

CHAMBER ACTION

1 The Committee on Health Care recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to the Florida Childhood Lead Poisoning
8 Reduction Act; providing a popular name; providing
9 legislative findings; providing legislative purposes of
10 the act; providing definitions; providing for a Director
11 of Lead Poisoning Prevention, appointed by the Secretary
12 of Health; providing duties and responsibilities of the
13 director; providing for the establishment of a statewide
14 program for the prevention, screening, diagnosis, and
15 treatment of lead poisoning; providing for a Lead
16 Poisoning Prevention Commission; providing for membership
17 and duties of the commission; providing criteria for lead-
18 free and lead-safe property status; providing notice
19 requirements when an owner of an affected property intends
20 to make repairs to or perform specified maintenance work
21 on an affected property; providing requirements and
22 procedures with respect to access to and vacation of
23 affected properties; providing for voluntary inspection of

24 affected properties; requiring the Lead Poisoning
25 Prevention Commission to develop a proposal for the
26 implementation of mandatory inspections of all affected
27 properties or to develop alternative measures of
28 enforcement and penalties to ensure compliance with lead-
29 free or lead-safe standards by a specified date; providing
30 for involuntary inspections under specified circumstances;
31 providing for inspection reports; providing for
32 certification of persons performing lead-hazard-reduction
33 activities by the Department of Health; providing for
34 certification of persons performing inspections; providing
35 for duration of certification; providing certification
36 fees for persons performing lead-hazard abatement and
37 persons performing inspections; providing for deposit of
38 fees; providing for enforcement of the act; providing for
39 reporting of enforcement actions; providing for
40 receivership of properties not meeting certain standards;
41 providing for injunctive relief; providing for notice of
42 intent to seek injunctive relief; providing for recovery
43 of costs and attorney's fees; prohibiting retaliatory
44 evictions; defining the term "retaliatory action";
45 providing for relief for retaliatory eviction and
46 retaliatory action; providing for the establishment of a
47 statewide comprehensive educational program; providing for
48 a public information initiative; providing for
49 distribution of specified literature; providing for a Lead
50 Poisoning Prevention for Properties seminar; requiring the
51 establishment of a program for early identification of

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52 persons at risk of elevated levels of lead in the blood;
 53 providing for screening of children; providing for
 54 screening priorities; providing for the maintenance of
 55 records of screenings; providing for reporting of cases of
 56 lead poisoning; authorizing the Department of Health to
 57 adopt rules; providing an effective date.

58

59 Be It Enacted by the Legislature of the State of Florida:

60

61 Section 1. Popular name.--This act may be cited as the
 62 "Florida Childhood Lead Poisoning Reduction Act."

63 Section 2. Legislative findings.--

64 (1) Nearly 300,000 American children may have levels of
 65 lead in their blood in excess of 10 micrograms per deciliter
 66 (ug/dL). Unless prevented or treated, elevated blood-lead
 67 levels in egregious cases may result in impairment of the
 68 ability to think, concentrate, and learn.

69 (2) A significant cause of lead poisoning in children is
 70 the ingestion of lead particles from deteriorating or abraded
 71 lead-based paint from older, poorly maintained residences.

72 (3) The health and development of these children and many
 73 others are endangered by chipping or peeling lead-based paint or
 74 excessive amounts of lead-contaminated dust in poorly maintained
 75 homes.

76 (4) Ninety percent of lead-based paint still remaining in
 77 occupied housing exists in units built before 1960, with the
 78 remainder in units built before 1978.

79 (5) The dangers posed by lead-based paint can be
 80 substantially reduced and largely eliminated by taking measures
 81 to prevent paint deterioration and limiting children's exposure
 82 to paint chips and lead dust.

83 (6) The deterioration of lead-based paint in older
 84 residences results in increased expenses each year for the state
 85 in the form of special education and other education expenses,
 86 medical care for lead-poisoned children, and expenditures for
 87 delinquent youth and others needing special supervision.

88 (7) Older housing units remain an important part of the
 89 makeup of the state's housing, particularly for those of modest
 90 or limited incomes.

91 (8) The possibility of liability exposure among landlords
 92 has led many to abandon older properties or to place them in
 93 shell corporations in order to avoid personal liability.

94 (9) The incidence of childhood lead poisoning can be
 95 reduced substantially without significant additional cost to the
 96 state by creating appropriate incentives for property owners to
 97 make their properties lead-free or lead-safe and by targeting
 98 existing state resources used to prevent childhood lead
 99 poisoning more effectively.

100 (10) Knowledge of lead-based-paint hazards, their control,
 101 mitigation, abatement, and risk avoidance is not sufficiently
 102 widespread, especially outside urban areas.

103 (11) A majority of children in this state living in
 104 circumstances suggesting a significant possibility that they
 105 have elevated levels of lead in their blood are not currently
 106 tested for the presence of such elevated blood-lead levels.

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107 (12) Early detection of elevated blood-lead levels in
 108 children allows treatment and mitigation of the conditions that
 109 result in further elevation of blood-lead levels and often can
 110 prevent further harm.

111 (13) A study performed by the Escambia County Health
 112 Department estimates that 25 percent to 40 percent of Escambia
 113 County homes built before lead-based paint was outlawed in 1978,
 114 as many as 28,000 homes, are contaminated, many without the
 115 knowledge of those who live there.

