

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB232)

Received: 02/11/2000

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Dick Sweet**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact: **Leg. Council**

Alt. Drafters:

Subject: **Health - public health**

Extra Copies: **ISR**

Pre Topic:

No specific pre topic given

Topic:

Lead hazard control, lead-bearing paint hazard reduction and property owner immunity from liability

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>
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FE Sent For:

13 cjs 2/28
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km 2/29 SWB 2/29

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Handwritten signatures and dates:
Jan 28, Jan 28

FE Sent For:

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FE Sent For:

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2/24/00 Mtg. re redraft of 99-4539/1

~~2/24/00~~ ~~2/24/00~~ ~~2/24/00~~

Jauch: Mil. has pilot ord + ord city-wide that say if child has high blood ct. housing standard in pilot area has to be met
outside pilot area
microdecimeter
.25 level for blood

Jauch: feels DHFS standards will be virtually identical to Milwaukee's.

Kevin Lewis: St. standard is .20 micro/deciliter (higher than Milwaukee)

As far as issues of st v. city ord. standards, municipalities have power to override, if stricter

Perry? DHFS: Real issue is issuing certifs; lead safe standards are more questionable than lead free - If bottom line is issuance of certifs - quest. is duration

Advis committee is to determine the

⊕ duration of a lead safe status (would accommodate all municipalities)

Mil Co. : need to keep abatement activities

⊕ Standard in place

Jauch: could put nonstats about rules in stats. B

Perry Jauch: Based on research + ~~consensus~~ ^{after reviewing}

⊕ Mil + other communities, DHFS specify standards for issuance of certificates - review ~~the~~ rules every 2 years

?

⊕ If municip has altered standard may opt out from

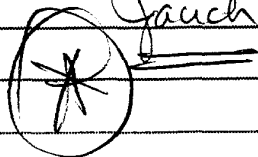
⊕ Need statewide immunity from liability

Steff

: Could have statewide waiver but ed subject under ord to forfeiture

Equity program - Stakeout

✓ Initial fees - DHFS doesn't like ceiling;
Fee has to be tied to actual costs

✓  Gauth WHEDA develop proposal to
rehabilitate low-inc. rental prop
in Wis. -

✓ DHFS to include funding lead paint
hazards outreach + abatement

✓ Rule-making - research-based methodology
local standards
nothing prevent ^{local} from higher standards
DHFS ~~final~~ review ^{locally} biennially
'rule

To extend immunity for an additional 60 days, the property owner must have one of the following within 30 ~~to~~ days of closing:

- (1) completed lead investigation ^{or} a contract for a lead investigation
- (2) ~~completed lead~~ a contract for a lead hazard reduction
- (3) be registered for a course to prepare the property owner for certification by the dept. to perform the work
- (4) be certified by the dept. to perform the work

Sweet, Richard

From: Theo, Mike - VP Public Affairs [mtheo@wra.org]
Sent: Thursday, February 24, 2000 9:15 AM
To: Lead Paint Distribution List
Subject: LRB 4539 Changes



LRBchangesFinal.doc

Here's a document we can start with re: changes to LRB 4539. Let us know what you think. Thanks to all for the continued excellent effort!

<<LRBchangesFinal.doc>>

PROPOSED CHANGES TO LRB-4539/1

- ✓ 1) Delete Section 9. The added language inappropriately amended § 254.154(1) regarding local ordinances that relate to liability. Because it is Section 23 that provides conditional immunity for civil and criminal liability (and certain administrative proceedings), it may be necessary to add language to Section 23 regarding the enforceability of local lead ordinances. If penalties resulting from failure to comply with local ordinances would fall under the definitions of civil liability, Section 23 should be revised so that § 254.173(2) specifies that the immunity afforded under the certificates does not extend to civil forfeitures assessed for violations of local ordinances.
- ✓ 2) Delete Section 10. It is redundant and superfluous. If a property qualifies for a lead-free or lead-safe certificate under the department rules, it does not matter whether the work was done under local, state, or federal program guidelines. In fact, the entitlement to a certificate is based on the condition of the property and it is not even necessary that any work be done prior to issuance of a certificate.
- ✓ 3) Section 16. Strike the sentence beginning “Any rules promulgated.....” It was originally intended to be stricken and inadvertently was not stricken in the bill draft:

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

- ✓ 4) Section 21. In § 254.171, change the term “promptly” to “in a timely manner” and add a sentence describing what “in a timely manner” means: “In a timely manner” shall be determined with reference to the reasonable availability of lead risk assessors and any other certified personnel needed to conduct any needed lead investigation and lead hazard reduction activities as well the issuance of a certificate of lead-safe or lead-free status.

254.171 Dwellings and units where child has elevated blood lead level. If an owner of a dwelling or unit receives written notice from the department or a local health department that a child under 6 years of age, who is residing in an owner-occupied dwelling or unit or who is residing in the owner’s dwelling or unit per the terms of a rental agreement, has an elevated blood lead level, the owner shall promptly obtain a certificate of lead-free or lead-safe status for the affected unit or dwelling in a timely manner. Whether a certificate is obtained “in a timely manner” shall be determined with reference to the reasonable availability

based
on

of lead risk assessors and any other certified personnel needed to conduct any needed lead investigation and lead hazard reduction activities as well the issuance of a certificate of lead-safe or lead-free status. Nothing in this subsection shall preclude the department or the department's agent from conducting a lead investigation and issuing orders under s. 254.166.

- 5) Section 23. The following language appears in both § 254.173(2) & (3): "are immune from civil and criminal liability and may not be subject to an agency proceeding under ch. 227 for their acts . . ." this needs to be modified so that the department is not precluded from taking action to enforce department rules against certificate holders, e.g. a certificate holder who also has violated a rule pertaining to his or her status as a lead inspector, etc. Perhaps the language could be modified to add: "other than for the enforcement of rules promulgated by the department under this subchapter."

"are immune from civil and criminal liability and may not be subject to an agency proceeding under ch. 227, other than for the enforcement of rules promulgated by the department under this subchapter, for their acts . . ."

- 6) Section 27. § 254.179(1)(c) 2. Add the phrase "if any" with respect to the type of lead hazard reduction activity performed – some certificates may be issued without the owner ever having to perform any lead hazard reduction activity so it may be best to avoid any possible inference that activity is a mandatory prerequisite to the issuance of a certificate.


2. The standards limiting the length of validity of a certificate of lead-safe status, including the condition of a premises, dwelling or unit of a dwelling, the type of lead hazard reduction activity that was performed, if any, and any other requirements

- 7) Section 27. § 254.179(1)(e) It is intended that persons completing the 16-hour course will be capable of performing lead investigation and lead hazard reduction activities. These lead hazard reduction activities may be sufficient to qualify the dwelling or unit for a certificate (issued by a lead risk assessor or other qualified certified person). In addition, there is no requirement that a property owner or his or her agent perform any activities prior to issuance of a certificate if other certified persons are utilized or if the property otherwise qualifies for the certificate. Thus the following modifications are proposed:

(e) 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 of completion and the scope of the lead investigation and lead hazard reduction activities that the owner or agent may perform following certification, to the extent consistent with federal law, ~~that are preliminary to activities and standards required under par. (a) to obtain a certificate of lead free status or a certificate of lead safe status.~~

- ✓ 8) Section 27. § 254.179(3) should be deleted and the following language inserted (similar to the coalition draft). When this language is put in the rules under sub. (1)(a), it certainly applies to persons who are lead certified personnel under the department rules, but the intention was that it apply to everybody, including those homeowners who have no certification. The effective date of this section should be the day after publication.

