

State of Wisconsin



1999 Assembly Bill 806

Date of enactment: **May 8, 2000**
Date of publication*: **May 22, 2000**

1999 WISCONSIN ACT 113

(Vetoed in Part)

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

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

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

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

**Vetoed
In Part**

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

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

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

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

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

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

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

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

254.15 (1) Develop and implement a comprehensive statewide lead poisoning or lead exposure prevention and treatment program that includes lead poisoning or lead exposure prevention grants under s. 254.151; any childhood lead poisoning screening requirement under rules promulgated under ss. 254.158 and 254.162; any requirements regarding care coordination and follow-up for children with lead poisoning or lead exposure required under rules promulgated under s. 254.164; departmental responses to reports of lead poisoning or lead exposure under s. 254.166; any lead ~~inspection~~ investigation requirements under rules promulgated under ss. 254.167; any lead inspection requirements under rules promulgated under 254.168 and 254.17; any lead hazard reduction requirements under rules promulgated under s. 254.172; ~~and~~ certification, accreditation and approval requirements under ss. 254.176 and 254.178; any certification requirements and procedures under rules promulgated under s. 254.179; and any fees imposed under s. 254.181.

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

254.154 Local authority. This subchapter does not prohibit any city, village, town or other political subdivi-

sion from enacting and enforcing 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. Nothing in this subchapter other than s. 254.173 (2) and (3) 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. Nothing in this subchapter may be interpreted or applied in any manner to 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.~~

SECTION 10b. 254.154 of the statutes, as affected by 1999 Wisconsin Act (this act), is amended to read:

254.154 Local authority. This subchapter does not prohibit any city, village, town or other political subdivision from enacting and enforcing 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. Nothing in this subchapter other than s. 254.173 (2) ~~and (3)~~ 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. Nothing in this subchapter may be interpreted or applied in any manner to 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.

SECTION 10c. 254.154 of the statutes, as affected by 1999 Wisconsin Act (this act), section 10b, is repealed and recreated to read:

254.154 Local authority. This subchapter does not prohibit any city, village, town or other political subdivision from enacting and enforcing 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. 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. Nothing in this subchapter may be interpreted or applied in any manner to 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.

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

254.166 (1) The department may, after being notified that an occupant of a dwelling or premises who is under 6 years of age has blood lead poisoning or lead exposure, present official credentials to the owner or occupant of the dwelling or premises, or to a representative of the owner, and request admission to conduct a lead ~~inspection~~ investigation of the dwelling or premises. If the department is notified that an occupant of a dwelling or premises who is a child under 6 years of age has an ele-

vated blood lead level, the department shall conduct a lead investigation of the dwelling or premises or ensure that a lead investigation of the dwelling or premises is conducted. The lead ~~inspection~~ investigation shall be conducted during business hours, unless the owner or occupant of the dwelling or premises consents to an ~~inspection~~ investigation during nonbusiness hours or unless the department determines that the dwelling or premises presents an imminent lead hazard. The department shall use reasonable efforts to provide prior notice of the lead ~~inspection~~ investigation to the owner of the dwelling or premises. The department may remove samples or objects necessary for laboratory analysis to determine the presence of a lead hazard in the dwelling or premises. The department shall prepare and file written reports of all ~~inspections~~ lead investigations conducted under this section and shall make the contents of these reports available for inspection by the public, except for medical information, which may be disclosed only to the extent that patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner or occupant refuses admission, the department may seek a warrant to ~~inspect~~ investigate the dwelling or premises. The warrant shall advise the owner or occupant of the scope of the ~~inspection~~ lead investigation.

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

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

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

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

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

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

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

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

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

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

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:~~

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

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

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

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

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

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

SECTION 20. 254.17 of the statutes is repealed.