116 Section 3. Legislative purposes.--To promote the
 117 elimination of childhood lead poisoning in the state, the
 118 purposes of this act are to:

119 (1) Significantly reduce the incidence of childhood lead
 120 poisoning in the state.

121 (2) Increase the supply of affordable rental housing in
 122 the state in which measures have been taken to reduce
 123 substantially the risk of childhood lead poisoning.

124 (3) Improve public awareness of lead safety issues and to
 125 educate both property owners and tenants about practices that
 126 can reduce the incidence of lead poisoning.

127 (4) Encourage the testing of children likely to suffer the
 128 consequences of lead poisoning so that prompt diagnosis and
 129 treatment, as well as the prevention of harm, are possible.

130 Section 4. Definitions.--As used in this act, the term:

131 (1) "Abatement" means any set of measures designed to
 132 permanently eliminate lead-based paint or lead-based-paint
 133 hazards. Abatement includes the removal of lead-based paint and
 134 dust-lead hazards, the permanent enclosure or encapsulation of

135 lead-based paint, the replacement of components or fixtures
 136 painted with lead-based paint, and the removal or permanent
 137 covering of soil-based hazards.

138 (2) "Affected property" means a room or group of rooms
 139 within a property constructed before 1978 which form a single
 140 independent habitable dwelling unit for occupation by one or
 141 more persons at risk and which has living facilities with
 142 permanent provisions for living, sleeping, eating, cooking, and
 143 sanitation. Affected property does not include:

144 (a) An area not used for living, sleeping, eating,
 145 cooking, or sanitation, such as an unfinished basement;

146 (b) A unit within a hotel, motel, or similar seasonal or
 147 transient facility, unless such unit is occupied by one or more
 148 persons at risk for a period exceeding 30 days;

149 (c) An area that is secured and inaccessible to occupants;

150 (d) A unit that is not offered for rent; or

151 (e) Property that is acquired by a governmental agency as
 152 a right-of-way for a transportation project, is being held for
 153 demolition, and the previous owner or occupant remains in
 154 possession for less than 180 days.

155
 156 Affected property excludes any property owned or operated by a
 157 unit of federal, state, or local government or by any public,
 158 quasi-public, or municipal corporation, if the property is
 159 subject to lead standards that are equal to, or more stringent
 160 than, the requirements for lead-safe status under section 6(2).

161 (3) "Change in occupancy" means a change of tenant in an
 162 affected property in which the property is vacated and
 163 possession is surrendered to the owner or abandoned.

164 (4) "Chewable surface" means an interior or exterior
 165 surface painted with lead-based paint that a child under the age
 166 of 6 can mouth or chew. Hard metal substrates and other
 167 materials that cannot be dented by the bite of a child under the
 168 age of 6 are not considered chewable.

169 (5) "Containment" means the physical measures taken to
 170 ensure that dust and debris created or released during lead-
 171 based-paint hazard reduction are not spread, blown, or tracked
 172 from inside to outside of the worksite.

173 (6) "Department" means the Department of Health.

174 (7) "Deteriorated paint" means any interior or exterior
 175 paint or other coating that is peeling, chipping, chalking, or
 176 cracking, or any paint or coating located on an interior or
 177 exterior surface or fixture which is otherwise damaged or
 178 separated from the substrate.

179 (8) "Director" means the Director of Lead Paint Poisoning
 180 Prevention.

181 (9) "Dust-lead hazard" means surface dust in a residential
 182 dwelling or a facility occupied by a person at risk which
 183 contains a mass-per-area concentration of lead equal to or
 184 exceeding 40 ug/ft2 on floors or 250 ug/ft2 on interior
 185 windowsills based on wipe samples.

186 (10) "Dwelling unit" means a:

187 (a) Single-family dwelling, including attached structures
 188 such as porches and stoops; or

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189 (b) Housing unit in a structure that contains more than
 190 one separate housing unit and in which each such unit is used or
 191 occupied, or intended to be used or occupied, in whole or in
 192 part, as the home or separate living quarters of one or more
 193 persons.

194 (11) "Elevated blood-lead level" means a quantity of lead
 195 in whole venous blood, expressed in micrograms per deciliter
 196 (ug/dL), which exceeds 15 ug/dL or such other level as
 197 specifically provided in this act.

198 (12) "Encapsulation" means the application of a covering
 199 or coating that acts as a barrier between the lead-based paint
 200 and the environment and that relies for its durability on
 201 adhesion between the encapsulant and the painted surface, and on
 202 the integrity of the existing bonds between paint layers and
 203 between the paint and the substrate. Encapsulation may be used
 204 as a method of abatement if it is designed and performed so as
 205 to be permanent.

206 (13) "Exterior surfaces" means:

207 (a) All fences and porches that are part of an affected
 208 property;

209 (b) All outside surfaces of an affected property which are
 210 accessible to a child under the age of 6 years and which:

- 211 1. Are attached to the outside of an affected property; or
 212 2. Consist of other buildings that are part of the
 213 affected property; and

214 (c) All painted surfaces in stairways, hallways, entrance
 215 areas, recreation areas, laundry areas, and garages within a
 216 multifamily rental dwelling unit which are common to individual

217 dwelling units and are accessible to a child under the age of 6
 218 years.