SECTION ??. 254.?? of the statutes is created to read:

254.???. **No sampling or testing required.** Sampling or testing of premises, dwellings or units of dwellings for the presence of lead-bearing paint or a lead hazard is not required before lead hazard reduction activities are conducted if the presence of lead-bearing paint or a lead hazard is assumed and the lead hazard reduction activities are performed in a lead-safe manner. 

- ✓ 9) Section 32, (1)(b) should be moved out of the nonstatutory provisions to the statutes (regarding the department's consideration of the Milwaukee pilot ordinance).
- × 10) In the coalition draft, the phrase "certified lead risk assessor" was followed by the phrase "or other person credentialed to issue certificates" in Sections 2, 3, 11 & 22. The drafters have indicated that in order to reinsert this phraseology, the department needs to be authorized to promulgate rules creating such other credentialed persons. Therefore, it is proposed to reinsert the "or other person credentialed to issue certificates" language in Sections 2, 3, 11 & 22, and to insert the following (or language to this effect):

Put in Section 27 as § 254.179 (1) (f): The requirements for persons other than lead risk assessors authorized to issue certificates of lead-free and lead-safe status, to the extent consistent with federal law.



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Lekan, Secretary

**TESTIMONY ON LRB 4539/1
(SUBSTITUTE AMENDMENT TO SB 232)
DEPARTMENT OF HEALTH AND FAMILY SERVICES**

FEBRUARY 23, 2000

Thank you for this opportunity to testify on this substitute amendment to Senate Bill 232 as we continue to try to forge public policy that protects children from blood lead poisoning.

Since we last met and agreed in principle on virtually all aspects of a desired substitute amendment to the original Legislative Council Committee bill, LRB 4539/1 has been offered that nevertheless has a number of problems. Before DHFS can support this substitute amendment to SB 232, we need resolution on a number of concerns.

1) RECOGNITION OF A BROADER GROUP OF CERTIFIED LEAD INVESTIGATION PROFESSIONALS

- ✓ (1) Amend Section 2: There should be recognition of a broader class of certified professionals that can accomplish certificate issuance for lead hazard abatement. s.254.11 (4g) only names certified lead risk assessors as able to issue certificates of lead-free status. The bill should also include certified lead inspectors and other persons appropriately credentialed by the department.

This same concern applies to the language under:

- Section 15, page 8, lines 18-19
- Section 22 page 10, lines 10 and 14-15.

✓ **2) STATE – MILWAUKEE STANDARD-SETTING**

- (a) Section 9: DHFS opposes the language in Section 9 and other parts of the draft that introduced language which usurps the state authority to establish minimum uniform state standards relating to issuance of lead-free and lead-safe certificates for dwellings and (associated) the limited immunity. There already exists language under s.254.154 that protects a municipality's ability "to enact and enforce ordinances establishing a system of lead poisoning or lead exposure control that provides the same or higher standards than those set forth in this subchapter."

Milwaukee is ostensibly concerned that the limited immunity conferred by meeting the state standards established under this bill will inhibit the city's ability to impose higher standards. However, current law further provides that "Nothing in this subchapter may be interpreted or applied in any manner to impair the right of any person, entity, municipality or other political subdivision to sue for damages or equitable relief or to restrain a violation of such an ordinance."

The proper location of language specific to limited immunity tied to any Milwaukee ordinances that may impose higher standards than the state standards is in section 23, s. 254.173. A new subsection that would treat this concern could be drafted as follows:

Section 23. 254.173 (4) Immunity; Exception. Notwithstanding (1)-(2), an owner of a dwelling or a unit of a dwelling and his or her employes and agents are not immune for civil or criminal liability for their acts or omissions related to an ordinance enacted and enforced by any city, village, town or other political subdivision.

✓ (b) **Section 10.** Similarly the language on line 1 of page 7 “rather than the rules under s. 254.179 (1) (a)” should be struck. DHFS cannot support the supplanting of state standards even while the department does support the existence of any city ordinance that is more protective.

✗ (c) **Section 11.** DHFS also opposes the amendment to section 11 that essentially excuses Milwaukee from the same degree of protection offered to our children regarding the level of blood poisoning that triggers a public health response. The current consolidated contracts signed by local public health departments in order to receive GPR funding describe the program quality criteria, which require an investigation into any case of a child’s blood lead poisoning greater than 15 mg/dl or two consecutive readings of 20 mg/dl. (page 7, lines 15-16)

The Centers for Disease Control report that blood lead levels as low as 10 mg/dl affect a child’s development. Public health departments now investigate for the cause of lead poisoning at varying blood lead levels. Availability of resources is generally the driving force. The Department currently conducts lead investigations or ensures that one is conducted when a child has an elevated blood lead of 20 mg/dl or higher. To do less is poor public policy.

As revealed at the hearing, Milwaukee’s current standard is to only conduct lead investigations when a child has been identified as having a blood lead at or greater than 25 mg/dl. The reason for this lower standard of public health protection for lead-poisoned children is attributed to a lack of staffing.

✓ (d) **Section 27.** If Milwaukee is allowed under this bill to be exempt from state standards, Wisconsin runs the risk of being out of compliance with the Federal Environmental Protection Agency. Non-compliance with EPA standards will result in EPA intervention to directly administer the federal standards in Wisconsin. To avoid this drastic outcome, language governing how a test is to be performed should be excluded from “rules for dwelling and premises” Specifically, delete “including the level of testing and sampling required to be performed.” (page 13, lines 13-14)

✓ (e) **Section 32.** Delete lines 9-13 on page 17. DHFS opposes the nonstatutory provision that directs DHFS to consider Milwaukee’s standards in establishing state standards. The

Technical Advisory Group established under the bill already contains Milwaukee representation.

✓ **3) TSCA TECHNICAL CORRECTION**

Remove the second sentence of **Section 16** that would bind DHFS rules to meet but not exceed EPA section 402 language. Other instances of this reference have already been appropriately removed. Wisconsin is already bound to be as protective as EPA's section 402.

✓ **4) OTHER TECHNICAL CORRECTIONS**

✓ **Section 22.** Rewrite 254.172(1) to mirror the language found later (under page 14, line 12) by replacing "are not preempted by federal law" with "are in compliance with federal law."

✓ **Section 23.** Remove the exclusion of administrative ch. 227 hearings from the section on immunity conditions and restrictions. This exclusion imposes a "Catch-22" for our public health inspectors because the immunity exists unless it can be shown by clear and convincing evidence that the property is no longer protected by the certificate. The only avenue is through a Chapter 227 hearing. This same concern is presented later in section 23, on page 12, line 15.