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

254.171 Dwellings and units of dwellings where child has elevated blood lead level. If an owner of a dwelling or unit of a dwelling receives written notice from the department or a local health department that a child under 6 years of age, who resides in the owner's owner-occupied dwelling or unit or who resides in the owner's dwelling or unit under the terms of a rental agreement, has an elevated blood lead level, the owner shall obtain a certificate of lead-free status or certificate of lead-safe status for the affected dwelling or unit in a timely manner, based on the reasonable availability of lead risk assessors or other persons certified under s. 254.176 to conduct any necessary lead investigation or lead hazard reduction activities and based on the time required for issuance of a certificate of lead-free status or a certificate of lead-safe status. A certificate of lead-safe status obtained under this section may not be for less than 12 months in duration. Nothing in this section precludes the department or the department's agent from conducting a lead investigation or issuing an order under s. 254.166.

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

254.172 Prevention and control of lead-bearing paint hazards in dwellings and premises. (1) Subject to the limitation under s. 254.174, the department may promulgate rules governing lead hazard reduction that

the department determines are consistent with federal law.

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

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

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

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

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

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

(2) **IMMUNITY; CONDITIONS; RESTRICTIONS.** An owner of a dwelling or unit of a dwelling and his or her employes and agents 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 or omissions related to lead poisoning or lead exposure of

a person who resides in or has visited the dwelling or unit if, at the time that the lead poisoning or lead exposure occurred, a certificate of lead-free status or a certificate of lead-safe status was in effect for the dwelling or unit. This subsection does not apply if it is shown by clear and convincing evidence that one of the following has occurred:

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

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

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

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

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

(3) **TEMPORARY IMMUNITY; EXCEPTION.** (a) An owner of a dwelling or unit of a dwelling and his or her employes and agents 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 or omissions related to lead poisoning or lead exposure that occur during the first 60 days after the owner acquires the dwelling or unit, except that this subsection does not apply to lead poisoning or lead exposure that results from a lead-bearing paint hazard created by the owner or his or her employe or agent.

(b) Immunity under par. (a) applies only if all of the following occur:

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

2. The owner shows by clear and convincing evidence that the property was in compliance with the standard to obtain a certificate of lead-free status or a certificate of lead-safe status by the end of the 60-day period and that the owner obtained the certificate in a reasonable amount of time following the owner's acts to achieve compliance.

(c) Immunity does not apply under this subsection if, during the 60-day period under par. (a), one of the following applies:

1. The owner receives an order under s. 254.166 (2) (d) and fails to comply with the order.

2. The dwelling or unit is vacant and the owner fails to comply with interim lead hazard control measures specified by the department by rule.

SECTION 23c. 254.173 (title), (1) and (2) of the statutes, as created by 1999 Wisconsin Act (this act), are repealed.

SECTION 23d. 254.173 (3) of the statutes, as created by 1999 Wisconsin Act (this act), is repealed.

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

254.174 Technical advisory committees. Before the department may promulgate rules under s. 254.167, 254.168, ~~254.17~~ or 254.172 or ~~254.179~~, the department shall appoint a technical advisory committee under s. 227.13 and shall consult with the technical advisory committee on the proposed rules. Any technical advisory committee required under this section shall include representatives from local health departments that administer local lead programs, representatives from the housing industry, persons certified under s. 254.176 and, representatives from the medical or public health professions, advocates for persons at risk of lead poisoning and a resident of a 1st class city. Any technical advisory committee required under this section before promulgating rules under s. 254.168 shall also include representatives of facilities serving children under 6 years of age.

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

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

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

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

(a) Except as provided in s. 254.18, the standards for a premises, dwelling or unit of a dwelling that must be met for issuance of a certificate of lead-free status or a certificate of lead-safe status to the owner of the premises, dwelling or unit of a dwelling, with the goal of long-term lead hazard reduction.

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

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

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

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 that must be met to maintain cer-

tification, unless the certificate is earlier revoked because of erroneous issuance or because the premises, dwelling or unit of the dwelling is not safe from lead-bearing paint hazards. The rules shall specify that the face of the certificate shall indicate the certificate's length of validity. The rules shall further specify that applications for certificates of lead-safe status for identical premises may be made only as follows:

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

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

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

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

(e) The requirements for a course of up to 16 hours that a property owner or his or her employe or 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, employe or agent may perform following certification, to the extent consistent with federal law.

(f) The interim lead hazard control measures under s. 254.173 (3) (c) 2.

(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.