219 (14) "Friction surface" means an interior or exterior
 220 surface that is subject to abrasion or friction, including, but
 221 not limited to, certain window, floor, and stair surfaces.

222 (15) "Hazard reduction" means measures designed to reduce
 223 or eliminate human exposure to lead-based hazards through
 224 methods that include interim controls, abatement, or a
 225 combination of the two.

226 (16) "HEPA-vacuum" or "high efficiency particle air
 227 vacuum" means a device capable of filtering out particles of 0.3
 228 microns or greater from a body of air at an efficiency of 99.97
 229 percent or greater. The term includes the use of a HEPA-vacuum.

230 (17) "Impact surface" means an interior or exterior
 231 surface that is subject to damage from the impact of repeated
 232 sudden force, such as certain parts of door frames.

233 (18) "Inspection" means a comprehensive investigation to
 234 determine the presence of lead-based-paint hazards and the
 235 provision of a report explaining the results of the
 236 investigation.

237 (19) "Interim controls" means a set of measures designed
 238 to temporarily reduce human exposure to lead-based-paint
 239 hazards. Interim controls include, but are not limited to,
 240 repairs, painting, temporary containment, specialized cleaning,
 241 clearance, ongoing lead-based-paint maintenance activities, and
 242 the establishment and operation of management and resident
 243 education programs.

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244 (20) "Interior windowsill" means a portion of the
 245 horizontal window ledge which protrudes into the interior of a
 246 room.

247 (21) "Lead-based paint" means paint or other surface
 248 coatings that contain lead equal to or exceeding 1.0 milligram
 249 per square centimeter, 0.5 percent by weight, or 5,000 parts per
 250 million (ppm) by weight.

251 (22) "Lead-based-paint hazard" means paint-lead hazards
 252 and dust-lead hazards.

253 (23) "Local designee" means a municipal, county, or other
 254 official designated by the Director of Lead Paint Poisoning
 255 Prevention, the Secretary of Community Affairs, or the Secretary
 256 of Health as responsible for assisting the director, relevant
 257 state agencies, and relevant county and municipal authorities in
 258 implementing the activities specified by the act for the
 259 geographical area in which the affected property is located.

260 (24) "Owner" means a person, firm, corporation, nonprofit
 261 organization, partnership, government, guardian, conservator,
 262 receiver, trustee, executor, or other judicial officer, or other
 263 entity which, alone or with others, owns, holds, or controls the
 264 freehold or leasehold title or part of the title to property,
 265 with or without actually possessing it. The definition includes
 266 a vendee who possesses the title, but does not include a
 267 mortgagee or an owner of a reversionary interest under a ground
 268 rent lease. The term includes any authorized agent of the owner,
 269 including a property manager or leasing agent.

270 (25) "Paint-lead hazard" means any one of the following:

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271 (a) Any lead-based paint on a friction surface that is
 272 subject to abrasion and where the dust-lead levels on the
 273 nearest horizontal surface underneath the friction surface, such
 274 as the windowsill or floor, are equal to or greater than the
 275 dust-lead-hazard level of a mass-per-area concentration of lead
 276 equal to or exceeding 40 ug/ft2 on floors or 250 ug/ft2 on
 277 interior windowsills based on wipe samples;

278 (b) Any damaged or otherwise deteriorated lead-based paint
 279 on an impact surface that is caused by impact from a related
 280 building material, such as a door knob that knocks into a wall
 281 or a door that knocks against its door frame;

282 (c) Any chewable lead-based painted surface on which there
 283 is evidence of teeth marks; or

284 (d) Any other deteriorated lead-based paint in or on the
 285 exterior of any residential building or any facility occupied by
 286 a person at risk.

287 (26) "Permanent" means an expected design life of at least
 288 20 years.

289 (27) "Person at risk" means a child under the age of 6
 290 years or a pregnant woman who resides or regularly spends at
 291 least 24 hours per week in an affected property.

292 (28) "Relocation expenses" means all expenses necessitated
 293 by the relocation of a tenant's household to lead-safe housing,
 294 including moving and hauling expenses, the HEPA-vacuuming of all
 295 upholstered furniture, payment of a security deposit for the
 296 lead-safe housing, and installation and connection of utilities
 297 and appliances.

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298 (29) "Tenant" means the individual named as the lessee in
 299 a lease, rental agreement, or occupancy agreement for a dwelling
 300 unit.

301 (30) "ug/ft2" means microgram per foot squared.

302 (31) "ug/dL" means microgram (millionth of a gram) per
 303 deciliter.

304 (32) "Wipe sample" means a sample collected by wiping a
 305 representative surface of known area, as determined by the
 306 American Society of Testing Materials in standard E1728-Standard
 307 Practice for the Field Collection of Settled Dust Samples Using
 308 Wipe Sampling Methods for Lead Determination by Atomic
 309 Spectrometry Techniques, with lead determination conducted by an
 310 accredited laboratory participating in the Environmental Lead
 311 Laboratory Accreditation Program.

312 Section 5. Director of Lead Poisoning Prevention; Program
 313 for Prevention of Lead Poisoning; Lead Poisoning Prevention
 314 Commission.--

315 (1) The Secretary of Health shall appoint a Director of
 316 Lead Poisoning Prevention who shall serve at the pleasure of the
 317 secretary. The director shall be responsible, subject to the
 318 authority of the secretary, for carrying out and administering
 319 all programs created pursuant to this act. To the extent
 320 necessary, the director may cooperate with local government
 321 officials to assist him or her in carrying out these duties. The
 322 director may contract with any agency or agencies, individuals,
 323 or groups for the provision of necessary services, subject to
 324 appropriation.