✓ **5) MAX CEILING ON FEES**

✓ **Section 28.** DHFS opposes the long-range ceiling imposed on certificate fees. We accept these maximum fees established initially for the support of the certification program and registry. However, the amount of program revenues that will be available to support program costs cannot be estimated at this point with any reliability. If fewer certificates are registered than is needed to support registry costs, the department has no recourse other than through the lengthy budget process, where the need for a fee increase can be buried by bigger issues. The process to move a fee increase into and through the budget process takes years rather than allowing for the flexibility found under administrative rules and with the oversight of the Technical Advisory Group. The current language will not provide the flexibility or quick response necessary if the registry is operating in the red.

✓ **6) INSUFFICIENT DURATION OF PROJECT POSITIONS**

✓ **Section 33.** Finally, the duration of the five project positions established under the bill is inadequate. The state cannot expect to attract suitable candidates to a project position of only six months when that position comes without many of the benefits that are only vested after 6 months of service. Short of our original proposal to create 5.0 permanent positions, this bill should extend the project positions for at least three years. Funding for these 5.0 FTE could change to program revenues after the registry is implemented.

Thank you for considering these concerns. DHFS would gladly support the bill upon amending the bill to fix the problems outlined above.

TODAY 2/25

30301/1
~~30301/1~~

1999 - 2000 LEGISLATURE

LRB-1589A
DAK&PJK:cjs:cl

SSA to SB232

1999 BILL

REGENERATE

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 the 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.

BILL

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, ~~254.179~~ 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 *or other person certified under s. 254.176*

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

BILL

SECTION 8

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. (181)

10 SECTION 9. 254.154 of the statutes is ~~renumbered 254.173(1) and~~ amended to
 11 read:

other than s. 274.73 (2) and (3)

12 254.154 ~~is~~ 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, ^{strike comma} entity, ^{or} municipality or other political subdivision to sue for damages
 20 or equitable relief ~~or to restrain a violation of such an ordinance.~~ (INSERT 6-20)

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

BILL

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,

BILL

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.

or other person certified under s. 254.176

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~~

BILL

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

BILL

INSERT 10-2

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 **dwellings 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. *consistent with*

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. ~~254.178~~ *254.181* or other person certified under s. 254.176 or other person

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

BILL

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:

other than for the enforcement of rules promulgated
by the department under this subchapter.

BILL

SECTION 23

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 ~~30~~ 30
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

other than for the enforcement of rules promulgated by the department under this subchapter;

INSERT 12-19

BILL

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 ~~s. 254.174~~, 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

, by use of a
research-based
methodology,

and after review
of ordinances of
cities, towns and village
in
this
state

s. 254.18

BILL

SECTION 27

if any,

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.

employee or

the lead investigation and lead hazard reduction

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.~~

INSERT 14-14

B

15 (e) 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.

SECTION X . CR; 254.18
254.18 Lead hazard reduction in dwellings and premise.

19 ~~(e) Rules under sub (d) 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:

254.181

is not required

BILL

1 ~~25418~~ ⁵ Certificate of lead-free status and certificate of lead-safe
 2 status; fees. ~~Although~~ ^{the} 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 ^{the actual} costs ~~of maintaining the registry under s. 254.179~~ ^{of} 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. ^{actual costs of issuance and of maintaining}

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

9 CHAPTER 606

10 STATE RESIDENTIAL LEAD

11 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.

^{the registry}
^{under}
^{s. 254.179}
^{(1)(d)}

BILL

SECTION 29

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

BILL

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

3 SECTION ^{auto ref CS} 32 Nonstatutory provisions.

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

5 ^{no P} 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 ^{auto ref CT} (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

BILL

SECTION 32

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.

(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 ~~section~~ ^(c) section 30 (2) of the dollar amount of that
 14 appropriation had not been made. *auto ref. "CS"*
of this act, ←
auto ref. "CS"

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.

INSERT 18-20

SECTION 33. Appropriation changes.

21
 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

BILL

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

5 **INSERT 19-4**

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)

no#
=

Nothing in this subchapter may be interpreted
or applied in any manner to ^{impair} impair the
right of a municipality or other political
subdivision to impose a penalty for or
restrain the violation of an ordinance
specified in this section

Scored
Period

~~_____~~
~~_____~~

[INSERT 10-2]

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

in a timely manner, based on the reasonable
assessors

availability of lead risk assessors or other
persons

persons certified under s. 254.176 to conduct

any necessary lead investigation or lead hazard
time required for

reduction activities and based on the issuance

of a certificate of lead-free status or a

certificate of lead-safe status

no# Immunity under this subsection is extended for an additional 60 days if the owner of the dwelling or unit of a dwelling or his or her employee or agent has done one of the following ~~with~~

~~with respect to the dwelling or unit~~

during that first 30-day period

Investigation

(a) Completed a lead investigation report or

entered into a contract for a lead investigation

(with respect to the dwelling or unit)

(b) Entered into a contract for lead hazard reduction.

(c) Registered for a course under s. 254.179

(1)(e).

(d) Received certification under s. 254.176.

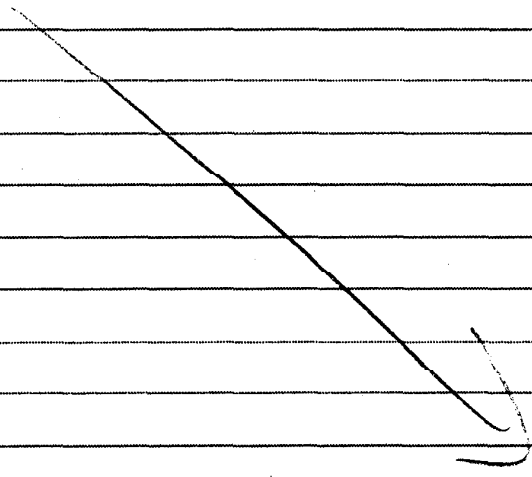
(B)
H (2) By January 1, 2003, and every 2 years
thereafter, the department shall review the
rules under sub. (1) and shall promulgate changes
to the rules if necessary in order to maintain consistency with
federal law.

CS

~~(S)~~ LEAD PAINT HAZARDS OUTREACH AND ABATEMENT

In submitting information under section 16.42 (1) of the statutes for purposes of the 2001-2003 biennial budget bill, the department of health and family services shall submit a proposal, including a request for additional funding, to conduct lead paint hazards outreach and abatement activities.

non
stat
par.



CS

~~(b)~~ REHABILITATION OF RENTAL PROPERTY FOR
LOW-INCOME PERSONS. CS

In submitting information under section 16.42(1) of the statutes for purposes of the 2001-2003 biennial budget bill, the Wisconsin housing and economic development authority shall submit a proposal to rehabilitate rental property for low-income persons in Wisconsin.

non stat par.

End of WS 18-20

1999

INSERT 19-4

Nonstat File Sequence: D D D

LRB _____ / _____
_____ : _____ : _____

\$\$\$ CHANGE

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → \$change

For the budget action phrase, execute: create → action: → *NS: → 92XX

For the text, execute: create → text: → *NS: → \$change

2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in.. Below, for the budget, fill in the 9200 department code; and fill in "___" or "()" only if a "frozen" number is needed.

