a rental agreement, has an elevated

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1 blood lead level, the owner shall promptly obtain a certificate of lead-free status or
2 certificate of lead-safe status for the affected dwelling or unit. Nothing in this
3 section precludes the department or the department's agent from conducting a lead
4 investigation or issuing an order under s. 254.166.

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

6 **254.172 Prevention and control of lead-bearing paint hazards in**
7 **dwelling and premises.** (1) Subject to the limitation under s. 254.174, the
8 department may promulgate rules governing lead hazard reduction that the
9 department determines are not preempted by federal law.

10 (2) If a certified lead risk assessor conducts a lead investigation of a dwelling
11 or premises, he or she shall conduct the lead investigation and issue a report in
12 accordance with any rules promulgated under s. 254.167. If the report indicates that
13 the dwelling or premises meets criteria under s. 254.179 (1) (a) for issuance of a
14 certificate of lead-free or of a certificate of lead-safe status, the lead risk assessor
15 shall issue the appropriate certificate, subject to s. 254.18.

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

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1 lead-contaminated surface dust 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 for their acts
21 or omissions related to lead poisoning or lead exposure of a person who resides in or
22 has visited the dwelling or unit if, at the time that the lead poisoning or lead exposure
23 occurred, a certificate of lead-free status or a certificate of lead-safe status was in
24 effect for the dwelling or unit. This subsection does not apply if it is shown by clear
25 and convincing evidence that one of the following has occurred:

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

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

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

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

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

13 **(3) TEMPORARY IMMUNITY; EXCEPTION.** An owner of a dwelling or unit of a
14 dwelling and his or her employes and agents are immune from civil and criminal
15 liability and may not be subject to an agency proceeding under ch. 227 for their acts
16 or omissions related to lead poisoning or lead exposure that occur during the first 90
17 days after the owner acquires the dwelling or unit, except that this subsection does
18 not apply to lead poisoning or lead exposure that results from a lead-bearing paint
19 hazard created by the owner or his or her employe or agent.

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

21 **254.174 Technical advisory committees.** Before the department may
22 promulgate rules under s. 254.167, 254.168, ~~254.17~~ or 254.172 or 254.179, the
23 department shall appoint a technical advisory committee under s. 227.13 and shall
24 consult with the technical advisory committee on the proposed rules. Any technical
25 advisory committee required under this section shall include representatives from

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1 local health departments that administer local lead programs, representatives from
2 the housing industry, persons certified under s. 254.176 and , representatives from
3 the medical or public health professions and advocates for persons at risk of lead
4 poisoning. Any technical advisory committee required under this section before
5 promulgating rules under s. 254.168 shall also include representatives of facilities
6 serving children under 6 years of age.

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

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

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

10 **254.179 Rules for dwellings and premises. (1)** Subject to s. 254.174, the
11 department shall promulgate as rules all of the following:

12 (a) Except as provided in sub. (3), the standards for a premises, dwelling or unit
13 of a dwelling that must be met, including the level of testing and sampling required
14 to be performed, for issuance of a certificate of lead-free status or a certificate of
15 lead-safe status to the owner of the premises, dwelling or unit of a dwelling.

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

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

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

24 2. The standards limiting the length of validity of a certificate of lead-safe
25 status, including the condition of a premises, dwelling or unit of a dwelling, the type

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1 of lead hazard reduction activity that was performed and any other requirements
2 that must be met to maintain certification, unless the certificate is earlier revoked
3 because of erroneous issuance or because the premises, dwelling or unit of the
4 dwelling is not safe from lead-bearing paint hazards. The rules shall specify that
5 the face of the certificate shall indicate the certificate's length of validity.

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

9 (e) The requirements for a course of up to 16 hours that a property owner or his
10 or her agent may complete in order to receive certification of completion and the
11 scope of activities that the owner or agent may perform following certification, to the
12 extent consistent with federal law, that are preliminary to activities and standards
13 required under par. (a) to obtain a certificate of lead-free status or a certificate of
14 lead-safe status.

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

19 (3) Rules under sub. (1) (a) may not require sampling or testing of dwellings,
20 units of dwellings or premises for the presence of lead-bearing paint or a lead hazard
21 before lead hazard reduction activities are conducted if the presence of lead-bearing
22 paint or a lead hazard is assumed and the lead hazard reduction activities are
23 performed in a lead-safe manner.

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

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1 **254.18 Certificate of lead-free status and certificate of lead-safe**
2 **status; fees.** Although the department shall review fees for issuance of certificates
3 of lead-free status and certificates of lead-safe status every 2 years and adjust the
4 fees to reflect costs of maintaining the registry under s. 254.179 (1) (d), the
5 department may impose a fee for issuance of a certificate of lead-free status that may
6 not exceed \$50 and may impose a fee for issuance of a certificate of lead-safe status
7 that may not exceed \$25.

8 **SECTION 29.** Chapter 606 of the statutes is created to read:

CHAPTER 606**STATE RESIDENTIAL LEAD****LIABILITY FUND**

12 **606.01 Definitions.** In this chapter:

13 **(1)** "Certificate of lead-free status" has the meaning given in s. 254.11 (4g).

14 **(2)** "Certificate of lead-safe status" has the meaning given in s. 254.11 (4h).