325 (2) Subject to appropriation, the director, working in
 326 coordination with the Lead Poisoning Prevention Commission,
 327 shall establish a statewide program for the prevention,
 328 screening, diagnosis, and treatment of lead poisoning, including
 329 elimination of the sources of such poisoning, through necessary
 330 research, educational, epidemiologic, and clinical activities.

331 (3) The Lead Poisoning Prevention Commission is created.

332 (a) The duties of the commission are to:

333 1. Report to the Governor, the President of the Senate,
 334 and the Speaker of the House of Representatives in writing by
 335 October 1, 2005, recommending legislation providing both
 336 additional incentives for all affected property owners to bring
 337 their premises into compliance with the lead-safe standards
 338 outlined in section 6(2) and additional means of enforcement and
 339 penalties for those property owners who fail to achieve
 340 compliance. The incentives to be considered should include,
 341 among others, local property tax credits and revolving loan
 342 funds.

343 2. Study and collect information on the effectiveness of
 344 this act in fulfilling its legislative purposes as defined in
 345 section 3.

346 3. Make policy recommendations, in addition to those
 347 mandated by subparagraph 1., regarding how best to achieve the
 348 legislative purposes of this act as set forth in section 3.

349 4. Consult with the responsible departments of state
 350 government and applicable state agencies on the implementation
 351 of this act.

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352 5. Prepare and submit a report by October 1, 2005, to the
 353 Governor, the President of the Senate, and the Speaker of the
 354 House of Representatives on the results of implementing this
 355 act.

356 (b) The commission shall consist of 10 members. The
 357 membership shall include:

358 1. The Director of Lead Poisoning Prevention.

359 2. The Secretary of Community Affairs or his or her
 360 designee.

361 3. The Secretary of Environmental Protection or his or her
 362 designee.

363 4. One member of the Senate, appointed by the President of
 364 the Senate.

365 5. One member of the House of Representatives, appointed
 366 by the Speaker of the House of Representatives.

367 6. Five members appointed by the Governor, including:

368 a. A child advocate.

369 b. A health care provider.

370 c. A representative of local government.

371 d. Two owners of rental property in the state.

372 (c) The commission shall be chaired by the Director of
 373 Lead Poisoning Prevention.

374 (d) Members of the commission shall serve without
 375 compensation.

376 Section 6. Requirements for lead-free and lead-safe
 377 property status.--

378 (1) An affected property is lead-free if:

379 (a) The affected property was constructed after 1978; or

380 (b) The owner of the affected property submits to the
 381 director or the director's designee for the jurisdiction in
 382 which such property is located an inspection report that
 383 indicates that the affected property has been tested for the
 384 presence of lead in accordance with standards and procedures
 385 established by rules adopted by the department and states that:

386 1. All interior surfaces of the affected property are
 387 lead-free; and

388 2.a. All exterior painted surfaces of the affected
 389 property which were chipping, peeling, or flaking have been
 390 restored with paint that is not lead-based paint; or

391 b. No exterior painted surfaces of the affected property
 392 are chipping, peeling, or flaking.

393 (2) An affected property is "lead-safe" if the following
 394 treatments to reduce lead-based-paint hazards have been
 395 completed by someone certified under section 8 and in compliance
 396 with the rules established by the department:

397 (a) Visually reviewing all exterior and interior painted
 398 surfaces;

399 (b) Removing and repainting chipping, peeling, or flaking
 400 paint on exterior and interior painted surfaces;

401 (c) Stabilizing and repainting any interior or exterior
 402 painted surfaces that have lead-based-paint hazards;

403 (d) Repairing any structural defect that is causing the
 404 paint to chip, peel, or flake and that the owner of the affected
 405 property has knowledge of or, with the exercise of reasonable
 406 care, should have knowledge of;

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407 (e) Stripping and repainting, replacing, or encapsulating
408 all interior windowsills and window troughs with vinyl, metal,
409 or any other durable material that renders the surface smooth
410 and cleanable;

411 (f) Installing caps of vinyl, aluminum, or any other
412 material in a manner and under conditions approved by the
413 director in all window wells in order to make the window wells
414 smooth and cleanable;

415 (g) Fixing the top sash of all windows in place in order
416 to eliminate the friction caused by movement of the top sash,
417 except for a treated or replacement window that is free of lead-
418 based paint on its friction surfaces;

419 (h) Rehanging all doors as necessary to prevent the
420 rubbing together of a lead-painted surface with another surface;

421 (i) Making all bare floors smooth and cleanable;

422 (j) Ensuring that all kitchen and bathroom floors are
423 overlaid with a smooth, water-resistant covering; and

424 (k) HEPA-vacuuming and washing of the interior of the
425 affected property with high phosphate detergent or its
426 equivalent, as determined by the director.

427 (3) The department shall adopt rules limiting the
428 effective time for each lead-safe certification based on the
429 known effectiveness of the controls used to mitigate the lead
430 hazard. This shall include evaluations that are done by the
431 property owner or his or her designee. The rules shall require
432 that the property owner notify the department of any substantial
433 change in the property, either intentional or accidental, which
434 could impact the lead-safe status.