SECTION # 2 [92]. Appropriation changes.

.....

(~~#1~~) ^{*} SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES..... In the schedule under section 20.005 (3) of the statutes for the appropriation to the joint committee... on finance.....

under section 20. §65. (4) (a) of the statutes, as affected by the acts of 1999, the dollar amount is .. increased by \$.. for fis

cal year 1999-00 and the dollar amount is ... created by \$.. 520,000 .. for fiscal year 2000-01 to .. crease funding

for the [purpose] [purposes] for which the appropriation is made] to .. increase fund- ing to provide .. payment .. for .. initial .. costs .. of .. establishing .. a .. registry .. of .. properties .. that .. are .. issued .. certificates .. of .. lead .. free .. status .. or .. certificates .. of .. lead .. safe .. status

* Use the 2nd alternative if the purpose of the increase or decrease is more limited than the purpose or purposes of the appropriation as currently shown in the text of ch. 20, stats.

Kennedy, Debora

From: Korbitz, Adam
Sent: Monday, February 28, 2000 12:54 PM
To: Kennedy, Debora
Subject: lead paint

Hi Debora, I am sending the stripes for the sub on SB 232 back to you. Could you do a /2, rolling in any changes you put in the simple amendment to the sub on AB 806? Thanks, Adam (Sen. Jauch's office)



TODAY 2/28
State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0301/2
DAK&PJK:cjs:clj

SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 232

1 AN ACT to repeal 254.17, 254.176 (3) (b), 254.178 (2) (b) and chapter 606; to
2 renumber and amend 254.166 (2) (c); to amend 20.435 (1) (gm), 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, chapter
7 606 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 state residential lead liability fund, granting
11 rule-making authority, requiring the exercise of rule-making authority and
12 making 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.** 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 or other person certified under s. 254.176 that documents
16 a finding by the assessor that a premises, dwelling or unit of a dwelling is free of
17 lead-bearing paint as of the date specified on 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 or other person certified under s. 254.176 that documents
21 that the assessor detected no lead-bearing paint hazards affecting the premises,
22 dwelling or unit of the dwelling on the date specified on the certificate.

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

24 254.11 (5m) “Elevated blood lead level” means a level of lead in blood that is
25 any of the following:

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

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

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

6 254.11 (8d) "Lead-bearing paint hazard" has the meaning specified by rule by
7 the department.

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

9 254.11 (8s) "Lead investigation" means a measure or set of measures designed
10 to identify the presence of lead or lead hazards, including examination of painted or
11 varnished surfaces, paint, dust, water and other environmental media.

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

13 254.11 (9g) "Lead risk assessor" has the meaning specified by rule by the
14 department.

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

16 254.15 (1) Develop and implement a comprehensive statewide lead poisoning
17 or lead exposure prevention and treatment program that includes lead poisoning or
18 lead exposure prevention grants under s. 254.151; any childhood lead poisoning
19 screening requirement under rules promulgated under ss. 254.158 and 254.162; any
20 requirements regarding care coordination and follow-up for children with lead
21 poisoning or lead exposure required under rules promulgated under s. 254.164;
22 departmental responses to reports of lead poisoning or lead exposure under s.
23 254.166; any lead inspection investigation requirements under rules promulgated
24 under ss. 254.167, ; any lead inspection requirements under rules promulgated
25 under 254.168 and 254.17; any lead hazard reduction requirements under rules

1 promulgated under s. 254.172; and certification, accreditation and approval
2 requirements under ss. 254.176 and 254.178; any certification requirements and
3 procedures under rules promulgated under s. 254.179; and any fees imposed under
4 s. 254.181.

5 SECTION 9. 254.154 of the statutes is amended to read:

6 254.154 This subchapter does not prohibit any city, village, town or other
7 political subdivision from enacting and enforcing ordinances establishing a system
8 of lead poisoning or lead exposure control that provides the same or higher standards
9 than those set forth in this subchapter. Nothing in this subchapter other than s.
10 254.173 (2) and (3) may be interpreted in any manner to impair the right
11 of any person, or entity, municipality or other political subdivision to sue for damages
12 or equitable relief or to restrain a violation of such an ordinance. Nothing in this
13 subchapter may be interpreted or applied in any manner to impair the right of a
14 municipality or other political subdivision to impose a penalty for or restrain the
15 violation of an ordinance specified in this section.

16 SECTION 10. 254.166 (1) of the statutes is amended to read:

17 254.166 (1) The department may, after being notified that an occupant of a
18 dwelling or premises who is under 6 years of age has blood lead poisoning or lead
19 exposure, present official credentials to the owner or occupant of the dwelling or
20 premises, or to a representative of the owner, and request admission to conduct a lead
21 inspection investigation of the dwelling or premises. If the department is notified
22 that an occupant of a dwelling or premises who is a child under 6 years of age has
23 an elevated blood lead level, the department shall conduct a lead investigation of the
24 dwelling or premises or ensure that a lead investigation of the dwelling or premises
25 is conducted, except that the department may waive this requirement in a city of the

1 first class. The lead ~~inspection~~ investigation shall be conducted during business
2 hours, unless the owner or occupant of the dwelling or premises consents to an
3 ~~inspection~~ investigation during nonbusiness hours or unless the department
4 determines that the dwelling or premises presents an imminent lead hazard. The
5 department shall use reasonable efforts to provide prior notice of the lead ~~inspection~~
6 investigation to the owner of the dwelling or premises. The department may remove
7 samples or objects necessary for laboratory analysis to determine the presence of a
8 lead hazard in the dwelling or premises. The department shall prepare and file
9 written reports of all ~~inspections~~ lead investigations conducted under this section
10 and shall make the contents of these reports available for inspection by the public,
11 except for medical information, which may be disclosed only to the extent that
12 patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner
13 or occupant refuses admission, the department may seek a warrant to ~~inspect~~
14 investigate the dwelling or premises. The warrant shall advise the owner or
15 occupant of the scope of the ~~inspection~~ lead investigation.

16 **SECTION 11.** 254.166 (2) (c) of the statutes is renumbered 254.166 (2) (c) (intro.)
17 and amended to read:

18 254.166 (2) (c) (intro.) Notify the occupant of the dwelling or premises or ~~that~~
19 ~~person's~~ the occupant's representative ~~that~~ of all of the following:

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

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

23 254.166 (2) (c) 2. The results of any lead investigations conducted on or in the
24 dwelling or premises.

25 **SECTION 13.** 254.166 (2) (c) 3. of the statutes is created to read:

1 254.166 (2) (c) 3. Any actions taken to reduce or eliminate the lead hazard.

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

3 254.166 (2) (e) If an order is issued under par. (d), conduct or require a certified
4 lead risk assessor or other person certified under s. 254.176 to conduct a lead
5 investigation, a check of work completed and dust tests for the presence of hazardous
6 levels of lead to ensure compliance with the order.