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

SECTION 28. 254.18 of the statutes is created to read:
254.18 Lead hazard reduction in dwellings and premises. Sampling or testing of dwellings, units of dwellings or premises 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.

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

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

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

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

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

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

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

SECTION 32. Nonstatutory provisions.

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

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

the statutes, the department shall submit a plan to the joint committee on finance to expend not more than \$520,000 for fiscal year 2000-01. If the cochairpersons of the committee do not notify the secretary of the department within 14 working days after the date of the department's submittal that the committee intends to schedule a meeting to review the request, the appropriation account shall be supplemented as provided in the request. If, within 14 working days after the date of the department's submittal, the cochairpersons of the committee notify the secretary of the department that the committee intends to schedule a meeting to review the request, the appropriation account shall be supplemented only as approved by the committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes, the committee is not required to find that an emergency exists.

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

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

(5) **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.

(6) **REHABILITATION OF RENTAL PROPERTY FOR LOW-INCOME PERSONS.** 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 for lead hazard reduction activities for and rehabilitation of rental property for low-income persons in Wisconsin.

(7) **ALLOCATION OF OIL OVERCHARGE FUNDS TO ENERGY PROGRAMS.** Notwithstanding section 14.065 of the statutes, the secretary of administration shall allocate all oil overcharge restitution funds and all accruing interest earnings on those funds under section 20.505 (1) (md) of the statutes that are not approved for expenditure on the effective date of this subsection, for reduction of lead

paint hazards in dwellings that is done to allow for and in conjunction with energy conservation activities in rental properties owned by persons who seek a certificate of lead-free status, as defined in section 254.11 (4g) of the statutes, as created by this act, or a certificate of lead-safe status, as defined in section 254.11 (4h) of the statutes, as created by this act. In awarding moneys under this subsection, the department of administration shall give priority to projects that emphasize comprehensive lead removal plans for rental properties.

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

(9c) **REPORTS ON LEAD HAZARD REDUCTION ACTIVITIES.**

(a) By each of the dates March 1, 2002, 2003 and 2004, the department of health and family services shall prepare and submit to the governor and to the legislature in the manner provided under section 13.172 (3) of the statutes a report describing activities related to reducing lead-bearing paint hazards in residential property under subchapter II of chapter 254 of the statutes, as affected by this act, in the previous calendar year. Each report shall include a summary of the number of dwellings or units of dwellings that have received a certificate of lead-free or lead-safe status, the percentage of all dwellings and units constructed before 1978 that this number represents, the incidence of lead poisoning or lead exposure in children, the number of children who reside in property that is certified as lead-free or lead-safe and either have lead poisoning or lead exposure, the number of persons certified to perform lead hazard reduction or lead management activities under section 254.176 of the statutes, as affected by this act, and the number of persons who have completed a course and been certified under section 254.179 (1) (e) of the statutes, as affected by this act.

(b) By March 1, 2005, the department of health and family services shall prepare and submit to the governor and to the legislature in the manner provided under section 13.172 (3) of the statutes a report evaluating the successes or failures of this act and rules promulgated under this act in reducing the incidence of lead poisoning or lead exposure in children. The report shall include any statutory changes that the department feels are needed to further the goal of reducing the incidence of lead poisoning or lead exposure in children.

SECTION 33. Appropriation changes.

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

(2) **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 20.865 (4) (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$520,000 for fiscal year 2000-01 to increase funding 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.

SECTION 34. Initial applicability.

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

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

(1c) The treatment of sections 254.11 (8d), 254.154 (by SECTION 10), 254.166 (2) (c) and (e), 254.172 and 901.055 of the statutes, the creation of sections 254.166 (2) (c) 2. and 3. and 254.173 of the statutes and SECTION 34 (1) of this act take effect on the first day of the 16th month beginning after publication.

(2) The repeal of section 254.173 (3) of the statutes and the amendment of section 254.154 (by SECTION 10b) of the statutes take effect on the first day of the 64th month beginning after publication.

(3) The repeal of section 254.173 (title), (1) and (2) of the statutes and the repeal and recreation of section 254.154 of the statutes take effect on the first day of the 100th month beginning after publication.