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435 (4)(a) Whenever an owner of an affected property intends
436 to make repairs or perform maintenance work that will disturb
437 the paint on interior surfaces of an affected property, the
438 owner shall give any tenant in such affected property at least
439 48 hours' written advance notice and shall make reasonable
440 efforts to ensure that all persons who are not persons at risk
441 are not present in the area where work is performed and that all
442 persons at risk are removed from the affected property when the
443 work is performed.

444 (b) A tenant shall allow access to an affected property,
445 at reasonable times, to the owner to perform any work required
446 under this act.

447 (c) If a tenant must vacate an affected property for a
448 period of 24 hours or more in order to allow an owner to perform
449 work that will disturb the paint on interior surfaces, the owner
450 shall pay the reasonable expenses that the tenant incurs and
451 that are directly related to the required relocation.

452 (d) If an owner has made all reasonable efforts to cause
453 the tenant to temporarily vacate an affected property in order
454 to perform work that will disturb the paint on interior
455 surfaces, and the tenant refuses to vacate the affected
456 property, the owner is not liable for any damages arising from
457 the tenant's refusal to vacate.

458 (e) If an owner has made all reasonable efforts to gain
459 access to an affected property in order to perform any work
460 required under this act, and the tenant refuses to allow access,
461 even after receiving reasonable advance notice of the need for

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462 access, the owner is not liable for any damages arising from the
463 tenant's refusal to allow access.

464 Section 7. Voluntary inspection; mandatory inspection.--

465 (1) An owner of an affected property at any time may, at
466 the owner's expense, have a certified inspector perform an
467 inspection of the affected property to determine whether it
468 complies with the requirements for lead-free property status as
469 specified in section 6(1) or the requirements for lead-safe
470 property status as specified in section 6(2). The inspector
471 performing the voluntary inspection shall submit a verified
472 report of the result of the inspection to the director or the
473 director's designee for the jurisdiction in which such property
474 is located, to the owner, and to the tenant, if any, of the
475 affected property.

476 (2) Any affected property certified as lead-free or lead-
477 safe following a voluntary inspection pursuant to subsection (1)
478 shall be deemed in compliance with all state and local
479 requirements, whether included in housing codes, ordinances, or
480 any other regulatory or criminal statutes or ordinances
481 governing lead paint contained in an affected property.

482 (3) The Lead Poisoning Prevention Commission shall develop
483 a proposal for mandatory inspections of all affected properties
484 to be implemented by January 1, 2007, or shall develop
485 alternative measures of enforcement and penalties to ensure that
486 all affected properties comply with the lead-free standard
487 described in section 6(1) or the lead-safe standard described in
488 section 6(2) within a reasonable period of time after January 1,
489 2007.

490 (4) After July 1, 2005, the director or the director's
 491 designee for the jurisdiction in which an affected property is
 492 located shall order an inspection of an affected property, at
 493 the expense of the owner of the affected property, whenever the
 494 director or the director's designee for the jurisdiction in
 495 which such property is located is notified that there is
 496 reasonable evidence that the affected property is not in
 497 compliance with either the lead-free standard or the lead-safe
 498 standard as those standards are defined in section 6 and a
 499 person at risk resides in the affected property or spends more
 500 than 24 hours per week in the affected property. An inspection
 501 required under this subsection shall be completed within 90 days
 502 after notification of the director or the director's designee
 503 for the jurisdiction in which such property is located. However,
 504 if unavailability of sufficient staffing and appropriations do
 505 not permit completion of the inspection within the prescribed
 506 90-day period, the time limit for completion of the inspection
 507 may be extended.

508 (5) The director or the director's designee for the
 509 jurisdiction in which an affected property is located shall
 510 order an inspection of an affected property, at the expense of
 511 the owner of the affected property, whenever the director or the
 512 director's designee for the jurisdiction in which such property
 513 is located is notified that a person at risk who resides in the
 514 affected property or spends more than 24 hours per week in the
 515 affected property has an elevated blood-lead level greater than
 516 or equal to 15 ug/dL. An inspection under this subsection shall
 517 be completed within 15 days after notification of the director

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518 or the director's designee for the jurisdiction in which such
519 property is located.

520 (6) The inspector shall submit a verified report of the
521 result of the inspection to the director or the director's
522 designee for the jurisdiction in which such property is located,
523 to the owner, and to the tenant, if any, of the affected
524 property.

525 Section 8. Certification of inspectors and contractors
526 performing work.--

527 (1) A person may not act as a contractor or supervisor to
528 perform the work necessary for lead-hazard abatement as defined
529 in this act unless that person is certified by the department.
530 The department shall certify for these purposes any person
531 meeting the standards described in:

532 (a) Regulations to be adopted by the department pursuant
533 to this act governing the certification of individuals to engage
534 in lead-based paint activities sufficient to satisfy the
535 requirements of 40 C.F.R. s. 745.325 or any applicable successor
536 provisions to 40 C.F.R. s. 745.325;

537 (b) Certification by the United States Environmental
538 Protection Agency to engage in lead-based paint activities
539 pursuant to 40 C.F.R. s. 745.226 or any applicable successor
540 provisions to 40 C.F.R. s. 745.226; or

541 (c) Certification by a state or tribal program authorized
542 by the United States Environmental Protection Agency to certify
543 individuals engaged in lead-based paint activities pursuant to
544 40 C.F.R. s. 745.325 or any applicable successor provisions to
545 40 C.F.R. s. 745.325.