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

8 **254.167 Conduct of lead inspection investigation.** (intro.) Subject to the
9 limitation under s. 254.174, the department may promulgate rules establishing
10 procedures for conducting lead inspections investigations of dwellings and premises.
11 ~~Any rules promulgated under this section shall meet, but not exceed, any~~
12 ~~requirements under regulations promulgated by the administrator of the federal~~
13 ~~environmental protection agency under section 402 of the federal toxic substances~~
14 ~~control act, as created by section 1021 of P.L. 102-550.~~ The rules promulgated under
15 this section may include the following:

16 **SECTION 16.** 254.167 (1) of the statutes is amended to read:

17 254.167 (1) Specific procedures for inspecting investigating, testing or
18 sampling painted, varnished or other finished surfaces, drinking water, household
19 dust, soil and other materials that may contain lead.

20 **SECTION 17.** 254.167 (2) of the statutes is amended to read:

21 254.167 (2) Specific procedures for the notification of owners, operators,
22 occupants or prospective occupants, mortgagees and lienholders of lead levels
23 identified during ~~an inspection~~ a lead investigation and of any health risks that are
24 associated with the lead level and condition of the lead found during the ~~inspection~~
25 lead investigation.

1 **SECTION 18.** 254.167 (3) of the statutes is amended to read:

2 254.167 (3) The form of lead ~~inspection~~ investigation reports, the requirements
3 for filing the reports with the department and the procedures by which members of
4 the public may obtain copies of ~~inspection~~ lead investigation reports.

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

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

7 **254.171 Dwellings and units of dwellings where child has elevated**
8 **blood lead level.** If an owner of a dwelling or unit of a dwelling receives written
9 notice from the department or a local health department that a child under 6 years
10 of age, who resides in the owner's owner-occupied dwelling or unit or who resides in
11 the owner's dwelling or unit under the terms of a rental agreement, has an elevated
12 blood lead level, the owner shall obtain a *certificate of lead-free status or certificate*
13 *of lead-safe status* for the affected dwelling or unit in a timely manner, based on the
14 reasonable availability of lead risk assessors or other persons certified under s.
15 254.176 to conduct any necessary lead investigation or lead hazard reduction
16 activities and based on the time required for issuance of a certificate of lead-free
17 status or a certificate of lead-safe status. Nothing in this section precludes the
18 department or the department's agent from conducting a lead investigation or
19 issuing an order under s. 254.166.

20 **SECTION 21.** 254.172 of the statutes is repealed and recreated to read:

21 **254.172 Prevention and control of lead-bearing paint hazards in**
22 **dwellings and premises.** (1) Subject to the limitation under s. 254.174, the
23 department may promulgate rules governing lead hazard reduction that the
24 department determines are consistent with federal law.

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

8 **SECTION 22.** 254.173 of the statutes is created to read:

9 **254.173 Immunity from liability for lead poisoning or lead exposure;**
10 **restrictions.** (1) LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds all
11 of the following:

12 1. That a national task force appointed by the federal department of housing
13 and urban development, the task force on lead-based paint hazard reduction and
14 financing, found that 1,700,000 children under 6 years of age have blood lead levels
15 at or above the federally established level of concern. The task force also found that
16 the most common cause of childhood lead poisoning is ingestion of
17 lead-contaminated surface dust ~~from~~ lead-bearing paint. The other significant
18 cause is dust from bare lead-contaminated soil. *that comes from chipping
or peeling*

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

24 (b) The legislature encourages property owners to address the problems
25 associated with lead-bearing paint by bringing their property into compliance with

1 the applicable state standards and finds that an appropriate method to so encourage
2 property owners is to hold them not liable with respect to a person who develops lead
3 poisoning or lead exposure in the property. The purpose of these standards and this
4 restriction on liability is to reduce the exposure of children and others to
5 lead-bearing paints, thereby substantially reducing the number of persons who
6 develop lead poisoning or lead exposure. In addition, these standards and this
7 restriction on liability will improve the quality of this state's housing stock and result
8 in greater availability of insurance coverage for lead hazards.

9 (2) IMMUNITY; CONDITIONS; RESTRICTIONS. An owner of a dwelling or unit of a
10 dwelling and his or her employes and agents are immune from civil and criminal
11 liability and may not be subject to an agency proceeding under ch. 227, other than
12 for the enforcement of rules promulgated by the department under this subchapter,
13 for their acts or omissions related to lead poisoning or lead exposure of a person who
14 resides in or has visited the dwelling or unit if, at the time that the lead poisoning
15 or lead exposure occurred, a certificate of lead-free status or a certificate of lead-safe
16 status was in effect for the dwelling or unit. This subsection does not apply if it is
17 shown by clear and convincing evidence that one of the following has occurred:

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

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

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

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

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

6 **(3) TEMPORARY IMMUNITY; EXCEPTION.** An owner of a dwelling or unit of a
7 dwelling and his or her employes and agents are immune from civil and criminal
8 liability and may not be subject to an agency proceeding under ch. 227, other than
9 for the enforcement of rules promulgated by the department under this subchapter,
10 for their acts or omissions related to lead poisoning or lead exposure that occur
11 during the first 30 days after the owner acquires the dwelling or unit, except that this
12 subsection does not apply to lead poisoning or lead exposure that results from a
13 lead-bearing paint hazard created by the owner or his or her employe or agent.
14 Immunity under this subsection is extended for an additional 60 days if the owner
15 of the dwelling or unit of a dwelling or his or her employe or agent has done one of
16 the following during that first 30-day period:

17 (a) Completed a lead investigation report or entered into a contract for a lead
18 investigation with respect to the dwelling or unit.

19 (b) Entered into a contract for lead hazard reduction with respect to the
20 dwelling or unit.

21 (c) Registered for a course under s. 254.179 (1) (e).

22 (d) Received certification under s. 254.176.

23 **SECTION 23.** 254.174 of the statutes is amended to read:

24 **254.174 Technical advisory committees.** Before the department may
25 promulgate rules under s. 254.167, 254.168, ~~254.17~~ or 254.172 or 254.179, the

1 department shall appoint a technical advisory committee under s. 227.13 and shall
2 consult with the technical advisory committee on the proposed rules. Any technical
3 advisory committee required under this section shall include representatives from
4 local health departments that administer local lead programs, representatives from
5 the housing industry, persons certified under s. 254.176 ~~and~~ , representatives from
6 the medical or public health professions and advocates for persons at risk of lead
7 poisoning. Any technical advisory committee required under this section before
8 promulgating rules under s. 254.168 shall also include representatives of facilities
9 serving children under 6 years of age.

10 **SECTION 24.** 254.176 (3) (b) of the statutes is repealed.

11 **SECTION 25.** 254.178 (2) (b) of the statutes is repealed.

12 **SECTION 26.** 254.179 of the statutes is created to read:

13 **254.179 Rules for dwellings and premises.** (1) Subject to s. 254.174 and
14 after review of ordinances of cities, towns and villages in this state, the department
15 shall, by use of a research-based methodology, promulgate as rules all of the
16 following:

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

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

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

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

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

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

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

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

23 (3) Subject to s. 254.174, the department may promulgate rules that set forth
24 safe work practices that shall be followed in the demolition of a building constructed

1 before January 1, 1978, to avoid exposure by persons to lead hazards in the area of
2 the demolition.