15 **606.05 Issuance of policies.** **(1)** If the manager makes a determination, as
16 specified by rule, that insurance providing residential property owners with liability
17 coverage for lead-bearing paint hazards is not either sufficiently affordable or
18 sufficiently available in the private insurance market, the state residential lead
19 liability fund shall offer policies that insure residential property in this state against
20 liability resulting from lead-bearing paint hazards. Prior to making the
21 determination, the manager shall work with insurers to encourage the offering of
22 this coverage in the private market.

23 **(2)** A policy may be issued by the fund only for property for which a certificate
24 of lead-free status or a certificate of lead-safe status is in effect. A policy may not
25 cover periods during which a certificate is not in effect.

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1 **606.10 Rules and reports.** (1) The manager shall promulgate rules
2 specifying premiums, coverage limits and covered expenses for policies issued under
3 s. 606.05 and may promulgate other rules necessary to administer the state
4 residential lead liability fund. The manager shall specify premiums at a level that
5 the manager determines will be sufficient to pay all costs of the fund. The fund may
6 not pay damages to a claimant when it is found by a court by clear and convincing
7 evidence that one or more of the conditions in s. 254.173 (2) (a) to (e) exist.

8 (2) The manager shall, on an ongoing basis, review the cost and availability of
9 insurance in the private insurance market that provides residential property owners
10 with liability coverage for lead-bearing paint hazards. No later than 12 months after
11 the effective date of the rules promulgated by the department of health and family
12 services under s. 254.179 (1), and every 2 years after the first report is submitted, the
13 manager shall submit a report to the legislature under s. 13.172 (2) on the cost and
14 availability of this insurance in the private market.

15 **606.15 Termination of fund.** If the manager has not made the determination
16 under s. 606.05 (1) by a date that is 8 years after the effective date of this section ...
17 [revisor inserts date], the manager shall publish a notice in the Wisconsin
18 Administrative Register stating that the state residential lead liability fund
19 terminates on the date specified in this section.

20 **SECTION 30.** Chapter 606 of the statutes, as created by 1999 Wisconsin Act ...
21 (this act), is repealed.

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

23 **901.055 Admissibility of results of dust testing for the presence of lead.**

24 The results of a test for the presence of lead in dust are not admissible during the
25 course of a civil or criminal action or proceeding or an administrative proceeding

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1 unless the test was conducted by a person certified for this purpose by the
2 department of health and family services.

3 **SECTION 32. Nonstatutory provisions.**

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

5 (a) The department of health and family services shall submit in proposed form
6 the rules required under section 254.179 (1) of the statutes, as created by this act,
7 to the legislative council staff under section 227.15 (1) of the statutes no later than
8 the first day of the 7th month beginning after the effective date of this paragraph.

9 (b) In developing the rules required under section 254.179 (1) of the statutes,
10 as created by this act, the department of health and family services shall consider
11 the standards specified in the ordinances of the city of Milwaukee with respect to
12 lead-bearing paint hazards, lead-bearing paint hazard reduction activities and the
13 achievement of lead-free or lead-safe status.

14 (2) SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES. The
15 department of health and family services may request the joint committee on finance
16 to supplement, from the appropriation account under section 20.865 (4) (a) of the
17 statutes, the appropriation account under section 20.435 (1) (a) of the statutes, to pay
18 initial costs of establishing under section 254.179 (1) (d) of the statutes, as created
19 by this act, a registry of properties that are issued certificates of lead-free status or
20 certificates of lead-safe status. If the department of health and family services
21 requests supplementation of the appropriation account under section 20.435 (1) (a)
22 of the statutes, the department shall submit a plan to the joint committee on finance
23 to expend not more than \$520,000 for fiscal year 2000-01. If the cochairpersons of
24 the committee do not notify the secretary of the department within 14 working days
25 after the date of the department's submittal that the committee intends to schedule

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

8 (3) **REGISTRY OF LEAD-FREE AND LEAD-SAFE PROPERTIES; LIMITATION ON FUNDING.**

9 Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information
10 under section 16.42 of the statutes for purposes of the 2001-2003 biennial budget
11 bill, the department of health and family services shall submit information
12 concerning the appropriation under section 20.435 (1) (a) of the statutes as though
13 any supplementation under subsection 30 (2) of the dollar amount of that
14 appropriation had not been made.

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

21 **SECTION 33. Appropriation changes.**

22 (1) **CERTIFICATION FOR PERFORMANCE OF LEAD PAINT HAZARD REDUCTION.** In the
23 schedule under section 20.005 (3) of the statutes for the appropriation to the
24 department of health and family services under section 20.435 (1) (a) of the statutes,
25 as affected by the acts of 1999, the dollar amount is increased by \$215,000 for fiscal

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1 year 2000-01 to increase the authorized FTE positions for the department by 5.0
2 project positions on January 1, 2001, until July 1, 2001, or the day after publication
3 of the 2001-2003 biennial budget act, whichever is later, and to provide supporting
4 costs to perform certification for performance of lead paint hazard reduction.

5 **SECTION 34. Initial applicability.**

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

9 **SECTION 35. Effective dates.** This act takes effect on the day after publication,
10 except as follows:

11 (1) The treatment of sections 254.11 (8d), 254.166 (2) (c) and (e), 254.172,
12 254.173 and 901.055 of the statutes and the creation of 254.166 (2) (c) 2. and 3. and
13 chapter 606 of the statutes and SECTION 34 (1) of this act take effect on the first day
14 of the 16th month beginning after publication.

15 (2) The repeal of chapter 606 of the statutes takes effect on the date stated in
16 the notice published by the manager of the state residential lead liability fund in the
17 Wisconsin Administrative Register under section 606.15.

18

(END)