546
547 The department shall, by rule, create exceptions to the
548 certification requirement for instances in which the disturbance
549 of lead-based paint is incidental.

550 (2) A person may not act as an inspector to determine
551 whether affected property complies with the requirements for
552 lead-free property status as specified in section 6(1) or the
553 requirements for lead-safe property status as specified in
554 section 6(2) unless the person is certified by the department.
555 An inspector certified by the director shall conduct all
556 inspections required by section 7 or otherwise required by this
557 act. The director shall certify as an inspector any individual
558 meeting the requirements of paragraph (1)(a) or paragraph
559 (1)(b):

560 (a) Rules to be adopted by the department pursuant to this
561 act governing the certification of individuals eligible to
562 conduct the inspections required by this act; or

563 (b) Certification to conduct risk assessments by the
564 United States Environmental Protection Agency pursuant to 40
565 C.F.R. s. 745.226(b) or any applicable successor provisions to
566 40 C.F.R. s. 745.226.

567 (3) The certification of contractors or supervisors of
568 those performing the work necessary for lead-hazard abatement,
569 and the certification of those performing the inspections
570 required by this section, shall extend for 3 years unless the
571 department has probable cause to believe a person certified
572 under this section has violated the terms of the certification
573 or engaged in illegal or unethical conduct related to

574 inspections required by this act, in which case the
 575 certification to perform inspections shall be suspended pending
 576 a hearing in accordance with the provisions of chapter 120,
 577 Florida Statutes.

578 (4) The department shall establish by rule a schedule of
 579 fees for the certification of persons performing lead-hazard
 580 abatement and a separate schedule for persons performing
 581 inspections pursuant to this act. Such fees shall be required to
 582 be paid at the time of initial certification and at the time of
 583 subsequent renewal of certification, and shall be sufficient to
 584 cover all costs pursuant to this section. Fees collected
 585 pursuant to this subsection shall be deposited in the Department
 586 of Health Administrative Trust Fund to be used for certification
 587 purposes under this section.

588 (5)(a) A person who violates any provision of this section
 589 commits a misdemeanor of the first degree, punishable as
 590 provided in section 775.082 or section 775.083, Florida
 591 Statutes.

592 (b) The department may deny a certification or
 593 certification renewal if it determines that an applicant does
 594 not meet all requirements of this section or has violated any
 595 provision of this section. Any applicant who is denied
 596 certification or recertification under this section is entitled
 597 to a hearing, after reasonable notice, after filing a written
 598 request for a hearing in accordance with chapter 120, Florida
 599 Statutes.

600 (6) In addition to any administrative action authorized by
 601 chapter 120, Florida Statutes, the department may impose a fine,

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602 which may not exceed \$500 for each violation, for a violation of
603 this section, for a violation of any rule adopted under this
604 section, or for a violation of any of the provisions of chapter
605 386, Florida Statutes. Notice of intent to impose such a fine
606 shall be given by the department to the alleged violator. Each
607 day that a violation continues may constitutes a separate
608 violation for which the department may impose a fine.

609 (7)(a) The department may issue citations that may contain
610 an order of correction or an order to pay a fine, or both, for
611 violations of this section or the a rule adopted by the
612 department, when a violation of this section or a rule is
613 enforceable by an administrative or civil remedy, or when a
614 violation of this section or rules is a misdemeanor of the
615 second degree. A citation issued under this section constitutes
616 a notice of proposed agency action.

617 (b) The citation must be in writing and must describe the
618 particular nature of the violation, including specific reference
619 to the provisions of law or rule allegedly violated.

620 (c) A fine imposed by a citation issued by the department
621 may not exceed \$500 for each violation. Each day the violation
622 exists constitutes a separate violation for which a citation may
623 be issued.

624 (d) The department shall inform the recipient, by written
625 notice pursuant to sections 120.569 and 120.57, Florida
626 Statutes, of the right to an administrative hearing to contest a
627 citation within 21 days after the date the citation is received.
628 The citation must contain a conspicuous statement that, if the
629 recipient fails to appear to contest the citation after having

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630 requested a hearing, the recipient has waived his or her right
 631 to contest the citation and must pay an amount up to the maximum
 632 fine.

633 (e) The department may reduce or waive the fine imposed by
 634 a citation. In determining whether to reduce or waive the fine,
 635 the department must consider the gravity of the violation, the
 636 person's attempts at correcting the violation, and the person's
 637 history of previous violations for which enforcement actions
 638 were taken under this section or other provisions of law or
 639 rule.

640 (f) Any person who willfully refuses to sign and accept a
 641 citation issued by the department commits a misdemeanor of the
 642 second degree, punishable as provided in section 755.082 or
 643 section 775.083, Florida Statutes.

644 (g) The department shall deposit any fines it collects
 645 under this section into the Department of Health Administrative
 646 Trust Fund to be used for the costs of administering the
 647 certification process under this section.

648 Section 9. Enforcement.--

649 (1) Owners of affected properties who fail to comply with
 650 the provisions of section 6 shall be deemed in violation of this
 651 act. The Office of the Attorney General and any local
 652 authorities responsible for the enforcement of housing codes
 653 shall vigorously enforce civil remedies or criminal penalties
 654 provided for by law which arise out of the failure to comply
 655 with the requirements of this act and may seek injunctive relief
 656 where appropriate.