3 **SECTION 27.** 254.18 of the statutes is created to read:

4 **254.18 Lead hazard reduction in dwellings and premise.** Sampling or
5 testing of dwellings, units of dwellings or premises for the presence of lead-bearing
6 paint or a lead hazard is not required before lead hazard reduction activities are
7 conducted if the presence of lead-bearing paint or a lead hazard is assumed and the
8 lead hazard reduction activities are performed in a lead-safe manner.

9 **SECTION 28.** 254.181 of the statutes is created to read:

10 **254.181 Certificate of lead-free status and certificate of lead-safe**
11 **status; fees.** The department may impose a fee for issuance of a certificate of
12 lead-free status and a fee for issuance of a certificate of lead-safe status ~~that~~ may
13 not exceed actual costs of issuance and of maintaining the registry under s. 254.179
14 (1) (d). The department shall review the fees every 2 years and adjust the fees to
15 reflect the actual costs.

of \$50

of \$25

period
↓
s. Fees under
this section

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

17 **CHAPTER 606**

18 **STATE RESIDENTIAL LEAD**

19 **LIABILITY FUND**

20 **606.01 Definitions.** In this chapter:

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

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

23 **606.05 Issuance of policies.** (1) If the manager makes a determination, as
24 specified by rule, that insurance providing residential property owners with liability
25 coverage for lead-bearing paint hazards is not either sufficiently affordable or

1 sufficiently available in the private insurance market, the state residential lead
2 liability fund shall offer policies that insure residential property in this state against
3 liability resulting from lead-bearing paint hazards. Prior to making the
4 determination, the manager shall work with insurers to encourage the offering of
5 this coverage in the private market.

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

9 **606.10 Rules and reports.** (1) The manager shall promulgate rules
10 specifying premiums, coverage limits and covered expenses for policies issued under
11 s. 606.05 and may promulgate other rules necessary to administer the state
12 residential lead liability fund. The manager shall specify premiums at a level that
13 the manager determines will be sufficient to pay all costs of the fund. The fund may
14 not pay damages to a claimant when it is found by a court by clear and convincing
15 evidence that one or more of the conditions in s. 254.173 (2) (a) to (e) exist.

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

23 **606.15 Termination of fund.** If the manager has not made the determination
24 under s. 606.05 (1) by a date that is 8 years after the effective date of this section
25 [revisor inserts date], the manager shall publish a notice in the Wisconsin

1 Administrative Register stating that the state residential lead liability fund
2 terminates on the date specified in this section.

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

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

6 **901.055 Admissibility of results of dust testing for the presence of lead.**

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

11 **SECTION 32. Nonstatutory provisions.**

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

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

17 (2) **SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES.** The
18 department of health and family services may request the joint committee on finance
19 to supplement, from the appropriation account under section 20.865 (4) (a) of the
20 statutes, the appropriation account under section 20.435 (1) (a) of the statutes, to pay
21 initial costs of establishing under section 254.179 (1) (d) of the statutes, as created
22 by this act, a registry of properties that are issued certificates of lead-free status or
23 certificates of lead-safe status. If the department of health and family services
24 requests supplementation of the appropriation account under section 20.435 (1) (a)
25 of the statutes, the department shall submit a plan to the joint committee on finance

1 to expend not more than \$520,000 for fiscal year 2000–01. If the cochairpersons of
2 the committee do not notify the secretary of the department within 14 working days
3 after the date of the department’s submittal that the committee intends to schedule
4 a meeting to review the request, the appropriation account shall be supplemented
5 as provided in the request. If, within 14 working days after the date of the
6 department’s submittal, the cochairpersons of the committee notify the secretary of
7 the department that the committee intends to schedule a meeting to review the
8 request, the appropriation account shall be supplemented only as approved by the
9 committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes, the committee
10 is not required to find that an emergency exists.

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

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

24 (5) **LEAD PAINT HAZARDS OUTREACH AND ABATEMENT.** In submitting information
25 under section 16.42 (1) of the statutes for purposes of the 2001–2003 biennial budget

1 bill, the department of health and family services shall submit a proposal, including
2 a request for additional funding, to conduct lead paint hazards outreach and
3 abatement activities.

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

9 **SECTION 33. Appropriation changes.**

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

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

24 **SECTION 34. Initial applicability.**



SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 232

Only change is
to p. 8

1 AN ACT to repeal 254.17, 254.176 (3) (b), 254.178 (2) (b) and chapter 606; to
2 renumber and amend 254.166 (2) (c); to amend 20.435 (1) (gm), 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, chapter
7 606 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 state residential lead liability fund, granting
11 rule-making authority, requiring the exercise of rule-making authority and
12 making 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.** 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 or other person certified under s. 254.176 that documents
16 a finding by the assessor that a premises, dwelling or unit of a dwelling is free of
17 lead-bearing paint as of the date specified on 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 or other person certified under s. 254.176 that documents
21 that the assessor detected no lead-bearing paint hazards affecting the premises,
22 dwelling or unit of the dwelling on the date specified on the certificate.

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

24 254.11 (5m) "Elevated blood lead level" means a level of lead in blood that is
25 any of the following:

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

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

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

6 254.11 (8d) “Lead-bearing paint hazard” has the meaning specified by rule by
7 the department.

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

9 254.11 (8s) “Lead investigation” means a measure or set of measures designed
10 to identify the presence of lead or lead hazards, including examination of painted or
11 varnished surfaces, paint, dust, water and other environmental media.

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

13 254.11 (9g) “Lead risk assessor” has the meaning specified by rule by the
14 department.

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

16 254.15 (1) Develop and implement a comprehensive statewide lead poisoning
17 or lead exposure prevention and treatment program that includes lead poisoning or
18 lead exposure prevention grants under s. 254.151; any childhood lead poisoning
19 screening requirement under rules promulgated under ss. 254.158 and 254.162; any
20 requirements regarding care coordination and follow-up for children with lead
21 poisoning or lead exposure required under rules promulgated under s. 254.164;
22 departmental responses to reports of lead poisoning or lead exposure under s.
23 254.166; any lead ~~inspection~~ investigation requirements under rules promulgated
24 under ss. 254.167, ; any lead inspection requirements under rules promulgated
25 under 254.168 and 254.17; any lead hazard reduction requirements under rules

1 promulgated under s. 254.172; and certification, accreditation and approval
2 requirements under ss. 254.176 and 254.178; any certification requirements and
3 procedures under rules promulgated under s. 254.179; and any fees imposed under
4 s. 254.181.

5 SECTION 9. 254.154 of the statutes is amended to read:

6 254.154 This subchapter does not prohibit any city, village, town or other
7 political subdivision from enacting and enforcing ordinances establishing a system
8 of lead poisoning or lead exposure control that provides the same or higher standards
9 than those set forth in this subchapter. Nothing in this subchapter other than s.
10 254.173 (2) and (3) may be interpreted or applied in any manner to impair the right
11 of any person, or entity, municipality or other political subdivision to sue for damages
12 or equitable relief or to restrain a violation of such an ordinance. Nothing in this
13 subchapter may be interpreted or applied in any manner to impair the right of a
14 municipality or other political subdivision to impose a penalty for or restrain the
15 violation of an ordinance specified in this section.