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657 (2)(a) Any civil or criminal action by state or local
 658 officials to enforce the provisions of this act shall be
 659 reported to the director or his or her designee.

660 (b) The director or his or her designee shall issue an
 661 annual report outlining specifically the enforcement actions
 662 brought pursuant to this section, the identity of the owners of
 663 the affected properties, the authority bringing the enforcement
 664 action, the nature of the action, and a description of the
 665 criminal penalties or civil relief.

666 (c) After the second written notice from the director, the
 667 director's local designee, the Department of Community Affairs,
 668 the state or local housing authority, the Department of Health,
 669 or the local health department of violations of the provisions
 670 of this act occurring within an affected property, or after two
 671 criminal or civil actions brought by state or local officials to
 672 enforce this act arising out of violations occurring within an
 673 affected property, unless the violations alleged to exist are
 674 corrected, the affected property shall be considered abandoned,
 675 and the Attorney General, the director or his or her designee,
 676 the Secretary of Community Affairs, the secretary's local
 677 designee, the state or local housing authority, the Department
 678 of Health, the local health department, or any other officials
 679 having jurisdiction over the affected property shall have the
 680 specific power to request the court to appoint a receiver for
 681 the property. The court in such instances may specifically
 682 authorize the receiver to apply for loans, grants, and other
 683 forms of funding necessary to correct lead-based-paint hazards
 684 and meet the standards for lead-safe or lead-free status, and to

685 | hold the affected property for such period of time as the
 686 | funding source may require to ensure that the purposes of the
 687 | funding have been met. The costs of such receivership shall
 688 | constitute a lien against the property which, if not discharged
 689 | by the owner upon receipt of the receiver's demand for payment,
 690 | constitutes grounds for foreclosure proceedings instituted by
 691 | the receiver to recover such costs.

692 | Section 10. Private right to injunctive relief.--

693 | (1) A person at risk shall be deemed to have a right to
 694 | housing that is lead-free or lead-safe under the standards set
 695 | forth in this act.

696 | (2) If an owner of an affected property fails to comply
 697 | with such standards, a person at risk or the parent or legal
 698 | guardian of a person at risk has a private right of action to
 699 | seek injunctive relief from a court with jurisdiction against
 700 | the owner of the affected property in the form of a court order
 701 | to compel compliance with the requirements of this act.

702 | (3) A court may not grant the injunctive relief requested
 703 | pursuant to this section, unless, at least 30 days prior to the
 704 | filing requesting the injunction, the owner of the affected
 705 | property has received written notice of the violation of
 706 | standards contained in section 6 and has failed to bring the
 707 | affected property into compliance with the applicable standards.
 708 | The requirement that the owner of the affected property receive
 709 | notice is satisfied if:

710 | (a) A person at risk or his or her parent, legal guardian,
 711 | or attorney has notified the owner of an affected property that
 712 | the property fails to meet the requirements for either lead-free

713 status under section 6(1) or for lead-safe status under section
 714 6(2);

715 (b) The director or his or her designee, a local or state
 716 housing authority, or the Department of Health has notified the
 717 owner of the affected property of violations of the provisions
 718 of the act occurring within an affected property; or

719 (c) A criminal or civil action pursuant to section 9 has
 720 been brought by state or local enforcement officials to enforce
 721 this act arising out of violations occurring within an affected
 722 property.

723 (4) A person who prevails in an action under subsection
 724 (2) is entitled to an award of the costs of the litigation and
 725 to an award of reasonable attorney's fees in an amount to be
 726 fixed by the court.

727 (5) Cases brought before the court under this section
 728 shall be granted an accelerated hearing.

729 Section 11. Retaliatory evictions prohibited.--

730 (1) An owner of an affected property may not evict or take
 731 any other retaliatory action against a person at risk or his or
 732 her parent or legal guardian in response to the actions of the
 733 person at risk or his or her parent or legal guardian for:

734 (a) Providing information to the owner of the affected
 735 property, the director, the director's designee for the
 736 jurisdiction in which such property is located, the Secretary of
 737 Community Affairs, the secretary's designee for the jurisdiction
 738 in which such property is located, the Department of Health, the
 739 Department of Community Affairs, local health officials, or
 740 local housing officials concerning lead-based-paint hazards

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741 within an affected property or elevated blood-lead levels of a
742 person at risk; or

743 (b) Enforcing any of his or her rights under this act.

744 (2) For purposes of this section, the term "retaliatory
745 action" includes any of the following actions in which the
746 activities protected under subsection (1) are a material factor
747 in motivating that action:

748 (a) A refusal to renew a lease;

749 (b) Termination of a tenancy;

750 (c) An arbitrary rent increase or decrease in services to
751 which the person at risk or his or her parent or legal guardian
752 is entitled; or

753 (d) Any form of constructive eviction.

754 (3) A person at risk or his or her parent or legal
755 guardian subject to an eviction or retaliatory action under this
756 section is entitled to relief deemed just and equitable by the
757 court and is eligible for reasonable attorney's fees and costs.

758 Section 12. Educational programs.--

759 (1) In order to achieve the purposes of this act, a
760 statewide, multifaceted, ongoing educational program designed to
761 meet the needs of tenants, property owners, health care
762 providers, early childhood educators and care providers,
763 realtors and real estate agents, insurers and insurance agents,
764 and local building officials is established.

765 (2) The Governor, in conjunction with the director and the
766 Lead Poisoning Prevention Commission, shall sponsor a series of
767 public service announcements on radio, television, the Internet,
768 and print media about the nature of lead-based-paint hazards,

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769 the importance of standards for lead poisoning prevention in
 770 properties, the importance of lead-free and lead-safe housing,
 771 and the purposes and responsibilities set forth in this act. In
 772 developing and coordinating this public information initiative,
 773 the sponsors shall seek the participation and involvement of
 774 private industry organizations, including those involved in real
 775 estate, insurance, mortgage banking, and pediatrics.

776 (3) By January 1, 2005, the director, in consultation with
 777 the Lead Poisoning Prevention Commission, shall develop
 778 culturally and linguistically appropriate information pamphlets
 779 regarding childhood lead poisoning, the importance of testing
 780 for elevated blood-lead levels, prevention of childhood lead
 781 poisoning, treatment of childhood lead poisoning, and where
 782 appropriate, the requirements of this act. These information
 783 pamphlets shall be distributed to parents or the other legal
 784 guardians of children 6 years of age or younger on the following
 785 occasions:

786 (a) By the owner of any affected property or his or her
 787 agents or employees at the time of the initiation of a rental
 788 agreement to a new tenant whose household includes a person at
 789 risk or any other woman of childbearing age;

790 (b) By the health care provider at the time of the child's
 791 birth and at the time of any childhood immunization or
 792 vaccination unless it is established that such information
 793 pamphlet has been provided previously to the parent or legal
 794 guardian by the health care provider within the prior 12 months;
 795 and

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796 (c) By the owner or operator of any child care facility or
797 preschool or kindergarten class on or before October 15 of the
798 calendar year.

799 (4) By January 1, 2005, the director, in conjunction with
800 the Department of Community Affairs, shall establish guidelines
801 and a trainer's manual for a Lead Poisoning Prevention for
802 Properties Awareness Seminar with a total class time of 3 hours
803 or less. The seminar shall be offered by professional
804 associations and community organizations with a training
805 capacity, existing accredited educational institutions, and for-
806 profit educational providers. The seminar shall be reviewed and
807 approved, based on the seminar content and qualifications of
808 instructors, by the Department of Community Affairs.

809 Section 13. Screening program.--

810 (1) The director shall establish a program for early
811 identification of persons at risk of having elevated blood-lead
812 levels. Such program shall systematically screen children under
813 6 years of age in the target populations identified in
814 subsection (2) for the presence of elevated blood-lead levels.
815 Children within the specified target populations shall be
816 screened with a blood-lead test at age 12 months and age 24
817 months, or between the ages of 36 months and 72 months if they
818 have not previously been screened. The director shall establish:

819 (a) The means by which and the intervals at which such
820 children under 6 years of age shall be screened for lead
821 poisoning and elevated blood-lead levels; and

822 (b) Guidelines for the medical followup of children found
823 to have elevated blood-lead levels.

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824
825 The director shall consult with recognized professional medical
826 groups and such other sources as he or she deems appropriate to
827 develop the screening requirements.

828 (2) In developing screening programs to identify persons
829 at risk with elevated blood-lead levels, the director shall give
830 priority to persons within the following categories:

831 (a) All children enrolled in the Medicaid program at ages
832 12 months and 24 months, or between the ages of 36 months and 72
833 months if they have not previously been screened;

834 (b) Children under the age of 6 years exhibiting delayed
835 cognitive development or other symptoms of childhood lead
836 poisoning;

837 (c) Persons at risk residing in the same household, or
838 recently residing in the same household, as another person at
839 risk with a blood-lead level of 10 ug/dL or greater;

840 (d) Persons at risk residing, or who have recently
841 resided, in buildings or geographical areas in which significant
842 numbers of cases of lead poisoning or elevated blood-lead levels
843 have recently been reported;

844 (e) Persons at risk residing, or who have recently
845 resided, in affected properties contained in buildings that
846 during the preceding 3 years have been subject to enforcement
847 actions, injunctive relief actions, or receivership actions for
848 violations of lead-poisoning-prevention regulations as specified
849 by the director; and

850 (f) Persons at risk residing in other buildings or
851 geographical areas in which the director reasonably determines

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852 there is a significant risk of affected individuals having a
853 blood-lead level of 10 ug/dL or greater.

854 (3) The director shall maintain comprehensive records of
855 all screenings conducted pursuant to this section. Such records
856 shall be indexed geographically and by owner in order to
857 determine the location of areas of relatively high incidence of
858 lead poisoning and other elevated blood-lead levels.

859
860 All cases or probable cases of lead poisoning found in the
861 course of screenings conducted pursuant to this section shall be
862 reported within 5 working days to the affected individual, to
863 his or her parent or legal guardian if he or she is a minor, and
864 to the director.

865 Section 14. Rule authority.--The department shall adopt
866 the rules necessary for the duties conferred upon it under the
867 "Florida Childhood Lead Poisoning Reduction Act" pursuant to
868 sections 120.536 and 120.54, Florida Statutes.

869 Section 15. This act shall take effect July 1, 2004.