16 SECTION 10. 254.166 (1) of the statutes is amended to read:

17 254.166 (1) The department may, after being notified that an occupant of a
18 dwelling or premises who is under 6 years of age has blood lead poisoning or lead
19 exposure, present official credentials to the owner or occupant of the dwelling or
20 premises, or to a representative of the owner, and request admission to conduct a lead
21 inspection investigation of the dwelling or premises. If the department is notified
22 that an occupant of a dwelling or premises who is a child under 6 years of age has
23 an elevated blood lead level, the department shall conduct a lead investigation of the
24 dwelling or premises or ensure that a lead investigation of the dwelling or premises
25 is conducted, except that the department may waive this requirement in a city of the

1 first class. The lead ~~inspection investigation~~ shall be conducted during business
2 hours, unless the owner or occupant of the dwelling or premises consents to an
3 ~~inspection investigation~~ during nonbusiness hours or unless the department
4 determines that the dwelling or premises presents an imminent lead hazard. The
5 department shall use reasonable efforts to provide prior notice of the lead ~~inspection~~
6 ~~investigation~~ to the owner of the dwelling or premises. The department may remove
7 samples or objects necessary for laboratory analysis to determine the presence of a
8 lead hazard in the dwelling or premises. The department shall prepare and file
9 written reports of all ~~inspections~~ lead investigations conducted under this section
10 and shall make the contents of these reports available for inspection by the public,
11 except for medical information, which may be disclosed only to the extent that
12 patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner
13 or occupant refuses admission, the department may seek a warrant to ~~inspect~~
14 investigate the dwelling or premises. The warrant shall advise the owner or
15 occupant of the scope of the ~~inspection~~ lead investigation.

16 **SECTION 11.** 254.166 (2) (c) of the statutes is renumbered 254.166 (2) (c) (intro.)
17 and amended to read:

18 254.166 (2) (c) (intro.) Notify the occupant of the dwelling or premises or ~~that~~
19 person's the occupant's representative that of all of the following:

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

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

23 254.166 (2) (c) 2. The results of any lead investigations conducted on or in the
24 dwelling or premises.

25 **SECTION 13.** 254.166 (2) (c) 3. of the statutes is created to read:

1 254.166 (2) (c) 3. Any actions taken to reduce or eliminate the lead hazard.

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

3 254.166 (2) (e) If an order is issued under par. (d), conduct or require a certified
4 lead risk assessor or other person certified under s. 254.176 to conduct a lead
5 investigation, a check of work completed and dust tests for the presence of hazardous
6 levels of lead to ensure compliance with the order.

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

8 **254.167 Conduct of lead inspection investigation.** (intro.) Subject to the
9 limitation under s. 254.174, the department may promulgate rules establishing
10 procedures for conducting lead inspections investigations of dwellings and premises.
11 ~~Any rules promulgated under this section shall meet, but not exceed, any~~
12 ~~requirements under regulations promulgated by the administrator of the federal~~
13 ~~environmental protection agency under section 402 of the federal toxic substances~~
14 ~~control act, as created by section 1021 of P.L. 102-550. The rules promulgated under~~
15 this section may include the following:

16 **SECTION 16.** 254.167 (1) of the statutes is amended to read:

17 254.167 (1) Specific procedures for ~~inspecting~~ investigating, testing or
18 sampling painted, varnished or other finished surfaces, drinking water, household
19 dust, soil and other materials that may contain lead.

20 **SECTION 17.** 254.167 (2) of the statutes is amended to read:

21 254.167 (2) Specific procedures for the notification of owners, operators,
22 occupants or prospective occupants, mortgagees and lienholders of lead levels
23 identified during ~~an inspection~~ a lead investigation and of any health risks that are
24 associated with the lead level and condition of the lead found during the ~~inspection~~
25 lead investigation.

1 **SECTION 18.** 254.167 (3) of the statutes is amended to read:

2 254.167 (3) The form of lead ~~inspection~~ investigation reports, the requirements
3 for filing the reports with the department and the procedures by which members of
4 the public may obtain copies of ~~inspection~~ lead investigation reports.

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

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

7 **254.171 Dwellings and units of dwellings where child has elevated**
8 **blood lead level.** If an owner of a dwelling or unit of a dwelling receives written
9 notice from the department or a local health department that a child under 6 years
10 of age, who resides in the owner's owner-occupied dwelling or unit or who resides in
11 the owner's dwelling or unit under the terms of a rental agreement, has an elevated
12 blood lead level, the owner shall obtain a certificate of lead-free status or certificate
13 of lead-safe status for the affected dwelling or unit in a timely manner, based on the
14 reasonable availability of lead risk assessors or other persons certified under s.
15 254.176 to conduct any necessary lead investigation or lead hazard reduction
16 activities and based on the time required for issuance of a certificate of lead-free
17 status or a certificate of lead-safe status. Nothing in this section precludes the
18 department or the department's agent from conducting a lead investigation or
19 issuing an order under s. 254.166.

20 **SECTION 21.** 254.172 of the statutes is repealed and recreated to read:

21 **254.172 Prevention and control of lead-bearing paint hazards in**
22 **dwellings and premises.** (1) Subject to the limitation under s. 254.174, the
23 department may promulgate rules governing lead hazard reduction that the
24 department determines are consistent with federal law.

1 the applicable state standards and finds that an appropriate method to so encourage
2 property owners is to hold them not liable with respect to a person who develops lead
3 poisoning or lead exposure in the property. The purpose of these standards and this
4 restriction on liability is to reduce the exposure of children and others to
5 lead-bearing paints, thereby substantially reducing the number of persons who
6 develop lead poisoning or lead exposure. In addition, these standards and this
7 restriction on liability will improve the quality of this state's housing stock and result
8 in greater availability of insurance coverage for lead hazards.

9 (2) IMMUNITY; CONDITIONS; RESTRICTIONS. An owner of a dwelling or unit of a
10 dwelling and his or her employes and agents are immune from civil and criminal
11 liability and may not be subject to an agency proceeding under ch. 227, other than
12 for the enforcement of rules promulgated by the department under this subchapter,
13 for their acts or omissions related to lead poisoning or lead exposure of a person who
14 resides in or has visited the dwelling or unit if, at the time that the lead poisoning
15 or lead exposure occurred, a certificate of lead-free status or a certificate of lead-safe
16 status was in effect for the dwelling or unit. This subsection does not apply if it is
17 shown by clear and convincing evidence that one of the following has occurred:

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

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

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

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

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

6 (3) TEMPORARY IMMUNITY; EXCEPTION. An owner of a dwelling or unit of a
7 dwelling and his or her employes and agents are immune from civil and criminal
8 liability and may not be subject to an agency proceeding under ch. 227, other than
9 for the enforcement of rules promulgated by the department under this subchapter,
10 for their acts or omissions related to lead poisoning or lead exposure that occur
11 during the first 30 days after the owner acquires the dwelling or unit, except that this
12 subsection does not apply to lead poisoning or lead exposure that results from a
13 lead-bearing paint hazard created by the owner or his or her employe or agent.
14 Immunity under this subsection is extended for an additional 60 days if the owner
15 of the dwelling or unit of a dwelling or his or her employe or agent has done one of
16 the following during that first 30-day period:

17 (a) Completed a lead investigation report or entered into a contract for a lead
18 investigation with respect to the dwelling or unit.

19 (b) Entered into a contract for lead hazard reduction with respect to the
20 dwelling or unit.

21 (c) Registered for a course under s. 254.179 (1) (e).

22 (d) Received certification under s. 254.176.

23 **SECTION 23.** 254.174 of the statutes is amended to read:

24 **254.174 Technical advisory committees.** Before the department may
25 promulgate rules under s. 254.167, 254.168, ~~254.17~~ or 254.172 or 254.179, the

1 department shall appoint a technical advisory committee under s. 227.13 and shall
2 consult with the technical advisory committee on the proposed rules. Any technical
3 advisory committee required under this section shall include representatives from
4 local health departments that administer local lead programs, representatives from
5 the housing industry, persons certified under s. 254.176 and , representatives from
6 the medical or public health professions and advocates for persons at risk of lead
7 poisoning. Any technical advisory committee required under this section before
8 promulgating rules under s. 254.168 shall also include representatives of facilities
9 serving children under 6 years of age.

10 **SECTION 24.** 254.176 (3) (b) of the statutes is repealed.

11 **SECTION 25.** 254.178 (2) (b) of the statutes is repealed.

12 **SECTION 26.** 254.179 of the statutes is created to read:

13 **254.179 Rules for dwellings and premises.** (1) Subject to s. 254.174 and
14 after review of ordinances of cities, towns and villages in this state, the department
15 shall, by use of a research-based methodology, promulgate as rules all of the
16 following:

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

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

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

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

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

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

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

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

23 (3) Subject to s. 254.174, the department may promulgate rules that set forth
24 safe work practices that shall be followed in the demolition of a building constructed

1 before January 1, 1978, to avoid exposure by persons to lead hazards in the area of
2 the demolition.

3 **SECTION 27.** 254.18 of the statutes is created to read:

4 **254.18 Lead hazard reduction in dwellings and premise.** Sampling or
5 testing of dwellings, units of dwellings or premises for the presence of lead-bearing
6 paint or a lead hazard is not required before lead hazard reduction activities are
7 conducted if the presence of lead-bearing paint or a lead hazard is assumed and the
8 lead hazard reduction activities are performed in a lead-safe manner.

9 **SECTION 28.** 254.181 of the statutes is created to read:

10 **254.181 Certificate of lead-free status and certificate of lead-safe**
11 **status; fees.** The department may impose a fee of \$50 for issuance of a certificate
12 of lead-free status and a fee of \$25 for issuance of a certificate of lead-safe status.
13 Fees under this section may not exceed actual costs of issuance and of maintaining
14 the registry under s. 254.179 (1) (d). The department shall review the fees every 2
15 years and adjust the fees to reflect the actual costs.

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

17 **CHAPTER 606**

18 **STATE RESIDENTIAL LEAD**

19 **LIABILITY FUND**

20 **606.01 Definitions.** In this chapter:

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

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

23 **606.05 Issuance of policies.** (1) If the manager makes a determination, as
24 specified by rule, that insurance providing residential property owners with liability
25 coverage for lead-bearing paint hazards is not either sufficiently affordable or

1 sufficiently available in the private insurance market, the state residential lead
2 liability fund shall offer policies that insure residential property in this state against
3 liability resulting from lead-bearing paint hazards. Prior to making the
4 determination, the manager shall work with insurers to encourage the offering of
5 this coverage in the private market.

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

9 **606.10 Rules and reports.** (1) The manager shall promulgate rules
10 specifying premiums, coverage limits and covered expenses for policies issued under
11 s. 606.05 and may promulgate other rules necessary to administer the state
12 residential lead liability fund. The manager shall specify premiums at a level that
13 the manager determines will be sufficient to pay all costs of the fund. The fund may
14 not pay damages to a claimant when it is found by a court by clear and convincing
15 evidence that one or more of the conditions in s. 254.173 (2) (a) to (e) exist.

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

23 **606.15 Termination of fund.** If the manager has not made the determination
24 under s. 606.05 (1) by a date that is 8 years after the effective date of this section
25 [revisor inserts date], the manager shall publish a notice in the Wisconsin

1 Administrative Register stating that the state residential lead liability fund
2 terminates on the date specified in this section.

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

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

6 **901.055 Admissibility of results of dust testing for the presence of lead.**

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

11 **SECTION 32. Nonstatutory provisions.**

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

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

17 (2) **SUPPLEMENT FOR REGISTRY OF LEAD-FREE OR LEAD-SAFE PROPERTIES.** The
18 department of health and family services may request the joint committee on finance
19 to supplement, from the appropriation account under section 20.865 (4) (a) of the
20 statutes, the appropriation account under section 20.435 (1) (a) of the statutes, to pay
21 initial costs of establishing under section 254.179 (1) (d) of the statutes, as created
22 by this act, a registry of properties that are issued certificates of lead-free status or
23 certificates of lead-safe status. If the department of health and family services
24 requests supplementation of the appropriation account under section 20.435 (1) (a)
25 of the statutes, the department shall submit a plan to the joint committee on finance

1 to expend not more than \$520,000 for fiscal year 2000–01. If the cochairpersons of
2 the committee do not notify the secretary of the department within 14 working days
3 after the date of the department’s submittal that the committee intends to schedule
4 a meeting to review the request, the appropriation account shall be supplemented
5 as provided in the request. If, within 14 working days after the date of the
6 department’s submittal, the cochairpersons of the committee notify the secretary of
7 the department that the committee intends to schedule a meeting to review the
8 request, the appropriation account shall be supplemented only as approved by the
9 committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes, the committee
10 is not required to find that an emergency exists.

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

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

24 (5) **LEAD PAINT HAZARDS OUTREACH AND ABATEMENT.** In submitting information
25 under section 16.42 (1) of the statutes for purposes of the 2001–2003 biennial budget

1 bill, the department of health and family services shall submit a proposal, including
2 a request for additional funding, to conduct lead paint hazards outreach and
3 abatement activities.

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

9 **SECTION 33. Appropriation changes.**

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

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

24 **SECTION 34. Initial applicability.**



DAK + PJK

CORRECTIONS IN: **CCC** (LRBs0301/3)
SENATE SUBSTITUTE AMENDMENT 1
TO 1999 SENATE BILL 232

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Prepared by the Legislative Reference Bureau
(Date???????????????)

1. Page 4, line 25: delete "city of the" and substitute "1st class city".
2. Page 5, line 1: delete "first class".
3. Page 18, line 7: delete "and the creation of" and substitute ", the creation of section".
4. Page 18, line 12: after "606.15" insert "of the statutes".

KMG:

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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

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(March 7, 2000)

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